

BIJNI SUCCESSION ACT

ASSAM ACT II OF 1931

THE BIJNI SUCCESSION ACT, 1931*

[Received the assent of the Governor on the 27th March 1931 and of the Governor-General on the 9th May 1931; and was published, under section 81 (3) of the Government of India Act, in the *Assam Gazette* of the 20th May 1931.]

An Act to regulate the Succession in the Bijni Raj

WHEREAS it is expedient to declare and supplement the customary law of succession in the group of estates known as the Bijni Raj in Assam with a view to the prevention of disputes and the preservation of the Raj. Preamble.

AND WHEREAS the previous sanction of the Governor-General has been obtained under sub-section 3 of section 80A of the Government of India Act to the passing of this Act ;

It is hereby enacted as follows :—

1. This Act may be called the Bijni Succession Act, 1931.

2. In this Act,—

Definitions.

(1) "the Bijni Raj" or "the Raj" means the group of estates specified in the Schedule annexed to this Act, together with all additions and accretions to the property comprised therein that may have been or may hereafter be made from time to time by or on behalf of the Holder of the Raj and includes any securities held by him or on his behalf ;

(2) "family" means the Bijni Raj family ;

(3) "the Holder of the Raj" or "the Holder" means the owner of the Raj ; and

(4) "prescribed" means prescribed by this Act or by rules under this Act.

3. The Bijni Raj is hereby declared to be an impartible estate descendible to a single male Holder according to the provisions of this Act. Impartibility of the Bijni Raj.

*For Statement of Objects and Reasons, see *Assam Gazette*, 1931, Part V, page 25 for Proceedings in Council, see *Assam Gazette*, 1931, Part VI, pages 49, 363-379.

Raja
Jogendra
Narayan
Bhup decla-
red to be
Holder from
28th Septem-
ber 1895.

4. (1) Raja Jogendra Narayan Bhup of Bijní is hereby declared and shall during his life-time be the Holder of the Raj with title dating from his nomination to the succession made by Rani Abhayeswari Debi on the 28th September 1895.

(2) Upon the death of the said Raja the Holder of the Raj shall be the person now known as Kumar Bhairabendra Narayan Deb, son of late Chandra Narayan Deb ;

Successor of
Raja Jogen-
dar Narayan
Bhup decla-
red.

or, in the event of the said Kumar predeceasing the said Raja, the person who, in the opinion of the Governor of Assam, is the nearest surviving male descendant in the eldest surviving male line of the said Kumar ;

or, failing any such descendant, the person who, in the opinion of the Governor of Assam, is the eldest of the nearest surviving male agnates of the said Kumar.

Subsequent
successions
to be deter-
mined by
nomination
or appoint-
ment.

(3) From and after the death of the Holder succeeding to the Raj under sub-section (2), the succession shall be determined by nomination or appointment as hereinafter provided.

Person
entitled to
nominate.

5. Nominations to the succession may be made, in the prescribed manner, by the following persons and in the following order of precedence, namely:—

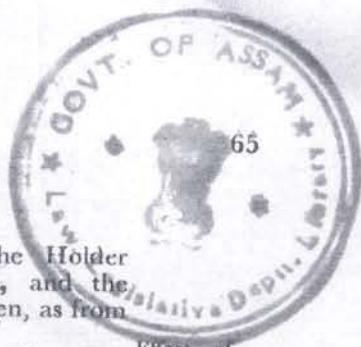
- (a) by the Holder during his life time ;
- (b) after his death and in accordance with the written directions, if any left by him ;
 - (i) by his mother ;
 - (ii) by his widow, or if there be more widows than one, the principal widow ;
 - (iii) by the senior lady of the family :

Provided that such senior lady shall not be entitled to nominate if the widow or the mother is alive and of sound mind, and the widow shall not be entitled to nominate, if the mother is alive and of sound mind :

Provided further that no person shall be entitled to nominate who is not of full age and of sound mind.

Confirmation
of nomina-
tions.

6. Every nomination made under section 5 shall be submitted, within the prescribed time, to the Governor of Assam who, if in his opinion it is in accordance with the provisions of this Act and with the custom of the family, shall confirm ; and upon such confirmation, but not otherwise, the nomination shall become valid,



and the person nominated shall—

- (a) if the nomination is made by the Holder under clause (a) of section 5, and the nominee survives the Holder, then, as from the death of such Holder,
- (b) if the nomination is made after the death of the Holder under clause (b) of section 5, then, as from the date of nomination.

Effect of confirmation.

be the Holder of the Raj.

7. If no nomination, or no nomination which, in the opinion of the Governor of Assam, is in accordance with the provisions of this Act and with the custom of the family is submitted within the prescribed time, the Governor of Assam may appoint to the succession the person who in his opinion has the best claim thereto according to the custom of the family, and the person so appointed shall be the Holder of the Raj from the date of appointment.

Provision in case of failure of nomination.

