THE WASTE LANDS (CLAIMS) ACT, 1863

ARRANGEMENT OF SECTIONS

PREAMBLE.

SECTIONS.

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[1][THE WASTE LANDS (CLAIMS) ACT, 1863]

ACT NO. XXIII OF 1863[2].

PASSED BY THE GOVERNER - GENERALOF INDIAIN COUNCIL.

(*Received the assent of the Governor - General on the* 10*th March,* 1863.)

An Act to provide for the adjudication of claims to waste lands.

Preamble.—WHEREAS it is expedient to make special provision for the speedy adjudication of claims which may be preferred to waste lands proposed to be sold, or otherwise dealt with, on account of [3][the Provincial Government], and of objections taken to the sale or other disposition of such lands ; It is enacted as follows :—

I. Provision for inquiry into claims to land, or objections to sale of same.—When any claim shall be preferred to any waste land proposed to be sold, or otherwise dealt with, on account of [3][the State 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, or other Officer performing the duties of a Collector of Land Revenue in such District by whatever name his Office is designated, 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 objection.

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1. Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

2. This Act has been declared to be in force in all part A States except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3.

It has been declared by notification under s. 3(a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely :—

West Jalpaiguri	*See* Gazette of India, P. 1.	Pt. I,
The Districts of Hazaribagh, Lohardaga (now the Ranchi District, *see* Calcutta Gazette, 1899, Pt. 1, p. 44), and Manbhum and Paragana Dhalbhum and the Kolhan in the District of Singbhum	Ditto	1881, Pt. I, p. 504.
The Porahat Estate in the Singbhum District.	Ditto	1897, Pt. I, p. 1059.
Kumaon and Garhwal	Ditto	1876, Pt. I, p. 605.
The Scheduled portion of the Mirzapur District	Ditto	1879, Pt. I, p 383.
Jaunsar Bawar	Ditto	1879, Pt. I, p. 382.
The District of Lahaul		1886, Pt. I, p. 301
The District of Kamrup, Naugong Darrang, Sibsagar, Lakhimpur, Goalpara (excluding the Eastern Duars) and Cachar (excluding the North Cachar Hills)	Ditto	1878, Pt. I, p. 533.

It has been declared under s. 3 (b) of the same Act not to be in force in the Scheduled Districts in Ganjam and Vizagapatam, *see* Gazette of India, 1898, Pt. I, 872.

It has been extended, by notification under s. 5 of the last-mentioned Act, to the following Scheduled Districts, namely :—

Western Duars	Gazette of India,	1875, Pt. I, p. 497.
The Tarai of the Province of Agra	Ditto	1876, Pt. I, p. 505.

It has been repealed in Bombay by the Waste Lands (Claims) (Bombay Repeal) Act, 1943 (Bom. 9 of 1943).

This Act has been extended to the new Provinces and Merged States by the Merged States (Laws) Act, 1949 (59 of 1949) and to the States of Manipur, Tripura and Vindhya Pradesh by the Part C States (Laws) Act, 1950 (30 of 1950).

3. Subs. by the A.O. 1937 for "Govt."

II. Procedure in such cases.—The Collector or other Officer as aforesaid, 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 or other Officer as aforesaid, 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.

III. Pending an enquiry, sale &c., to be postponed.—Pending an enquiry into any claim or objection under the last preceding Section, the Collector or other Officer as aforesaid 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.

IV. Sale to be stopped if claim appear to be established, but may afterwards be proceeded with.—If the Collector or other officer as aforesaid 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 by the Local Government to try to claim or objection, as provided in section VI of this Act, the claimant or objector shall fail to establish the same.

V. Procedure after passing of order in the case, Report to Revenue Board, Decision of Board.—If the Collector or other Officer as aforesaid 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 or other Officer as aforesaid, for any special reason to be recorded, shall see fit to grant, give notice in writing to such Collector or other Officer as aforesaid, that he intends to contest such order, the order shall be final.

Report to Board.—If the claimant or objector shall, within the time allowed, give such notice, the Collector or other Officer as aforesaid shall immediately make a report to the [1][Board of Revenue, or other] superior Revenue Authority ; [2][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 Board.—and such [3][Board, or other] 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 or other officer as aforesaid.

1. The words "Board of Revenue or other" rep. by Act 4 of 1914, Schedule, Pt. I.
2. Ins., *ibid.*,
3. The words "Board or other" rep., *ibid*.

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If the Board or other Authority as aforesaid confirm the order of the Collector or other Officer as aforesaid, or modify such order in such to manner as to leave any part of such order in force adverse to the claimant or objector, the Collector or other Officer as aforesaid 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 ;

and if such claimant or objector shall not, [1][within thirty days from the delivery of such notice from the Court], institute a suit in such Court to establish his claim or objection, the order of the [2][Board or other] authority aforesaid shall be final.

VI. Local Government may, with in Twelve months, order suit to be brought to try claim admitted by Collector.—The Local Government 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 or other Officer as aforesaid, direct a suit to be brought to try the claim or objection of the claimant or objector, in a Court constituted as hereinafter provided.

