

Bombay Revenue Jurisdiction Act, 1876

10 of 1876

[March 28, 1876]

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SCHEDULE 1 :- Enactments repealed

Bombay Revenue Jurisdiction Act, 1876

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An Act to limit the jurisdiction of the Civil Courts/throughout the Bombay Presidency in matters relating to the land revenue, and for other purposes. Preamble-Whereas in Certain parts of the Presidency of Bombay the jurisdiction of the Civil Courts in matters connected with the land revenue is more extensive than it is in the rest of said Presidency; and whereas it is expedient that the jurisdiction of all the Civil Courts in the said Presidency should be limited in manner hereinafter appearing. and whereas it is also expedient to amend the Bombay Civil Courts Act, section 31 and to

revive certain provision of the thirteenth section of Regulation XVII of 1827 (XIV of 1869) of the Bombay Code which was repealed by the Land Improvement Act 1871 (XXVI of 1871). It is hereby enacted as follows:-

1. Short title :-

This Act may be called the Bombay Revenue jurisdiction Act. 1876.

Commencement-So much of section 4 as relates to claims to set aside, on the ground of irregularity, mistake or any other ground except fraud, sales, for arrears of land revenue, shall come into force in the Presidency of Bombay on such day as the Governor-General in Council directs in that behalf by the Notification in the Gazette of India. The rest of this Act shall come into force therein on the passing thereof;

Extent-and it shall extend to the State of Gujarat, but not so as to affect--

(b) Any of the provisions of Bombay Acts V of 1862, and VI of 1862, or, of Act XXI of 1881 or of Act XXIII of 1871;

2. Repeal of enactments :-

Rep, Act XII of 1891.

3. Interpretation clause :-

In this Act, unless there be some thing repugnant in the subject or context- "and" includes the sites of villages, towns and cities; it also include trees, growing crops and grass, fruit upon, and juice in, trees rights-of way, ferries, fisheries and all other benefits to arise out of land, and things attached to the earth or permanently fastened to things attached to the earth:

"and-revenue" means all sums and payments in money or in kind, received or claimable by or on behalf of the Government from any person on accounts of any land held by or vested in him, and any cess or rate authorized by the State Government under the provisions of any law for the time being in force: "Revenue officer" means any officer employed in or about the business of the land-revenue, or of the surveys, assessment, accounts or records connected therewith.

4. Bar of certain suits :-

Subject to the exceptions hereinafter appearing no Civil Court shall exercise jurisdiction as to any of the following matters:

(a) claims against the Government relating to any property appertaining to the office of any hereditary officer appointed or recognised under Bombay Act No III of 1974 or any other law for the time being in force, or of any other village officer or servant, or Claims to perform the duties of any such officer or servant, or in respect of any injury caused by exclusion from such office or service, or suits to set aside or avoid any order under the same Act or any other law relating to the game subject for the time being in force passed by the State Government or any officer duly authorized in that behalf, or

(b) objections- to the amount or incident of any assessment of land revenue authorised by the State Government, or, to the mode of assessment, or to the principle on which such assessment is fixed, or to the validity or effect of the notification of survey or settlement, or of any notification determining the period of settlement;

(c) claims connected with or arising out of any proceedings for the realization of land revenue or the rendering of assistance by the State Government or any officer duly authorized in that behalf to superior holders or occupants for the recovery of their dues from inferior holders or tenants; claims to set aside, on account of irregularity, mistake or any other ground except fraud, sales for arrears of land revenue;

(d) claims against the Government-

(1) to be entered in the revenue-survey or settlement records or village papers as liable for the land-revenue, or as superior holder, inferior holder, occupant or tenant, or

(2) to have any entry made in any record of revenue-survey or settlement or

(3) to have any such entry either omitted or amended;

(e) the distribution of land or allotment of land-revenue on partition of any estate under Bombay Act IV of 1868 or any other law for the time being in force;

(f) claims against the Government - to hold land wholly or partially free from payment of land-revenue or to receive payments charged on or payable out of the land-revenue, or to set aside any cess, rate, premium or penalty imposed, assessed or authorized by the

State Government under the provisions of any law for the time being in force, or respecting the occupation of waste or vacant land belonging to the Government;

(fa) claims against the Government or any Revenue Officer for remission or suspension of land revenue, or for a declaration that crops have failed in any year;

(fb) suit to set aside or modify decision determining village site or abadi made by the Collector or a survey officer under the Bombay Land Revenue Code, 1879 (Bom. V of 1879) or by any Revenue Officer under any other law for the time being in force;

(fc) suit to compel the performance of any duty imposed on any Revenue Officer by or under any law relating to land revenue;

(g) claims regarding boundaries fixed under Bombay Act No. I of 1865 or any other law for the time being in force, or to set aside any order passed by a competent officer under any such law with regard to boundary marks.

