

PART XV.—PROPERTY IN LAND.

အပိုင်း ၁၅။ ။ မြေယာပိုင်ဆိုင်ရေး။

LAND TENURES.

မြေယာပိုင်ခွင့်စံနှစ်ဆိုင်ရာ။

THE WASTE LANDS CLAIMS ACT.

[INDIA ACT XXIII, 1863.] (10th March, 1863.)

[This Act does not extend to Upper Burma.]

1. When any claim shall be preferred 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 of 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.

Provision of enquiry in claims to land, or objections to sale of same

2. The Collector shall call upon the claimant or objector to produce any evidence, or documents, upon which he may rely in proof of his claim or 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.

Procedure in such cases.

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.

Notification of conditions.

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 ;

Postponement of sale pending enquiry, to allow claimant to contest rejection of claim.

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.

¹ This note was inserted by the Burma Laws (Adaptation) Act, 1940 (Burma Act XXVII, 1940), in order to state the law existing at the time of its enactment.

- Sale to be stopped if claim appears to be established, but may afterwards be proceeded with.**
- 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.
- Delivery to claimant of copy of order of rejection or of sale.**
- 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 ;
- Order when final.**
- 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.
- Report to superior authority.**
- 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 ;
- Decision of superior authority.**
- 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.
- Certification to Court.**
- 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 ;
- Notice to claimant.**
- and such Court shall forthwith give notice to the claimant or objector ;
- Decision when final.**
- 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.
- Power to order suit to try claim admitted by Collector.**
- 6.** The President of the Union may, within twelve months after the date on 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.
- Special Court for trying claims.**
- 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 power to make all such orders in the case as may be necessary prior to the hearing of the suit.

Power of members.

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;

Notice of constitution of Special Courts.

and from the date of the 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.

Claims not cognizable in other Courts.

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

Special Courts where held.

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

Plaintiff and defendant in suit under section 5.

Either party may appear by pleader or by agent.

Appearance.

In any suit ordered to be instituted under section 6 of this Act, the Government, by any officer to be appointed for the purpose, shall appear as plaintiff; and the claimant or objector as aforesaid shall appear as defendant.

Plaintiff and defendant in suits under section 6.

11. In suits 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.

Regulation of proceedings.

12. 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, the 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.

Procedure before hearing.

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.

Procuring attendance of witnesses.

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.

Power to require attendance of claimant.

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 the objector, or his agent (when his personal attendance is not required), and the witnesses of the parties;

Procedure on hearing.

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.

No appeal or revision.

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.

Reference of question of law, etc., to High Court.

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 :

When reference obligatory.

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.

Court may proceed notwithstanding reference;

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 not make final order.

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.

Records of cases where to be deposited.

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.

Limitation as to claims to land sold or dealt with.

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.

Provision for such claims if preferred within time.

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.

If claim established, possession not to be given, but compensation.

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,

When land sold not absolutely, or not sold but otherwise dealt with.

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.

Award under two last sections to be in full satisfaction.

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 President of the Union may seem proper.

President not barred from awarding compensation though claim be not preferred in time.

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.

Compensation for land sold subject to condition, if claim proved, though not preferred in time.

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.

Exercise of powers of President by the Financial Commissioner.