

17

ASSAM ACT XVII OF 1949

THE ASSAM MANAGEMENT OF ESTATES ACT, 1949.

(Passed by the Assembly)

**(Received the assent of the Governor-General on
the 25th October, 1949.)**

[Published in the *Assam Gazette* of the 9th November, 1949.]

An Act to provide for the management by the Court of Wards of estates and tenures of proprietors, land-holders or tenure-holders in the permanently-settled and temporarily-settled areas of the districts of Goalpara, Garo Hills, Kamrup, Nowgong, Darrang, Sibsagar, Lakhimpur and Cachar in the Province of Assam.

Preamble.

WHEREAS, for the purpose of improving the economic and social conditions of the agriculturists and for ensuring full and efficient use of land for agriculture, and for improvement, conservation and efficient management of forests, fisheries, *hats*, *bazars* and ferries, it is necessary to assume management of estates and tenures in the permanently and temporarily-settled areas of Assam :

AND WHEREAS the previous sanction of the Governor under section 299(3) of the Government of India Act, 1935 has been obtained to the introduction of the Bill ;

It is hereby enacted as follows :—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Assam Management of Estates Act, 1949.

(2) It extends to the permanently-settled and temporarily-settled areas of the districts of Goalpara, Garo Hills, Kamrup, Nowgong, Darrang, Sibsagar, Lakhimpur and Cachar.

(3) It shall come into force on such date as the Provincial Government may by notification appoint in this behalf.

Definitions.

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

(a) "Court of Wards" means the "Court of Wards" Bengal Act under the Court of Wards Act, 1879 (as amended by IX of 1879. Assam Acts) ;

(b) "Deputy Commissioner" means the Deputy Commissioner of the district in which the land in question is situated, and includes any Revenue Officer or Extra Assistant Commissioner empowered by the Provincial Government to discharge any of the functions of the Deputy Commissioner under any provision of this Act ;

(c) "estate" means lands (other than lands settled for special cultivation) included under one entry in any of the general registers of revenue paying and revenue free lands, prepared and maintained under the law for the time being in force by the Deputy Commissioner and

Price 2 annas or 2d.

including Government revenue free lands not entered in any register and lands prospectively subject to the payment of revenue although no engagement has been entered into for that amount ;

(d) "*Lakhiraj* estate" means any estate exempt from assessment under any grant made by the previous rulers of the country and confirmed by or on behalf of the Government ;

(e) "land-holder" means any person deemed to have acquired the status of a land-holder under section 8 of the Assam Land and Revenue Regulation, 1886 ; ^{Regulation I of 1886.}

(f) "land-lord" means a person immediately under whom a tenant holds, but does not include the Government ;

(g) "permanently-settled estate" means any estate in the districts of Cachar, Goalpara and Garo Hills included in the decennial settlement of the Lower Provinces of Bengal or permanently settled at any subsequent date under any law for the time being in force ;

(h) "prescribed" means prescribed by the Rules made under this Act ;

(i) "private land" means the proprietors' private land as described in section 123 of the Goalpara Tenancy Act, 1929, and section 143 of the Sylhet Tenancy Act, 1936 : ^{Assam Act I of 1929.} provided that the proprietor for this purpose includes a ^{Assam Act II of 1936.} "tenure-holder" ;

(j) "proprietor" means a person holding in trust or owning for his own benefit any permanently-settled estate or any *Lakhiraj* estate, or a part of any such estate and includes the heirs and successors in interest of a proprietor, and where a proprietor is a minor or of unsound mind or an idiot, his guardian, committee or other legal curator ;

(k) "raiyat" means a person who has acquired from a proprietor, land-holder or tenure-holder a right to hold land for the purpose of cultivating it by himself or by the members of his family or by servants or hired labour ;

(l) "rent" means whatever is lawfully payable in money or kind by a tenant on account of the use and occupation of the land held by him ;

(m) "Revenue Officer" in any provision of this Act includes any officer whom the Provincial Government may appoint by name or by virtue of his office to discharge any of the functions of a Revenue Officer under that provision ;

(n) "tenant" means a person who holds land under another person and is, or but for a special contract would be, liable to pay rent for that land to that other person, but does not include a person who holds immediately under Government ;

(o) "tenure" means the interest of a tenure-holder or an under-tenure-holder ;

(p) "tenure-holder" means a person who has acquired from a proprietor, land-holder or from another tenure-holder right to hold land for the purpose of collecting rent or of bringing it wholly or partly under cultivation by establishing tenants on it, and includes the successor in interest of a person who has acquired such right and a person who holds such right in trust, and where a tenure-holder is a minor or of unsound mind or an idiot, his guardian, committee or other legal curator ;

(q) "under-raiyat" means a person holding land mediately or immediately under a raiyat.

