

THE WASTE LANDS CLAIMS ACT (1863)

[Repealed by the Law for the Repeal of Laws (19 February 1992)]

India Act XXIII, 1863

10 March 1863

[This Act does not extend to Upper Burma.]

1. When any claim shall be proffered to any waste land proposed to be sold, or otherwise dealt with on account of Government, or when any objection shall be taken to the sale or other disposition of such land, the Collector or the district in which such land is situate shall, if the claim or objection be preferred within the period mentioned in the advertisement to be issued for the sale or other disposition of such land, which period shall not be less than three months, proceed to make an enquiry into the claim or objections.

2. The Collector shall call upon the claimant or objector to produce evidence or documents upon which he may rely in proof of his claim for objection: and after considering the same and making any further enquiry that may appear proper, shall dispose of the case by an order for the admission or rejection of the claim or objection: and if the land is proposed to be sold for the sale of the same subject to any condition or reservation which to such Collector shall appear to be proper.

If the land is ordered to be sold subject to any condition or reservation such condition or reservation shall be notified to intending purchasers at the time of sale.

3. Pending an enquiry into any claim or objection under the last preceding section, the Collector shall postpone the sale or other disposition of the land;

and if he shall order that such claim or objection be rejected, he shall further postpone the sale or other disposition of the land to allow the claimant or objector to contest the order, of rejection in the manner hereinafter provided.

4. If the Collector shall consider the claim or objection to be established, and that the sale or other disposition of the land should not take place he shall stop the sale or other disposition of the land;

but such sale or other disposition of the land may afterwards be proceeded with if, on an order issued to try the claim or objection, as provided in section 6 of this Act, the claimant or objector shall fail to establish the same.

5. If the Collector shall order that the claim or objection be rejected, or that the land be sold subject to any condition or reservation, or that it be otherwise dealt with, he shall cause a copy of such order to be delivered to the claimant or objector;

and if such claimant or objector shall not, within one week from the delivery of such copy, or within such further time as the Collector, for any special reason to be recorded, shall see fit to grant, give notice in writing to such Collector that he intends to contest such order, the order shall be final.

If the claimant or objector shall, within the time allowed, give such notice, the Collector shall immediately make a report to the superior revenue authority to which he is immediately subordinate and shall forward with such report a copy of his order, stating fully all the circumstances of the case, and the evidence adduced in support, or otherwise, of the claim or objection;

and such authority, on the receipt of such report, and after calling for any further information which it may consider necessary, may confirm, modify or reverse the order of the Collector.

If the authority as aforesaid confirm the order of the Collector or modify such order in such manner as to leave any part of such order in force adverse to the claimant or objector, the Collector shall certify such order to the Court constituted as hereinafter provided;

and such Court shall forthwith give notice to the claimant or objector;

and if such claimant or objector shall not institute a suit in such Court to establish his claim or objection, the order of the authority aforesaid shall be final.

6. The President of the Union may within twelve months after the date from which the claim of any claimant of waste land, or the objection of any objector, as aforesaid, shall have been admitted under this Act by the Collector, direct a suit to be brought to try the claim or objection of the claimant or objector in a Court constituted as hereinafter provided.

7. For the investigation and trial of claims under this Act, the President of the Union shall constitute, in every district in which there may be any waste lands capable of being sold, or otherwise dealt with, on account of Government, a Court consisting of an uneven number of persons, not less than three of whom the District Judge shall be one.

Any one or more of the members of which such Court shall consist shall have the power to make all such orders in the case as may be necessary prior to the hearing of the suit.

8. Whenever any Court is constituted under this Act, notice thereof shall be given by a written proclamation, copies of which shall be affixed in the several Courts and in the offices of the several Collectors and Magistrates of the district;

and from the date of issue of such proclamation no other Court shall be competent to entertain any claim or objection belonging to the class of claims or objections for the trial and determination of which such Court is constituted.

9. The Courts constitutes under this Act shall be held at such place or places within the limits of their respective jurisdictions as shall be considered most convenient.

10. In every suit instituted under section 5 of this Act, the claimant of the waste land, or objector to the sale of other disposition of such land, shall appear as plaintiff; and the Collector shall appear as defendant on the part of the Government.

Either party may appear by pleader or by agent.

In any suit instituted under this Act, except as hereinafter provided, the proceedings shall be regulated, so far as they can be, by the Code of Civil Procedure.

The court shall fix a day for the appearance of the parties and for the hearing of the suit of which due notice shall be given to the parties or their agents: and on the day so fixed, he parties or their agents shall bring their witnesses into Court together with any documents on which they may intend to rely in support of their respective statements.