8. The publication in the [official gazette]¹ of a nomination confirmed or an appointment made by the Governor of Assam and purporting to have been confirmed or made under this Act shall be conclusive proof of the title to the Raj, with effect from the date of the person nominated or appointed, as the case may be, provided he is alive on such date.

Conclusive-ness of nomi-nations and appoint-ment.

9. If any Holder dies without nominating his successor, the person entitled to make the nomination under clause (b) of section 5 shall be entitled temporarily to take possession of and administer the Raj, pending the confirmation of the nomination or pending the appointment, as case may be, of the next Holder but in such case he shall so possess and administer the Raj for the benefit of the incoming Holder and shall be deemed to be under an obligation in the nature of a trust within the meaning of Chapter IX of the Indian Trusts Act, 1882.

Provision for temporary administration of the Raj when there is no Holder.

10. (1) Without the previous sanction of the Governor of Assam, it shall not be lawful to sell, mortgage, divide, or in any other way transfer the Raj or any portion thereof or any interest therein otherwise than by lease for a term not exceeding 30 years.

Restrictions on transfer.

(2) Any transfer made in contravention of subsection (1) shall be void and no claim for any sum paid to the Holder in connection with any such transfer shall be enforceable against the Raj.

¹, Substituted by the A, O, 1937 for "gazette"

(3) Where any transfer has been made in contravention of sub-section (1), then notwithstanding anything contained in the Indian Limitation Act, 1908, any Holder may bring a suit for the recovery of the property transferred within 12 years from the date of the death of the transferor, or if on such date he is subject to any legal disability, within 3 years from the cessation of such disability, whichever of the two is the longer period.

Act IX of
1908.

Restriction
on attach-
ment or sale.

(4) Without the previous sanction of the Governor of Assam neither the Raj nor any portion thereof nor any interest therein may be attached or sold in execution of any decree or order or other process of law.

Savings.

11. (1) Nothing in this Act shall affect the provisions of the Land Acquisition Act, 1894 :

Act I of
1894.

Provided that any compensation paid to the Holder for any land appertaining to the Raj that may be acquired under the said Act shall, so far as may be, be subject to all the provisions of this Act in the same manner as if such compensation were a part of the Raj.

(2) Nothing in this Act shall affect the provisions of the Bengal Court of Ward Act, 1879, as in force in Assam, and the Holder of the Raj shall notwithstanding anything contained herein, be deemed to be the proprietor of an estate within the meaning of the said Act.

B.C. Act IX
of 1879

Succession
fee.

12 (1) From and after the death of Raja Jogendra Narayan Bhup of Bijni, every Holder succeeding to the Raj shall pay such succession fee as the Governor of Assam may fix, having regard to the circumstances of each succession and, in particular, to the period of time that has elapsed since the payment of the last fee as also to any estate duty or other similar duty to which such Holder may be liable under any other law :

Provided that in no case shall the fee exceed 5 per cent of the amount which, in the opinion of the Governor, represents the market value of the property comprised in the Raj at the time of the death of the previous holders.

(2) The succession fee shall be paid within the prescribed time and in the prescribed manner, and if unpaid, shall be recoverable as an arrear of land revenue.

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1. See 12A inserted by the A.O. 1937 Omitted by the A.O. 1950,

13. The [State Government]¹ may by notification **Power to make rules.** make rules providing for—

- (a) the time and manner of making nominations and of submitting them for confirmation ;
- (b) the publication of nominations before and after confirmation ;
- (c) the temporary administration of the Raj in cases not provided for in section 9 ; and
- (d) the time and manner of payment of succession fees ; and generally to carry out the purposes of this Act.

SCHEDULE

1. The estate in the permanently-settled parganas of Habra¹ghat and Khutaghat in the district of Goalpara bearing No.1 in the Collector's rent roll, assessed with the sudder jama of Rs.2,355-1 per year, and covering an approximate area of 943 square miles.

2. The estate known as the "acknowledged estate of the Raja of Bijni" in the Bijni Duar in the district of Goalpara covering an approximate area of 1,30,000 acres, and bounded on the—

North.—By the line demarcated by Samudra Narayan Das, Kanungo, beginning from the Daisong river about a mile above the village Subla¹ijhar and running east till it reaches the Sukangkari river, thence along the said river to its junction with the Manas river.

East.—By the district of Kamrup.

South.—By the pargana of Khutaghat.

West.^{*}—By the Dondonga, Daichang Jhara, Kanamakra and Aie rivers.

3. The estate known as the Bijni. A Mahal included in the Garo Hills district and comprising the following blocks—

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|------------------|-----------------|
| (i) Khokhol. | (iv) Bengsi. |
| (ii) Belpara. | (v) Chitook. |
| (iii) Manikganj. | (vi) Bhagabata. |

¹, Substituted by the A O 1950 for "Provincial Government" which was substituted by the A O 1937 for "L. G".