

HYDERABAD COURT OF WARDS ACT, 1350F

12 of 1350

[27th Thir, 1350]

CONTENTS

CHAPTER 1 :- Preliminary

1. Short title, commencement and extent
- 1A. Effect of Hyderabad Regulation LXIX of 1358 Fasli on this Act
2. Repeal, amendment and effect of repeal
3. Definitions

CHAPTER 2 :- Constitution of the Court

4. Appointment of the Court
5. Powers of Government
6. Mode of exercise and delegation of Courts powers

CHAPTER 3 :- Assumption of superintendence of persons and property

7. When may owners be deemed to be disqualified
8. Protection of person and property of successor on death or disappearance of owner
9. Recovery of expenses incurred for protection of property
10. Inquiry into circumstances of owner by order of Court
11. Interim orders for protection of heirs and property in certain cases
12. Order for assumption of superintendence by Court and notifying it
13. Superintendence of Court on application of owners
14. Superintendence to extend to whole of wards property. Orders as to commencement of superintendence to be notified
15. Bar of suits against Court

CHAPTER 4 :- Management and Guardianship

16. *[Collector] to take charge of wards property
17. Powers of *[Collector]
18. Allowance for ward and his family
19. Custody, education and residence of ward
20. Court to appoint manager etc
21. Collector to act in absence of guardian or manager

22. Who may appoint guardian
23. Duties of guardian
24. Powers of manager
25. Duties of manager
26. Employees of Court to be deemed Government servants
27. Regulation of expenditure
28. Application of surplus
29. Acts which ward cannot do
30. Powers of Court as to property under superintendence
31. Expenses for superintendence
32. Eviction of person from possession of wards property
33. Rent, profits and other sums recoverable as land revenue
34. Immovable property under Courts superintendence not to

CHAPTER 5 :- Ascertainment of Debts

35. Notice for filing claims
36. Claims to be submitted with full particulars
37. Government claims etc., not to be affected
38. Effect on subsequent transaction
39. Claims admitted or disallowed
40. Execution of decree to be stayed till certificates is produced
41. Inadmissibility in evidence of document not produced under section 36
42. Stay of execution against property of ward
43. Notice of withdrawal of superintendence and its effect
44. Provisions regarding leases with inadequate consideration

CHAPTER 6 :- Suits

45. Civil Court not to entertain suits regarding exercise of discretion
46. Suit not to be instituted without written notice to *[Collector]
47. Suit or proceedings by or against ward
48. Costs of suits to be charged to wards property
49. Suits not to be instituted on behalf of ward without leave of Court
50. Settlement of disputes between two or more wards
51. Procedure for arbitration in suits between two or more wards
52. Court not liable for expenses

CHAPTER 7 :- Withdrawal Of Superintendence Of Person And Property

53. Withdrawal of superintendence
54. Withdrawal of superintendence when debts cannot be liquidated within reasonable time
55. Withdrawal of superintendence of estate taken over under section 13
56. Circumstances in which superintendence may continue
57. Disqualification of owner
58. Appointment of guardian before release

- 59. Recovery of expenses after release of estate
- 60. Procedure where succession is disputed
- 61. Retention of superintendence when there are more owners than one
- 62. Powers in respect of property the superintendence of which is retained
- 63. Delivery of documents and accounts on withdrawal of superintendence
- 64. Notification for withdrawal of superintendence
- 65. Withdrawal of superintendence without discharging liability

CHAPTER 8 :- Miscellaneous

- 66. Power of Court in regard to religious endowments, of which ward is hereditary Mutawalli or manager
- 67. Penalty for abetment in marriage
- 68. Power to compel attendance of witnesses
- 69. Appeals
- 70. Power to make rules

HYDERABAD COURT OF WARDS ACT, 1350F

12 of 1350

[27th Thir, 1350]

WHEREAS it is expedient to consolidate and amend the law relating to the Court of Wards in H.E.H. the Nizam's Dominions ; It is hereby enacted as follows

CHAPTER 1

Preliminary

1. Short title, commencement and extent :-

This Act may be called "The Hyderabad Court of Wards Act" and shall come into force in [the Hyderabad area of the State of Maharashtra] from the date of its publication in the [Official Gazette].

1A. Effect of Hyderabad Regulation LXIX of 1358 Fasli on this Act :-

With effect from the commencement of [x x x x] the Hyderabad (Abolition of Jagirs) Regulation, 1358 Fasli (LXIX of 1358 Fasli), the provisions of this Act are subject to the provisions of the said 3[Regulation].

