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Bengal Act V of 1920

[THE BENGAL ALLUVIAL LANDS ACT, 1920.]¹

AMENDED

Ben. Act V of 1935.

ADAPTED

- (a) The Government of India (Adaptation of Indian Laws) Order, 1937.
- (b) The Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.
- (c) The Adaptation of Laws Order, 1950.

[13th October, 1920.]

An Act to prevent disputes concerning the possession of certain lands in Bengal gained by alluvion, or by dereliction of a river or the sea.

WHEREAS it is expedient to make provision for the prevention of disputes concerning the possession of certain lands in Bengal gained by alluvion, or by dereliction of a river or the sea;

AND WHEREAS the previous sanction of the Governor General has been obtained, under section 79, sub-section (2), of the Government of India Act, 1915, to the passing of this Act;

It is hereby enacted as follows:—

1. (1) This Act may be called the Bengal Alluvial Lands Act, 1920.
- (2) It extends to the whole of ²[West Bengal].

Short title and extent.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

- (a) "alluvial land" means land which is gained from a river or the sea in any of the ways referred to in the Bengal Alluvion and Diluvion Regulation, 1825³, the Bengal Alluvion and Diluvion Act, 1847³, or the Bengal Alluvion (Amendment) Act, 1868, and includes reformations *in situ*; and
- (b) "Collector" means the Collector of a district or a sub-divisional officer or any other officer not below the rank of a Deputy Collector exercising the powers of a Magistrate

Ben. Reg. XI of 1825.
IX of 1847.
Ben. Act IV of 1868.

¹For Statement of Objects and Reasons, see the *Calcutta Gazette* of 1920, Pt. IV, page 15; and for Proceedings in Council, see *ibid.*, Pt. IVA, pages 155-157, and page 196 and pages 798-800 and pages 915-942.

²The words within square brackets were substituted for the word "Bengal" by paragraph (2) of Article 3 of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

³The Regulation and the Act were repealed by the West Bengal Land Reforms Act, 1955 (West Ben. Act X of 1956).

(Section 3.)

of the first class appointed by the ¹[State Government], to discharge any of the functions of a Collector under this Act.

Power of
Collector to
attach
alluvial land.

3. (1) Notwithstanding anything contained in the Bengal Alluvion and Diluvion Regulation, 1825, the Bengal Alluvion and Diluvion Act, 1847, or the Bengal Alluvion (Amendment) Act, 1868, the Collector, if he is credibly informed that a dispute likely to cause a breach of the peace exists or is likely to arise, in regard to any alluvial land which in his opinion has recently formed, may, after making an order in writing, stating the grounds therefor, in the interest of public order, attach such land, and may demarcate it with boundary pillars.

Ben. Reg.
XI of 1825,
IX of 1847,
Ben. Act IV
of 1868.

²(1a) Where such land is situated within the limits of more than one district, or it is doubtful within the limits of which district or districts such land is situated any Collector who considers that any portion of such land is situated within the limits of his district may, after recording his reasons therefor, attach the whole of such land. If, after attachment, such land or any portion thereof is found to be situated within any other district or is transferred to another district, the attachment shall continue to be valid but the Collector who attached the land may either transfer the case, in respect of the whole or any portion of the attached land, for disposal to the Collector of any such other district or may himself continue the proceedings under the provisions of this Act. The Collector to whom a case is transferred for disposal under this sub-section shall be deemed, for the purposes of this Act, to have attached the land under this section.

(2) When the Collector attaches any alluvial land under sub-section (1) ³[or sub-section (1a)], he may himself manage such land during the period of attachment, or may, if he thinks fit, appoint a receiver thereof, who, subject to the control of the Collector, shall have all such powers conferrable on a receiver appointed under the Code of Civil Procedure, 1908, as may be given to him by the Collector:

Act V of
1908.

Provided that neither the Collector nor the receiver shall make a settlement or resettlement of any land ⁴[for a period exceeding one year nor shall he charge any *salami* for such settlement or re-settlement].

¹The words "Provincial Government" were originally substituted for the words "Local Government" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "State" was substituted for the word "Provincial" by paragraph 4(1) of the Adaptation of Laws Order, 1950.

²Sub-section (1a) was inserted by s. 2(1) of the Bengal Alluvial Lands (Amendment) Act, 1934 (Ben. Act V of 1935).

