

**BENGAL ALLUVIAL LANDS ACT, 1920****5 of 1920****[October 13, 1920]**

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**BENGAL ALLUVIAL LANDS ACT, 1920****5 of 1920****[October 13, 1920]**

Statement of Objects and Reasons. "The question of legislation to prevent riots in connection with lands gained by alluvion or by the dereliction of a river or the sea in the deltaic tracts of Bengal, has long been under the consideration of Government. In 1905, a Bill was circulated for criticism. This Bill gave the Collector power to take and retain possession of any newly formed alluvial land, of which possession was disputed, until he or a competent Civil Court declared what person was entitled to possession. The Bill was not, however, proceeded with, in view of a suggestion made by the High Court to the Government of India. for the amendment of the provisions of the Code of Criminal Procedure in respect of disputes as to immovable property. which was under consideration. In the Criminal Law applicable to the whole of India. provision could not however, be made for a problem relating to alluvial lands which was peculiar to Bengal. The question of special legislation for Bengal, was, therefore, left over for considerations till the diara

lands of the Province was surveyed. The survey of these lands has not yet been finished, but it is complete for most of the districts in the eastern portion of the province whilst the attention of the Government has been drawn to the subject again by the final reports on the survey and settlement operations in the Districts of Faridpur and Dana. These reports contain a description of the lawlessness which prevails on account of the impossibility of exact knowledge of title when a char appears in the Ganges, of the case with which valuable crops can be grown on these chars, and of the advantage which is gained by the strong man who can enforce initial possession. In the existing state of the law, there is a premium on violence, and serious riots. Involving loss of life, are of frequent occurrence. Also the preparation of a record-of-rights and of accurate maps, is not alone a sufficient remedy against these evils. It is, therefore, desirable that legislation on the subject should be no longer postponed. The main object of the Bill is, by giving opportunities for immediate action when the alluvial land forms, to prevent violence from gaining an undue advantage. The previous bill was open to the objections that it provided for the Intervention of the Collector at too late a stage namely, when a riot was already imminent, and that it is entrusted to an executive, Instead of to a judicial authority, the duty of deciding questions of title. In framing the present Bill these objections have been met. In order that the legitimate landlord may not lose salami by the necessity of the settlement of tenants during the period of attachment, it is intended to make provision by the rules under clause (2) of section 7 for the levy of such salami on his behalf." (Calcutta Gazette, Part IV, page 15. dated 3rd march, 1920).

### **1. Short title and extent :-**

(1) This Act may be called the Bengal Alluvial Lands Act, 1920.

(2) It extends to the whole of <sup>1</sup> [West Bengal]

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1. Words subst. by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order. 1948.

### **2. Definitions :-**

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

(a) "alluvial land" means land which is gained from a river or the sea in any of the ways referred to in the Bengal Alluvion and

Diluvion Regulation, 1825, the Bengal Alluvion and Diluvion Act, 1847, or the Bengal Alluvion (Amendment) Act, 1868, and includes reformations in situ; and

(b) "Collector" means the Collector of a district or a sub-divisional officer or any other officer not below the rank of a Deputy Collector exercising the powers of a Magistrate of the first class appointed by the <sup>1</sup> [State Government], to discharge any of the functions of a Collector under this Act.

1. Words subst. by the Government of India (Adaptation of Indian Laws) Order. 1937 and the Adaptation of Laws Order. 1950. respectively.

### **3. Power of Collector to attach alluvial land :-**

(1) Notwithstanding anything contained in the Bengal Alluvion and Diluvion Regulation, 1825, the Bengal Alluvion and Diluvion Act, 1847, or the Bengal Alluvion (Amendment) Act, 1868, the Collector, if he is credibly informed that a dispute likely to cause a breach of the peace exists or is likely to arise, in regard to any alluvial land which in his opinion has recently formed, may, after making an order in writing, stating the grounds therefor, in the interest of public order, attach such land, and may demarcate it with boundary pillars.