Notification directing the management of any estate or tenure under the Court of Wards.

3. (1) Notwithstanding any law for the time being in force or the terms of any contract or grant, whenever it appears to the Provincial Government that, for the purpose of improving the economic and social conditions of the agriculturist and for ensuring full and efficient use of land for agriculture, or for improvement, conservation and efficient management of forests, fisheries, *hats*, *bazars* and *ferries*, it is necessary to assume management of any estate or tenure of a proprietor, land-holder or tenure-holder, the Provincial Government may, by notification in the official Gazette, direct that the estate or tenure or the portion thereof specified in the notification be managed by the Court of Wards :

Provided that no such notification shall be issued in respect of any estate or tenure the total area of which does not exceed 400 bighas.

(2) A copy of the notification shall be served upon the proprietor, land-holder or tenure-holder in the manner prescribed.

(3) A copy of the notification shall also be published at a convenient place in the locality where the estate or tenure is situated.

(4) The publication of a notification under sub-section (1) shall be conclusive evidence that the direction has been duly given and that the assumption of management has been validly taken.

Applicability of Court of Wards Act.

4. When the Court of Wards undertakes under section 3 above the management of an estate or tenure, so much of the provisions of the Court of Wards Act, 1879 (as amended by Assam Acts), relating to the management of immovable property and application of the money received and disposal of the surplus shall apply to the management whenever undertaken under this Act.

Bengal Act IX of 1879.

Preparation of record-of-rights.

5. (1) At any time after the assumption of management of any estate or tenure by the Court of Wards, the Provincial Government may make an order directing that a survey be made and a record-of-rights prepared by a Revenue Officer in respect of all or any lands in the estate or tenure or part thereof, whether such lands are let out, or occupied for agricultural purposes or not, or whether they are "private lands" of a proprietor or not.

(2) A notification in the official Gazette of an order under sub-section (1) shall be conclusive evidence that the order has been duly made.

(3) The survey shall be made and the record-of-rights prepared in the prescribed manner.

Particulars
to be record-
ed.

6. When an order is made under section 5 for preparation of a record-of-rights, the particulars to be recorded shall be specified in the order and may include either without or in addition to other particulars, some or all of the following, namely:—

(a) the name of each person in occupation of the land, whether as proprietor, land-holder, tenure-holder, raiyat or under-raiyat,

(b) the class or classes to which each tenant belongs,

(c) if the person in occupation is not a tenant within the meaning of this Act, the character of such occupation,

(d) the situation and quantity and any index for identification of the land held by each tenant or other occupant,

(e) the rent, if any, payable in the year in which the records-of-rights are prepared and in each of the 15 agricultural years preceding it,

(f) the special condition and incidents, if any, of the tenancy,

(g) any rights-of-way or other easements over or appurtenant to the land for which the record-of-rights is being prepared,

(h) where lands are held by religious or charitable institutions, in addition to the above particulars, if any, the actual expenditure incurred in each of the 15 agricultural years preceding, for religious or charitable purposes as the case may be,

(i) "private land" of the proprietors or tenure-holders,

(j) any other particulars prescribed by the Provincial Government.

Preliminary
publication,
amendment
and final
publication
of record-of-
rights.

7. (1) When a draft record-of-rights has been prepared, the Revenue Officer shall publish the draft in the manner prescribed and shall receive and consider any objections which may be made during the period of publication to any entry therein, or to any omission therefrom.

(2) When such objections have been considered and disposed of in the manner prescribed the Revenue Officer shall finally frame the record, and shall cause it to be finally published in the prescribed manner, and such publication shall be conclusive evidence that the record has been duly prepared under this Act.

(3) Separate draft or final records may be published under sub-section (1) or (2) for different local areas, estates, tenures, holdings or parts thereof.

Presumption
as to final
publication.

8. (1) When a record-of-rights has been finally published under section 7 above, the Revenue Officer shall, within such time as the Provincial Government may by general or special order direct, make a certificate stating the fact of such final publication and the date thereof, and shall date and subscribe the same with his name and official title.

