

Bengal Alluvion (Amendment) Act, 1868

4 of 1968

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PREAMBLE

An Act to amend the provision of Act 9 of 1847 (an Act regarding the assessment of lands gained from the sea or from rivers by alluvion or dereliction within the Provinces of Bengal, Bihar and Orissa).

Whereas it is expedient to amend the provisions of Act 9 of 1817².
It is enacted and declared as follows-

1. SHORT TITLE.-This short title was given by Act, 1 of 1903. Sch. I.

Legislative Papers.-for Statement of Objects and Reasons, see Calcutta Gazette, 1868, p. 508, and for Proceedings in Council, see *ibid*, Supplement 1868, pp. 253, 337, 362, 372 and 388.

The Act has been declared by notification under Act, 14 of 1874, S. 3, to be in force in the district of Hazaribagh. Ranchi, Palamau and Manbhum and Pargana Dhalbhum, and the Kolhan in the district of Singhbhum in the Chotanagpur Division. It is in force in the Santhal Parganas.

2. The Bengal Alluvion and Diluvion Act, 1847. The section of Act 9 of 1847 which was specifically "amended" by Bengal Act 4 of 1863 was S. 7, which is replaced by S. 3 of the present Act.

1. Omitted :-

¹[* * * * *]

1. S.1 rep. by Act 12 of 1873.

2. Accessions to island considered increment thereto :-

It is hereby declared that when any island shall, under the provisions of Clause 3, Section 4, of Regulation 11 of 1825 ⁴of the Bengal Code, be at the disposal of ⁵the Government, all lands gained by gradual accession to such island, whether from a recess of the river or of the sea, shall be considered an increment to such island, and shall be equally at the disposal of ¹[the Government].

1. Substituted by A.L.O. for the Crown".

3. Newly thrown up islands to be assessed :-

Whenever it shall appear to the local revenue-authorities that an island has been thrown up in a large and navigable river liable to be taken possession of by ¹[the Government] under Clause 3, Section 4, of Regulation 11 of 1825 ³of the Bengal Code, the local revenue-authorities shall take immediate possession of the same for ¹[the Government] and shall assess and settle the land according to the rules in force in that behalf, reporting their proceedings forth with for the approval of the Board of Revenue, whose order thereupon, in regard to the assessment, shall be final.

Provided, however, that any party aggrieved by the act of the revenue-authorities in taking possession of any island as aforesaid shall be at liberty to contest the same by a regular suit in the Civil Court.

of private ownership, the defendant in such regular suit cannot justify under this section but must be held answerable to the party aggrieved in the same way as a trespasser. The person in wrongful possession is not liable for failure to realize the highest possible rates of rent and premium from the tenant. It is enough if taking account of both rent and premium, a fair return has been realized from the land. AIR 1935 PC 49.]

1. The Bengal Alluvion and Diluvion Regulation, 1825.

4. Subsequent junction to mainland not to affect Government right :-

Any island of which possession may have been taken by the local revenue-authorities on behalf of ¹[the Government] under section 3 of this Act shall not be deemed to have become an ancession to the property of any person by reason of such channel becoming fordable after possession of such island shall have been so taken.

1. Substituted by A.L.O. for the Crown".

5. Power to apply for ways across islands :-

Whenever an island, of which possession shall have been taken by ¹[the Government] under section 3 of this Act, shall become attached to the mainland, any person having an estate or interest in any part of the riparian mainland to which such island may become attached while it is in the possession of ¹[the Government] may apply to the Collector, to take measures for the construction of ways, paths and roads on the island; the costs thereof to be equally divided between the applicant ²[and the State Government].

1. Substituted by A. L. O. for "and the Government".

6. Applicant for ways to deposit money, and ways to be made :-

Thereupon the Collector may require the applicant to make such deposit of money as to the Collector shall seem sufficient, and, on such deposit being made, the Collector shall proceed to lay out and construct such ways, paths and roads in and through the island as he may deem necessary for securing access to the river or sea from the land to which the island may have become attached.

7. Costs of ways how borne :-

In every case the applicant shall be liable to pay and make good to the ¹[State] Government one-half of the costs of laying out and constructing such ways, paths and roads as aforesaid, and any moneys due from the applicant under the provisions of this section may be deducted and retained by the Collector out of the deposit so made by the applicant as aforesaid.

1. Substituted by A.L.O.

8. Ways to be public :-

Every way, road and path, which shall be laid out or appointed under the provisions aforesaid, shall be deemed a public highway.