<sup>1</sup>(1a) Where such land is situated within the limits of more than one district, or it is doubtful within the limits of which district or districts such land is situated any Collector who considers that any portion of such land is situated within the limits of his district may, after recording his reasons therefor, attach the whole of such land. If, after attachment, such land or any portion thereof is found to be situated within any other district or is transferred to another district, the attachment shall continue to be valid but the Collector who attached the land may either transfer the case, in respect of the whole or any portion of the attached land, for disposal to the Collector of any such other district or may himself continue the proceedings under the provisions of this Act. The Collector to whom a case is transferred for disposal under this sub-section shall be deemed, for the purposes of this Act, to have attached the land under this section.

(2) When the Collector attaches any alluvial land under sub-section (1) <sup>2</sup>[or sub-section (1a)], he may himself manage such land during the period of attachment, or may, if he thinks fit, appoint a receiver

thereof, who, subject to the control of the Collector, shall have all such powers conferrable on a receiver appointed under the Code of Civil Procedure, 1908, as may be given to him by the Collector:

Provided that neither the Collector nor the receiver shall make a settlement or resettlement of any 5[for a period exceeding one year nor shall be charge any salami for such settlement or resettlement].

(3) Nothing in this section shall preclude any party interested from showing, before the Collector makes an order of reference under section 5, sub-section (1), that no such dispute as aforesaid exists or is likely to arise; and the Collector, if satisfied that no such dispute as aforesaid exists or is likely to arise, shall cancel his order of attachment under subsection (1), <sup>3</sup>[or sub-section (1a)], and all further proceedings thereon shall be stayed, but, subject to such cancellation, the said order shall be final. <sup>4</sup>[The Collector may, if he thinks fit, cancel his order of attachment under sub-section (1) or sub-section (1a) in respect of a portion of the attached land and continue proceedings in respect of the remainder of such land.]

**5**(4) When an order of attachment of any alluvial land is cancelled under sub-section (3), the Collector shall issue a notice in the prescribed manner inviting claims to the net receipts from the land during attachment, and shall order the payment of such receipts to the persons who, in his opinion, are entitled to the same. The net receipts shall be calculated by deducting from the gross receipts the costs incurred under this section, and under section 4, sub-section (1), and section 4A, sub-section (1), and the cost of preparation of the reference to be made under section 5, sub-section (1), if any.

**5** (5) In estimating for the purposes of sub-section (4), section 5, and section 7 the costs incurred under this section, the following costs shall be included in the cost of management namely:

(a) the rate leviable under the Government Management of Private Estates Act, 1892,

(b) the cost of special staff, if any, and

(c) where no special staff is employed for collection, a sum not exceeding five per centum per annum on the actual collections.

1. Sub-sec. (1a) inst. by Ben. Act 5 of 1935.

2. Words, brackets, figure and letter inst. by Ben. Act 5 of 1935.
3. Words, brackets, figure and letter Inst by Ben. Act 5 of 1935.
4. Words, brackets, figures and letter inst. by Ben. Act 5 of 1935.
5. Sub-sees. (4) and (5) inst. by Ben. Act 5 of 1935.

#### **4. Collector to cause survey to be made :-**

(1) When the Collector has attached any alluvial land under section 3, he shall as soon as possible cause a survey to be made and a map to be prepared of the land, including the revenue, diara and other relevant survey lines.

(2) The survey made under sub-section (1) shall be deemed to be survey under the Bengal Survey Act, 1875, and the Collector shall exercise in respect of such survey all powers which he is empowered to exercise for the purposes of inquiries and surveys under that Act.

(3) Notwithstanding anything contained in section 83 of the Indian Evidence Act, 1872, a map prepared under sub-section (1) shall be presumed by the Court to be accurate until the contrary is shown.

#### **4A. List of claimants :-**

(1) When the Collector has attached any alluvial land under section 3, he shall as soon as possible issue a notice in the prescribed manner calling upon all persons claiming title to any part of such land to file statements specifying their claims and the grounds thereof, and the name and jurisdiction number of the village and tauzi number of the estate to which they allege that the land appertains. If any of the aforesaid claimants is not a proprietor of such estate, he shall also mention in the statement the name of the landlord under whom he holds the land, the area and the rent of his tenancy and such other particulars as may be necessary to elucidate his claim. If the land is included in a map as prepared or a record-of-rights as finally published under Chapter X of the Bengal Tenancy Act, 1885, the claimant shall also mention the particulars of the Khatians and plot numbers necessary to identify the land in the map or record-of-rights.