(2) The certificate of final publication, or in the absence of such certificate, a certificate signed by the Deputy Commissioner, stating that a record-of-rights has been finally published on a specified date, shall be conclusive proof of such publication and the date thereof.

(3) Every entry in a record-of-rights finally published shall be evidence of the matter referred to in such entry and shall be presumed to be correct until it is proved by evidence to be incorrect.

Correction
of *bona fide*
mistakes in
record-of-
rights by
the Revenue
Officer.

9. Any Revenue Officer specially empowered by the Provincial Government in this behalf may on application or on his own motion, within the prescribed period from the date of certificate of final publication of the record-of-rights under section 8, correct any entry in such record-of-rights which he is satisfied has been made due to a *bona fide* mistake :

Provided that no such correction shall be made if an appeal affecting such entry has been filed under section 11 of this Act or until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

Proceedings
before a
Revenue
Officer.

10. At any time within 4 months from the date of certificate of final publication of the record-of-rights under section 7, a proceeding may be instituted before the Revenue Officer for decision of any dispute regarding any entry which a Revenue Officer has made in or any omission which he has made from the record and the Revenue Officer shall hear and decide the dispute :

Provided that the Revenue Officer may, subject to such rules as may be prescribed, refer any party to a competent Civil Court for the adjudication of such dispute.

Appeal.

11. An appeal shall lie—

(a) to the Deputy Commissioner against the order of the Revenue Officer under section 10, provided that it is preferred within 30 days from the date of the order appealed against, and

(b) to the High Court against the order, original or appellate, of the Deputy Commissioner, provided that it is preferred within 60 days of the date of the order appealed against.

Limit of
Civil
Court's
jurisdiction
in certain
matters.

12. Except as provided for in this Act, no suit shall lie in any Civil Court in respect of any order directing the preparation of a record-of-rights or in respect of framing, publishing, signing or altering such a record or any part thereof.

Recovery of expenses.

13. (1) When the preparation of a record-of-rights of any estate or tenure has been directed or undertaken under this Act, the expenses incurred in carrying out the provisions for preparation of such record-of-rights or such part of the expenses as the Provincial Government may direct shall be defrayed by the land-lords, tenants and other persons having an interest in such estate or tenure in such manner as the Provincial Government may determine ;

(2) the Provincial Government shall determine the elements which constitute the expenses mentioned in subsection (1).

Termination of management.

14. (1) The Provincial Government, when it is of opinion that it is not necessary to continue the management of the estate or tenure, may by notification published in the official Gazette direct that the said management shall be terminated.

(2) On the termination of the said management the estate shall be delivered into the possession of the proprietor, land-holder or tenure-holder, or if he is dead, of any person, who in the opinion of the Provincial Government is entitled to the said estate together with any balances which may be due to the credit of the said proprietor, land-holder or tenure-holder.

(3) The delivery of possession of the estate under subsection (2) together with any balances which may be due to them shall be a full discharge of the Government from all liability in respect of such delivery, but shall not prejudice any rights in respect of the land and money, if any, which any other person may be entitled by due process of law to enforce against the person to whom possession or money is so delivered or paid.

(4) All acts done or purporting to be done by the Court of Wards during the continuance of the management of the estate or tenure shall be binding on the proprietor, land-holder or tenure-holder or any person to whom the possession of the estate or tenure has been delivered.

Acquisition of the estate or tenure or any interest therein.

15. If at any time it appears to the Provincial Government that any estate or tenure, the management of which has been assumed by the Court of Wards under the provisions of this Act, or the interest of any other person in such estate or tenure, should in the public interest be acquired, it shall be lawful for the Provincial Government to acquire the said estate or tenure or any interest therein under the relevant provisions of any Act for the time being in force.

Recovery of money payable to Government.

16. Any money payable to Government under any provision of this Act shall be recoverable as arrears of land-revenue.

Order made or direction given, etc., shall not be called in question in Courts.

17. No order made, direction given or notification issued or purporting to have been made, given or issued under sections 3 and 14 of this Act by the Provincial Government shall be called in question in any Court.

Bar to suit, prosecution or legal proceedings, etc.

18. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act.

(2) No suit or other legal proceeding shall lie against the Crown for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act.

Power to make rules.

19. The Provincial Government may after previous publication in the official Gazette make rules to carry out the purposes and objects of this Act.