³The words, brackets, figure and letter within square brackets were inserted by s. 2(2)(i), *ibid.*

⁴The words within square brackets were substituted for the words "for a period exceeding three years" by s. 2(2)(ii), *ibid.*

of 1920.]

(Section 4.)

(3) Nothing in this section shall preclude any party interested from showing, before the Collector makes an order of reference under section 5, sub-section (1), that no such dispute as aforesaid exists or is likely to arise; and the Collector, if satisfied that no such dispute as aforesaid exists or is likely to arise, shall cancel his order of attachment under sub-section (1), ¹[or sub-section (1a)], and all further proceedings thereon shall be stayed, but, subject to such cancellation, the said order shall be final. ²[The Collector may, if he thinks fit, cancel his order of attachment under sub-section (1) or sub-section (1a) in respect of a portion of the attached land and continue proceedings in respect of the remainder of such land.]

³(4) When an order of attachment of any alluvial land is cancelled under sub-section (3), the Collector shall issue a notice in the prescribed manner inviting claims to the net receipts from the land during attachment, and shall order the payment of such receipts to the persons who, in his opinion, are entitled to the same. The net receipts shall be calculated by deducting from the gross receipts the costs incurred under this section, and under section 4, sub-section (1), and section 4A, sub-section (1), and the cost of preparation of the reference to be made under section 5, sub-section (1), if any.

³(5) In estimating for the purposes of sub-section (4), section 5, and section 7 the costs incurred under this section, the following costs shall be included in the cost of management, namely—

X of 1892.

- (a) the rate leviable under the Government Management of Private Estates Act, 1892,
- (b) the cost of special staff, if any, and
- (c) where no special staff is employed for collection, a sum not exceeding five *per centum per annum* on the actual collections.

4. (1) When the Collector has attached any alluvial land under section 3, he shall as soon as possible cause a survey to be made and a map to be prepared of the land, including the revenue, diara and other relevant survey lines.

Collector to cause survey to be made.

Ben. Act V of 1875.

(2) The survey made under sub-section (1) shall be deemed to be survey under the Bengal Survey Act, 1875, and the Collector shall exercise in respect of such survey all powers which he is empowered to exercise for the purposes of inquiries and surveys under that Act.

1 of 1872.

(3) Notwithstanding anything contained in section 83 of the Indian Evidence Act, 1872, a map prepared under sub-section (1) shall be presumed by the Court to be accurate until the contrary is shown.

¹The words, brackets, figure and letter within square brackets were inserted by s. 2(3)(i) of the Bengal Alluvial Lands (Amendment) Act, 1934 (Ben. Act V of 1935).

²The words, brackets, figures and letter within square brackets were added by s. 2(3)(ii), *ibid.*

³Sub-sections (4) and (5) were inserted by s. 2(4), *ibid.*

(Sections 4A, 5.)

List of claimants.

14A. (1) When the Collector has attached any alluvial land under section 3, he shall as soon as possible issue a notice in the prescribed manner calling upon all persons claiming title to any part of such land to file statements specifying their claims and the grounds thereof, and the name and jurisdiction number of the village and *tauzi* number of the estate to which they allege that the land appertains.

If any of the aforesaid claimants is not a proprietor of such estate, he shall also mention in the statement the name of the landlord under whom he holds the land, the area and the rent of his tenancy and such other particulars as may be necessary to elucidate his claim.

If the land is included in a map as prepared or a record-of-rights as finally published under Chapter X of the Bengal Tenancy Act, 1885, the claimant shall also mention the particulars of the *khatians* and plot numbers necessary to identify the land in the map or record-of-rights.

VIII of 1885.

(2) On receipt of a statement of claim referred to in sub-section (1) the Collector shall examine the claim and call for such further particulars, if any, as he considers necessary, and shall, if he is satisfied that the claim is *bona fide*, enter the name of the claimant in the list of claimants. The Collector may exclude from the said list the name of any claimant who fails to supply any of the required particulars. If any part of the attached land is claimed ²[by any Government], the Collector shall ³[include that Government] in the said list of claimants.

(3) An application for inclusion in the list of claimants by a person with whom any of the land has been settled or resettled during the period of attachment shall not be considered unless it alleges a title independent of such settlement or resettlement.