(2) On receipt of a statement of claim referred to in sub-section (1) the Collector shall examine the claim and call for such further particulars, if any, as he considers necessary, and shall, if he is satisfied that the claim is bona fide, enter the name of the claimant in the list of claimants. The Collector may exclude from the said list the name of any claimant who fails to supply any of the required

particulars. If any part of the attached land is claimed <sup>1</sup>[by any Government], the Collector shall <sup>2</sup> [include that Government] in the said list of claimants.

(3) An application for inclusion in the list of claimants by a person with whom any of the land has been settled or resettled during the period of attachment shall not be considered unless it alleges a title independent of such settlement or resettlement.

1. Words subst. by the Government of India (Adaptation of Indian Laws) Order, 1937.

2. Words, brackets, letters and figures subst. by Ben. Act. 5 of 1935.

## **5. Reference to Civil Court :-**

(1) When the survey and map referred to in section 4, sub-section (1), have been completed the Collector shall as soon as possible pass an order making a reference to the principal Civil Court of original jurisdiction in the district for a decision as to what person has a title to the land, <sup>1</sup>[and shall include in the order the list of claimants referred to in section 4A and shall state

(a) whether any land claimed by any such claimant has been identified as being included in the land which is the subject of the reference.

(b) the costs incurred under section 3, section 4, sub-section (1), section 4A, sub-section (1), and the cost of preparation of the reference made under this sub-section,

(c) the value of the land, and

(d) the names of any persons who have filed statements of claim under section 4A and whose names are not included in the list of claimants.] <sup>2</sup>In the case of any land referred to in section 3, sub-section do), the reference shall be made to the principal Civil Court of original jurisdiction in the district in which, in the opinion of the Collector, the major portion of the attached land is situated.

<sup>3</sup>(1a) In making such reference the Collector shall advance the court- fees payable under the Court-fees Act, 1870, on a plaint in a suit for

(2) On receipt of a reference made under sub-section (1), the principal Civil Court of the district may either proceed to determine

the matter or may transfer the matter for determination to any other Civil Court subordinate to such Court competent to try or dispose of a suit for the determination of title to the land. The said Court shall issue notices <sup>4</sup>[to all the persons mentioned in the list of claimants referred to in section 4A] to appear and file statements of their respective claims. <sup>5</sup>[No other person shall be made a party to the reference unless the said Court is satisfied that for some reason not due to wilful default or negligence on the part of such person he was unable to file a statement of claim referred to in section 4A, sub-section (1), in due time or that the Collector has without sufficient reason held that such person's claim was not bona fide. A person pleading ignorance of the issue of the notice under that sub-section shall not be made a party to the reference unless he proves to the satisfaction of the said Court that he had no knowledge that the land had been attached.] The said Court shall also determine which of the claimants has the right to begin at the hearing of the reference.

(3) Save as otherwise provided in this Act, a reference made under subsection (1), shall be deemed to be a suit for all the purposes of the Code of Civil Procedure, 1908, and every decision by a Civil Court under subsection (2), shall be deemed to be a decree within the meaning of that Code and appealable as such.

<sup>6</sup>(4) The said Court shall decide to whom and in what proportions the net receipts, if any, from the land during attachment shall be paid. The net receipts shall be calculated by deducting from the gross receipts the costs incurred under section 3, section 4, sub-section (1), section 4A, subsection (1), and the costs incurred by the Collector in the proceedings under this section including the cost of preparation of the reference made under sub-section (1).

<sup>6</sup>(5) The said Court shall also decide by whom and in what proportions the costs incurred under section 3, section 4, sub-section (1), section 4A, sub-section (1), and the costs incurred by the Collector and by the other parties in the proceedings under this section including the cost of preparation of the reference made under sub-section (1), are payable.

<sup>8</sup>(6) If the costs referred to in sub-section (4) exceed the gross receipts the Court shall decide by whom and in what proportions the amount of such excess shall be payable, and such amount shall be recoverable by the Collector, in accordance with the decision of

the Court, from the persons liable, as arrears of a public demand.