Proviso-Provided that, if any person claim to hold wholly or partially exempt from payment of land revenue under

(h) any enactment for the time being in force expressly creating an exemption not before existing in favour of an individual or of any class of persons, or expressly confirming such an exemption on the ground of its being shown in a public record or of its having existed for a specified term of years, or

(i) an instrument or sanad given by or by order of the State Government under Bombay Act No. II of 1863, section 1, clause first, or Bombay Act No. VII of 1863, section 2, clause first, or

(ii) any instrument, sanad or other written grant duly given or made by any of the Governments of the territories, which immediately before the commencement of the State Reorganisation Act, 1956, (XXXVII of 1956), were comprised in the States of Saurashtra, or Kutch, and which now form the State of Gujarat or

(j) any other written grant by the British Government expressly creating or confirming such exemption, or

(k) a judgment by a Court of law or an adjudication duly passed by a competent officer under Bombay Regulation XVII of 1827, Chapter X or under Act No. XI of 1852 or any other law for the time

being in force, which declares the particular property in dispute to be exempt, such claim shall be cognizable in the Civil Courts.

(1) It is enacted that, in the event of the proprietary right in lands the property of Government being transferred to individuals, they shall be permitted to hold the lands for ever at the assessment at which they are transferred. The proprietary right in certain lands is transferred to A at an assessment of Rs. 100. An exemption from higher assessment not before existing is expressly created in favour of A by enactment, and he may seek relief in the Civil Court against over-assessment.

(2) It is enacted that, when a specific limit to assessment has been established and preserved, the assessment shall not exceed such specific limit. A is the owner of land worth Rs. 100 for assessment. He claims to be assessed at Rs. 50 only on the strength of a course of dealing with him and his predecessors under which his land has not been more highly assessed. There is no exemption not before existing created by enactment, and A's claim is not cognizable in a Civil Court.

(3) It is enacted that land revenue shall not be leviable from any land held and entered in the land-registers as exempt. A claims to hold certain land as exempt on the ground that it has been so held by him, and is so entered in the land-register. This is an exemption expressly confirmed by enactment on the ground of its being shown in a public record, and A's claim is cognizable in a Civil Court.

(4) It is enacted that the Collector shall confirm existing exemption of all lands shown in certain maps to be exempt. A claims exemption, alleging that his land is shown in the maps to be exempt. A's claim is cognizable in a Civil Court.

(5) It is enacted that assessment shall be fixed with reference to certain considerations and not with reference to others. This is not an enactment creating an exemption in favour of any individual or class, and no objection to an assessment under such an enactment is cognizable in a Civil Court.

5. Saving of certain suits :-

Nothing in section 4 shall be held to prevent the Civil Courts from entertaining the following suits:-

(a) suit against the Government to contest the amount claimed, or paid under protest, or recovered, as land revenue, on the ground

that such amount is in excess of the amount authorized in that behalf by the State Government or that such amount had, previous to such claim, payment or recovery, been satisfied, in whole or in part or that the plaintiff, or the person whom he represents is not the person liable for such amount;

(b) suits between private parties for the purpose of establishing any private right, although it may be affected by any entry in any record of revenue survey or settlement or in any village-papers:

(c) suits between superior holders or occupants and inferior holders or tenants, regarding the dues claimed or recovered from the latter: and nothing in section 4, clause (g), shall be held to prevent the Civil Courts from entertaining suits, other than suits against the Government for possession of any land being a whole survey number or a recognized share of a survey-number: and nothing in section 4 shall be held to prevent the Civil Courts in the districts mentioned in the Second Schedule here to annexed from exercising such jurisdiction as according to the terms of any law in force on the twenty eighth day of March 1876, they could have exercised over claims against the Government-

(a) relating to any property appertaining to the office of any hereditary officer appointed or recognized under Bombay Act No. III of 1874 or any other law for the time being in force, or of any other village officer or servant:

(b) to hold land wholly or partially free from payment of land revenue:

(c) to receive payments charged on, or payable out of the land revenue:

6. Bar of certain suits against Revenue officers :-

Revenue officers shall not be liable to be used for damages in any Civil Court for any Act bonafide done or order to be done by them as such in pursuance of the provisions of any law for the time being in force. If any Revenue officer absconds or does not attend when called on by his official superior, and if the Collector of the district proceeds against him or his sureties for public money, papers or property according to the provisions of any law for the time being in force, such Collector shall not be liable to pay damages or costs in any suit brought against him by such officer or sureties although it appears that a part only, or no part whatever, of the sum demanded was due from the officer so absconding or failing to

attend, or that he was not in possession of the papers or property demanded of him.