Reference to Civil Court.

5. (1) When the survey and map referred to in section 4, sub-section (1), have been completed the Collector shall as soon as possible pass an order making a reference to the principal Civil Court of original jurisdiction in the district for a decision as to what person has a title to the land, ⁴[and shall include in the order the list of claimants referred to in section 4A and shall state—

- (a) whether any land claimed by any such claimant has been identified as being included in the land which is the subject of the reference,

¹Section 4A was inserted by s. 3 of the Bengal Alluvial Lands (Amendment) Act, 1934 (Ben. Act V of 1935).

²The words within square brackets were substituted for the words "by Government" by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937.

³The words within square brackets were substituted for the words "include Government", *ibid.*

⁴The words, brackets, letters and figures within square brackets were substituted for the original words by s. 4(1) of the Bengal Alluvial Lands (Amendment) Act, 1934 (Ben. Act V of 1935).

of 1920.]

(Section 5.)

- (b) the costs incurred under section 3, section 4, sub-section (1), section 4A, sub-section (1), and the cost of preparation of the reference made under this sub-section,
- (c) the value of the land, and
- (d) the names of any persons who have filed statements of claim under section 4A and whose names are not included in the list of claimants.]

¹In the case of any land referred to in section 3, sub-section (1a), the reference shall be made to the principal Civil Court of original jurisdiction in the district in which, in the opinion of the Collector, the major portion of the attached land is situated.

VII of 1870.

²(1a) In making such reference the Collector shall advance the court-fees payable under the Court-fees Act, 1870, on a plaint in a suit for determination of title to land and such process-fees as may be required for service of notices on the parties to the reference. The Collector may make such advance from the balance of the receipts at credit in his accounts of the attached land, or, if this is not practicable, may at any time recover such advance or any part thereof from such balance.

(2) On receipt of a reference made under sub-section (1), the principal Civil Court of the district may either proceed to determine the matter or may transfer the matter for determination to any other Civil Court subordinate to such Court competent to try or dispose of a suit for the determination of title to the land.

The said Court shall issue notices ³[to all the persons mentioned in the list of claimants referred to in section 4A] to appear and file statements of their respective claims. ⁴[No other person shall be made a party to the reference unless the said Court is satisfied that for some reason not due to wilful default or negligence on the part of such person he was unable to file a statement of claim referred to in section 4A, sub-section (1), in due time or that the Collector has without sufficient reason held that such person's claim was not *bona fide*. A person pleading ignorance of the issue of the notice under that sub-section shall not be made a party to the reference unless he proves to the satisfaction of the said Court that he had no knowledge that the land had been attached.] The said Court shall also determine which of the claimants has the right to begin at the hearing of the reference.

Act V of 1908.

(3) Save as otherwise provided in this Act, a reference made under sub-section (1), shall be deemed to be a suit for all the purposes of the Code of Civil Procedure, 1908, and every decision by a Civil Court under sub-section (2), shall be deemed to be a decree within the meaning of that Code and appealable as such.

¹This paragraph was added by s. 4(2) of the Bengal Alluvial Lands (Amendment) Act, 1934 (Ben. Act V of 1935).

²Sub-section (1a) was inserted by s. 4(3), *ibid*.

³The words, figure and letter within square brackets were substituted for the original words by s. 4(4)(i), *ibid*.

⁴The words, figures, letter and brackets within square brackets were inserted by s. 4(4)(ii), *ibid*.

(Sections 6, 7.)

¹(4) The said Court shall decide to whom and in what proportions the net receipts, if any, from the land during attachment shall be paid. The net receipts shall be calculated by deducting from the gross receipts the costs incurred under section 3, section 4, sub-section (1), section 4A, sub-section (1), and the costs incurred by the Collector in the proceedings under this section including the cost of preparation of the reference made under sub-section (1).

¹(5) The said Court shall also decide by whom and in what proportions the costs incurred under section 3, section 4, sub-section (1), section 4A, sub-section (1), and the costs incurred by the Collector and by the other parties in the proceedings under this section including the cost of preparation of the reference made under sub-section (1), are payable.

¹(6) If the costs referred to in sub-section (4) exceed the gross receipts the Court shall decide by whom and in what proportions the amount of such excess shall be payable, and such amount shall be recoverable by the Collector, in accordance with the decision of the Court, from the persons liable, as arrears of a public demand.