**7**(7) The person entitled to the net receipts may apply to the Court for the recovery from the persons liable of any amount deducted from the gross receipts in excess of the amount, so deducted, for which he is himself liable. If **10**[the Government] are entitled to the net receipts or to any part thereof the Collector may recover as arrears of a public demand any amount due to **8**[the Government] or may apply to the Court for the recovery of the same.

**7** (8) A reference made under sub-section (1) shall not be dismissed for default but the said Court shall decide the same after taking the evidence of such of the claimants mentioned by the Collector in the order of reference or added by the Court under section 5, sub-section (2), as it may think necessary.

1. Words, brackets, letters and figures subst. by Ben. Act. 5 of 1935.

2. This para. inst. by Ben. Act 5 of 1935.

3. Sub-sec. (1a) inst. by Ben. Act 5 of 1935.

4. Words. figures and letter subst. by Ben. Act 5 of 1935.

5. Words. figures, letter and brackets inst. by Ben. Act 5 of 1935.

6. Sub-secs. (4) to (8) subst. by Ben. Act 5 of 1935.

8. Sub-sees. (4) to (8) subst. by Ben. Act 5 of 1935.

10. Words subst. by the Government of India (Adaptation of Indian Laws) Order, 1937 and the Adaptation of Laws Order. 1950, respectively.

## **6. Taking possession of land by person entitled to it :-**

Whenever the Court makes an order under section 5, sub-section (2), it shall certify to the Collector its decision, and the Collector shall thereupon put the person stated in such order to be entitled to the land in possession thereof.

## **7. Costs :-**

(1) Every order under section 3, sub-section (3), shall state the amount of **1** [costs incurred under section 3, section 4, sub-section (1), section 4A, sub-section (1), and the cost of preparation of the reference to be made under section 5, sub-section (1), if any,] and by what persons and in what proportions they are to be paid, and such costs shall be recoverable as arrears of a public demand.

(2) Any person against whom an order has been made with regard to such costs, may, within one month of the date of such order, prefer an appeal to the Commissioner in respect of such costs.



1. Words. figures. letter and brackets subst. by Ben. Act 5 of 1935.

## **8. Rules :-**

The <sup>1</sup>[State Government] may, subject to the condition of previous publication by notification in the <sup>2</sup>[Official Gazette], make rules

(1) to regulate the procedure to be followed by the Collector in attaching any alluvial land under section 3;

(2) to regulate the procedure to be followed by the Collector or receiver in the management of such land during the period of attachment ;

(3) to regulate the procedure to be followed by the Collector in demarcating, surveying and preparing a map of, any alluvial land;

<sup>3</sup>(3a) to regulate the procedure to be followed by the Collector in distributing the net receipts from attached land, when the attachment is cancelled under section 3, sub-section (3), and when the Civil Court passes a decree under section 5;

<sup>3</sup>(3b) to regulate the issue of notices prescribed under section 3, subsection (4), or under section 4A sub-section (1);

(4) to regulate the procedure to be followed in making a reference to the Court under section 5, sub-section (1); <sup>5</sup>\* \* \* \* \*

(6) to regulate the manner of making over possession of alluvial land under section 6; <sup>6</sup>\*

<sup>7</sup> (6a) to provide for the creation of an Alluvial Lands Dispute Fund in any district and the administration of the same; and

(7) generally to carry out the purposes of this Act.

1. Words subst. by the Government of India (Adaptation of Indian Laws) Order. 1937 and the Adaptation of Laws Order, 1950. respectively.

2. Words subst. by the Government of India (Adaptation of Indian Laws) Order, 1937.

3. Clauses (3a) and (3b) inst. by Ben. Act 5 of 1935.

5. Clause (5) omitted by Ben. Act 5 of 1935.

6. Word omitted by Ben. Act 5 of 1935.

7. Clauses (6a) inst. by Ben. Act 5 of 1935.

## **9. Indemnity :-**

No suit or other legal proceedings shall lie against the Collector, or any person acting under his direction, for any act done or ordered

to be done in good faith under this Act.

**10. Bar to institution of proceedings under section 145 of the Code of Criminal Procedure :-**

1898. When the Collector has attached any alluvial land under section 3, no proceedings under section 145 of the Code of Criminal Procedure, 1898, shall be instituted in any Court in respect of the same land, or of any part thereof; and any such proceedings already commenced and pending in any such Court shall be stayed.