VII. Special Court for trying claims.—For the investigation and trial of claims under this Act, the Local Government 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 Judge of the District, or the Officer presiding in the principal Civil Court of original jurisdiction in the District, by whatever name his office may be designated, 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: Provided that, whenever the Collector, or other Officer, by whom the original enquiry was held, is the fficer presiding in the principal Civil Court of original Jurisdiction in the District, such Officer shall not be a member of such Court.

VIII. Notice of constitution of Special Courts. Claims not cognizable in other Courts.—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 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.

IX. Special Courts where to be held.—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.

X. Plaintiff and defendant in suit under section V, Plaintiff and defendant in suits under section VI.—In every suit instituted under Section V 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, or other Officer aforesaid, shall appear as defendant on the part of [3][The State Government]

Either party may appear by pleader or by agent.

1. The words "within thirty days from the delivery of such notice from the Court" rep. by Act 9 of 1871. For Limitation, *see* now the Indian Limitation Act, 1908 (9 of 1908).
2. The words "Board or other" rep., by Act 4 of 1914, Schedule, Pt. I.
3. subs. By the A.O. 1937 for "Govt."

Proviso.—Provided that if such other officer as aforesaid be the presiding officer of the principal Civil Court of original jurisdiction in the district, the Local Government shall appoint some other Officer to appear as defendant in the case on its behalf.

In any suit ordered to be instituted by the Local Government under section VI of this Act, [1][the State 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.

XI. Regulation of Proceedings.—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.

XII. Procedure before hearing of suit.—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. 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.

XIII. **Procedure on hearing.**—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; 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.

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

XV. **Reference of question of law, etc., to High Court etc. when reference obligatory in certain cases.**—If, on the trial of any suit under this Act, any question of to 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 of Judicature, or of the highest Civil Court of Appeal and Revision in the territory in which the land is situate: Provided that it shall be the duty of every Court held under this Act, to make such reference to such High Court, or Court of Appeal, if, in any suit under this Act, any question shall arise involving any principle of general importance, or the rights of a class.

XVI. Court may proceed notwithstanding reference.—The Court may proceed in the case notwithstanding a reference to the High Court, or other highest Civil Court of Appeal as aforesaid; and may pass an order contingent upon the opinion of the High Court, or other Court as aforesaid, 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, or highest Civil Court of Appeal.

XVII. Records of cases where to be deposited.—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.

XVIII. Limitation as to claims to land sold or dealt with, Provision for such claims if preferred with in time.—No claim to any land, or to compensation or damages in respect of any land, sold or

1. subs. by the A.O. 1937 for "Govt."

otherwise dealt with on account of [1][the State 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 or other Officer as aforesaid, within the period limited under Section I of this Act; such Court shall file the claim or objection, making the claimant or objector plaintiff, and the Collector of the District or other Officer as aforesaid (with the like provision as aforesaid if such other Officer be the presiding officer of the principal Civil Court of original jurisdiction in 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 [1][the State 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.

XIX. If claim established, possession not to be given, but compensation.—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 [2][the State Government] Treasury, by way of compensation, a sum equal to the price at which the land was sold, in addition to the costs of suit.

XX. When land has not been absolutely sold, or has been otherwise dealt with.—If the land shall have been sold subject to any condition reservation, or shall not have been sold, but shall have been otherwise dealt with on account of the [2][the State 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 provisions of [3]Act VI of 1857 (*for the acquisition of lands for public purposes*).

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

XXI. Award under the two last Sections to be in full satisfaction.—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 [1][the State Government].

XXII. Government not barred from awarding compensation for land absolutely sold, though claim be not preferred in time.—Nothing in this Act shall be held to prevent [1][the State Government] from awarding, to any claimant of waste land sold on account of Government, on proof to the satisfaction of the State Government of the claim of such claimant (notwithstanding that he may not have preferred his claim either to the Collector or other Officer as aforesaid, 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 XIX of this Act, if the land have been sold not subject to any condition or reservation, as to such State Government may seem proper.

1. Subs. by the A.O. 1937 for "Govt.".
2. Subs. ibid., for "the Govt.".
3. see now the Land Acquisition Act, 1894 (1 of 1894), s. 2.

XXIII. Compensation for land sold subject to condition, if claim proved, though not preferred in time.—If the land have been sold subject to any condition or reservation, or have been otherwise disposed of, on account of [1][the State 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 [1][the State Government], although not preferred to the Collector or other Officer as aforesaid, or to the Court constituted under this Act, within the period prescribed by this Act, [1][the State Government] may award to such claimant or objector such amount as to such State Government may appear to be the value of the interest of such claimant or objector in such land.

[2]**[XXIIIA. Exercise of power of the State Government by the Board of Revenue or the Financial Commissioner.—**In a State for which there is a Board of Revenue or a Financial Commissioner, the powers and duties of the State Government under sections 6, 10, 22 and 23 may be exercised by such Board or Financial Commissioner, as the case may be.]

XXIV. [*Interpretation-clause. Number. Gender.]—Rep. by Repealing and Amending Act*, 1914 (10 of 1914), *s.* 3 *and Sch. II.*

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1. Subs. by the A.O. 1937 for "Govt.".
2. Ins. by Act 4 of 1914, Sch., Pt. I. S. 23-A has been omitted in its application to the U.P., *see* the U.P. Board of Revenue Act, 1922 (U.P. 12 of 1922).