¹(7) The person entitled to the net receipts may apply to the Court for the recovery from the persons liable of any amount deducted from the gross receipts in excess of the amount, so deducted, for which he is himself liable. If ²[the Government] are entitled to the net receipts or to any part thereof the Collector may recover as arrears of a public demand any amount due to ³[the Government] or may apply to the Court for the recovery of the same.

¹(8) A reference made under sub-section (1) shall not be dismissed for default but the said Court shall decide the same after taking the evidence of such of the claimants mentioned by the Collector in the order of reference or added by the Court under section 5, sub-section (2), as it may think necessary.

6. Whenever the Court makes an order under section 5, sub-section (2), it shall certify to the Collector its decision, and the Collector shall thereupon put the person stated in such order to be entitled to the land in possession thereof.

7. (1) Every order under section 3, sub-section (3), shall state the amount of ³[costs incurred under section 3, section 4, sub-section (1), section 4A, sub-section (1), and the cost of preparation of the reference to

¹Sub-sections (4) to (8) were substituted for the original sub-section (4) by s. 4(5) of the Bengal Alluvial Lands (Amendment) Act, 1934 (Ben. Act V of 1935).

²The words "the Crown" were originally substituted for the word "Government" by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "Government" was substituted for the word "Crown" by paragraph (4)(1) of the Adaptation of Laws Order, 1950.

³The words, figures, letter and brackets within square brackets were substituted for the words, figures and brackets "costs incurred under section 3 and section 4, sub-section (1), if any," by s. 5 of the Bengal Alluvial Lands (Amendment) Act, 1934 (Ben. Act V of 1935).

Taking possession of land by person entitled to it.

Costs.

of 1920.]

(Sections 8-10.)

be made under section 5, sub-section (1), if any,] and by what persons and in what proportions they are to be paid, and such costs shall be recoverable as arrears of a public demand.

(2) Any person against whom an order has been made with regard to such costs, may, within one month of the date of such order, prefer an appeal to the Commissioner in respect of such costs.

8. The ¹[State Government] may, subject to the condition of previous publication by notification in the ²[*Official Gazette*], make rules—

Rules.

- (1) to regulate the procedure to be followed by the Collector in attaching any alluvial land under section 3;
- (2) to regulate the procedure to be followed by the Collector or receiver in the management of such land during the period of attachment;
- (3) to regulate the procedure to be followed by the Collector in demarcating, surveying and preparing a map of, any alluvial land;
- ³(3a) to regulate the procedure to be followed by the Collector in distributing the net receipts from attached land, when the attachment is cancelled under section 3, sub-section (3), and when the Civil Court passes a decree under section 5;
- ³(3b) to regulate the issue of notices prescribed under section 3, sub-section (4), or under section 4A, sub-section (1);
- (4) to regulate the procedure to be followed in making a reference to the Court under section 5, sub-section (1);
- * * * * *
- (6) to regulate the manner of making over possession of alluvial land under section 6; ⁵*
- ⁵(6a) to provide for the creation of an Alluvial Lands Dispute Fund in any district and the administration of the same; and
- (7) generally to carry out the purposes of this Act.

9. No suit or other legal proceedings shall lie against the Collector, or any person acting under his direction, for any act done or ordered to be done in good faith under this Act.

Indemnity.

10. When the Collector has attached any alluvial land under section 3, no proceedings under section 145 of the Code of Criminal Procedure, 1898⁶, shall be instituted in any Court in respect of the same land, or of any part thereof; and any such proceedings already commenced and pending in any such Court shall be stayed.

Bar to institution of proceedings under section 145 of the Code of Criminal Procedure, 1898.

Act V of 1898.

¹See foot-note 1 on page 10, *ante*.

²The words within square brackets were substituted for the words "*Calcutta Gazette*" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³Clauses (3a) and (3b) were inserted by s. 6(1) of the Bengal Alluvial Lands (Amendment) Act, 1934 (Ben. Act V of 1935).

⁴The original clause (5) was omitted by s. 6(2), *ibid*.

⁵The word "and" was omitted by s. 6(3), and clause (6a) was inserted by s. 6(4), *ibid*.

⁶*See* now the code of Criminal Procedure, 1973 (Act 2 of 1974).