7. Punishment or prosecution of Revenue officers no bar to civil remedies :-

Nothing in any law for the time being in force which authorizes the punishment departmentally of any Revenue officer for any offence or breach of duty or which sanctions his prosecution criminally for such offence or breach, shall be held to bar any remedy which may be had in the Civil Court against such officer. 8 to 10 Suits against Revenue officers: appeal from their proceedings; power for Local Government to call for record Rep. Act, XV of 1880.

11. Suits not to be entertained unless plaintiff has exhausted right of appeal :-

No Civil Court shall entertain any suit against the Government on account of any act or omission of any Revenue Officer unless the plaintiff first proves that previously to bringing his suits he has presented all such appeals allowed by the law for the time being in force, as within the period of limitation allowed for bringing such suits it was possible to present.

12. Power of State Government to refer question for decision of High Court :-

If in the trial or investigation of any suit, claim or objection which, but for the passing of this Act, might have been tried or investigated by a Civil Court there arises any question in which the State Government desires to have the decision of the High Court the State Government may cause a Statement of the question to be prepared, and may refer such question for the decision of the High Court of Gujarat. The said High Court shall fix an early day for the hearing of the question referred, and cause notice of such day to be placed in the Court house. The parties to the case may appear and be heard in the High Court in person or by their advocates or pleaders. The High Court, when it has heard and considered the case shall send copy of its decision, with the reason therefor, under the seal of the Court, to the Government by which the reference was made, and, subject to any appeal which may be presented to the Supreme Court, the case shall be disposed of conformably to such decision. If the High Court considers that any such statement is imperfectly framed the High Court may return it for amendment. The costs (if any) consequent on any such reference shall be dealt with as the High Court in each case directs.

13. Powers of Civil Judge to refer questions of jurisdiction to High Court :-

If in any suit instituted, or in any appeal presented, in a Civil Court, the Judge doubts whether he is precluded by this Act from taking cognizance of the suit or appeal, he may refer the matter to the High Court. The High Court may order the Judge making the reference either to proceed with the case or to return the plaint. The order of the High Court on any such reference shall be subject to appeal to the Supreme Court, and, save as aforesaid, shall be final.

14. Composition of Bench :-

Every reference under section 12 or section 13 shall be heard by a Bench consisting of such number of Judges, not less than three, as the Chief Justice from time to time directs.

15. Amendment of Section 32 of Act XIV of 1869 :-

Rep. Act I of 1938.

16. Privileges of the Government in suits defended by it :-

Whenever any suit is brought in any Court of a subordinate Judge of the first class against the Government or against any Revenue Officer and the Government undertakes the defence thereof it shall be lawful for the State Government, by certificate signed by a Secretary thereto, to require that the trial of any such suit shall have precedence over the trial of any other suit or other civil proceeding then pending in the Court of the first class subordinate Judge, or, if the suits is transferred, in the Court of the District Judge: and the Court shall give effect to every such requirement. The privilege conferred on the Provincial Government by this section, shall, mutatis mutandis, apply to any appeal or special appeal against any decree in any such suit as is described in this section.

17. First clause Revival of section 13 of Bom. Reg. XVII of 1827 :-

Repealed by Act XV of 1880; but the repeal does not operate in any scheduled district unless and until the Bombay Land Revenue Code (Bom. V of 1879) has been extended to such district.

Second clause, Operation of Bom. Reg. XVII of 1827 in sites of villages and towns Rep. Act XV of 1880.

Third clause Recovery of certain advances made by Local Government Rep. Act XV of 1880.

SCHEDULE 1

Enactments repealed

SCHEDULE

[Enactments repealed]

THE SECOND SCHEDULE

The district of Ahmedabad

The district of Kaira, exclusive of the Panch Mahals

The district of Broach

The district of Surat, exclusive of the lapsed State of Mandvi, as described in the Schedule annexed to Act X of 1848.

The district of Thana

The district of Kolaba, exclusive of the lapsed State of Kolaba mentioned in Act VIII of 1853

The district of Ratnagiri The district of Kanara