If either party require the assistance of the Court to procure the attendance of a witness on such day, he shall apply to the Court in sufficient time before the day fixed for the hearing of the suit; and the Court shall issue a subpoena requiring such witness to attend the Court on that day.

It shall be competent to the Court to require the personal attendance of the claimant of the waste land, or objector, as aforesaid, on the day fixed for the hearing, or at any subsequent stage of the suit.

13. On the day fixed for the hearing of the suit, or as soon after as may be practicable, the Court shall proceed to examine the claimant of the waste land, or of the objector, or his agent (when his personal attendance is not required), and the witnesses of the parties;

and upon such examination, and after inspecting the documents of the parties and making any further enquiry that may appear necessary, shall proceed to pass such order in the case as it may consider just and proper.

14. No appeal shall lie from any decision or order passed under this Act nor shall any such decision or order be open to revision.

15. If on the trial of any suit under this Act any question of law or of usage having the force of law or the construction of a document affecting the merits of the case, shall arise on which the Court shall entertain reasonable doubts, the Court may either of its own motion or on the application of any of the parties to the suit draw up a statement of the case and submit it with its own opinion, for the opinion of the High Court.

Provided that it shall be the duty of every Court held under this Act to make such reference to the High Court if in any suit under this Act, any question shall arise involving any principle of general importance or the rights of a class.

16. The Court may proceed in the case notwithstanding a reference to the High Court: and may pass an order contingent upon the opinion of the High Court on the point referred:

but no final order for the sale or other disposition of the land in question in the suit. or for the admission or rejection of any claim or objection which shall be before the Court in such suit, shall be passed until the receipt of the order of the said High Court.

17. The record of cases disposed of by Courts constituted under this Act shall be deposited amongst the records of the principal civil Court of original jurisdiction in the district in which the property in dispute is situate.

18. No claim to any land, or to compensation or damages in respect of any land, sold or otherwise dealt with on account of Government as waste land shall be received after the expiration of three years from the date on which such land shall have been delivered by the Government to the purchaser or otherwise dealt with.

If within three years after any lands have been delivered by the Government to the purchaser, or otherwise dealt with, any claimant or objector shall prefer a claim to the land so delivered, or otherwise dealt with, or an objection to such sale, or to compensation or damages in respect thereof, in the Court constituted under this Act for the district in which the land is situate; and shall show good and sufficient reason for not having preferred his claim or objection to the Collector within the period limited under section 1 of this Act; such Court shall file the claim or objection making the claimant or objector plaintiff, and the Collector of the district the defendant in the suit;

and the foregoing provisions of this Act shall be applicable to the trial and determination of the suit,

The report of the officer employed to give delivery or to take possession on the part of Government, of the land sold or otherwise dealt with, shall be conclusive evidence as to the date on which such delivery was made, or possession was taken.

19. In any case in which the land has been sold, if the Court shall be of opinion that the claim of the claimant is established, the Court shall not award the claimant possession of the land in dispute; but shall order him to receive from the Government, by way of compensation, a sum equal to the price at which the land was sold, in addition to the costs of suit.

20. If the land shall have been sold, subject to any condition or reservation or shall not have been sold, but shall have been otherwise dealt with on account of the Government, and the Court shall be of opinion that the claim to such land, or the objection of an objector, is

established, the Court shall award the claimant or objector to receive such sum, in respect of his interest in such land, as shall be awarded in that behalf under the Land Acquisition Act,

and thereupon the President of the Union shall proceed under the said Act to obtain an award of the value of such interest.

21. An award under any of the provisions of the two last preceding sections shall be in full satisfaction of the claim of the claimant or objector; and shall bar any future claim on his part in respect to the land in suit resting on the same cause of action, or on a cause of action which existed prior to the date of the sale or other disposition of the land on account of Government.

22. Nothing in this Act shall be held to prevent the President of the Union from awarding to any claimant of waste land sold on account of Government, on proof to the satisfaction of the President of the Union of the claim of such claimant (notwithstanding that he may not have preferred his claim to the Collector or to the proper Court constituted under this Act, within the period prescribed by this Act), such amount as compensation for the said land, within the limit as to amount mentioned in section 19 of this Act if the land have been sold not subject to any condition or reservation as to the to the President of the Union may seem proper.

23. If the land have been sold subject to any condition or reservation, or have been otherwise disposed of, on account of Government, and any claim to such land, or objection to the sale or other disposition of the land, shall be proved to the satisfaction of the President of the Union, although not preferred to the Collector, or to the Court constituted under this Act, within the period prescribed by this Act, the President of the Union may award to such claimant or objector such amount as to the President of the Union may appear to be the value of the interest of such claimant or objector in such land.

23A. The powers and duties of the President of the Union under sections 6, 10, 22 and 23 may be exercised by the Financial Commissioner.