2. Repeal, amendment and effect of repeal :-

(1) On the commencement of this Act, the Hyderabad Court of Wards Act No. V of 1307 Fasli, hereinafter called the said Act, shall

be re-pealed.

(2) The person or property taken under superintendence, rules enforced, appointments made, notifications and orders issued, powers conferred and duties imposed, contracts, leases and pattas granted, rights acquired, liabilities incurred and acts done under the said Act or any enactment repealed thereby, shall, so far as they are not inconsistent with this Act, be deemed to have been taken under superintendence, enforced, made, issued, conferred, imposed, granted, acquired, incurred and done under this Act.

(3) Any reference to or mention of the said Act in any law, instrument or voucher, shall be deemed to be a reference to, or mention of this Act or any portion thereof applicable to such law, instrument or voucher.

3. Definitions :-

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

(a) 'ward' means any person whose property or whose person and property has or under the custody and superintendence of the Court of Wards under this Act or by a Firman of H.E.H. the Nizam [passed before the

(b) 'owner' shall mean the following persons (1) any person who owns land or has a life interest therein, [(2) Jagirdar, hissadari-Jagir and guzarayabi-Jagir as defined in the Hyderabad (Abolition of Jagirs) Regulations, 1358 Fasli];

(c) 'minor' means a person who has not attained the age of 21 years ;

(d) [x x x];

(e) 'Court' means the Court of Wards.

CHAPTER 2

Constitution of the Court

4. Appointment of the Court :-

The Divisional Officer or such other Officer as the State Government may specify shall be deemed to be the Court and for the purposes of this Act, the Collector shall be subject to the control.

5. Powers of Government :-

The Government may examine any order made or proceeding taken

under this Act, and may modify, rescind or reverse it. The Court shall be subject to the control of the Government.

6. Mode of exercise and delegation of Courts powers :-

(1) The Court may exercise all or any of the powers conferred upon it by this Act either directly or through the [Collector] within the limits of whose jurisdiction any ward resides, or any part of the property of any ward is situated, or through any other person whom the Court may, in respect of the property of any ward or any part thereof or for any local limits, appoint for this purpose.

(2) The Court may, with the sanction of the Government or under any rule made under this Act, delegate any of its powers to any [Collector] or any other person appointed under sub-section (1).

CHAPTER 3

Assumption of superintendence of persons and property

7. When may owners be deemed to be disqualified :-

(1) For the purposes of this Act an owner shall be deemed to be disqualified for the management or control of his property-

(a) whose property or person and property has or have been taken under the custody and superintendence of the Court by a Firman of H.E.H. the Nizam passed before the commencement of the Constitution of India];

(b) who is a minor ;

(c) who has been adjudged by a competent Civil Court to be of unsound mind and incapable of managing his property ;

(d) who is a female and declared by the Government to be incapable of managing the property ;

(e) who has been declared by the Government to be incapable of managing property on the following grounds

(i) any physical or mental defect or infirmity, or

(ii) conviction for a non-bailable offence, his conduct or vice, or

(iii) extravagance or failure, without reasonable cause, to repay and discharge the debts and liabilities :

Provided that no person shall be declared to be disqualified under clause (e), unless he is a jagirdar, hissedar or guzarayab or Jagir

and unless the Government is satisfied-

(a) that the aggregate annual interest payable at the contractual rate on the debts and liabilities due by the owner exceeds one-third of the gross income of the property ; and,

(b) that the property is likely to be dissipated on account of extravagance or failure to repay and discharge the debts and liabilities.

(2) No person shall be declared to be disqualified under clause (d) or (e) of sub-section (1) unless the person concerned has been informed of the grounds on which it is proposed to disqualify him and he has had an opportunity to show that there is no ground for disqualifying him.

(3) No cause of action shall arise for a suit in a Civil Court in respect of any action taken under clause (d) or (e) of sub-section (1).

8. Protection of person and property of successor on death or disappearance of owner :-

(1) When a [Collector] receives information that any owner who resided or whose property is situated within his territorial jurisdiction, has died or disappeared, and has reason to believe that successor of such owner whether by survivorship or inheritance or will or gift, is a person who is or should be declared to be disqualified under section 7, the [Collector] may,-

(a) subject to the directions and control of the Court, take possession of the property of the deceased or missing owner, and appoint a manager thereof or make such order or take such measures for the temporary custody and protection of the said property as he deems fit. The manager appointed under this clause shall exercise all the powers conferred by this Act on a manager appointed by the Court

(b) if the successor be a minor, direct the person in whose custody or protection the minor is to produce him or cause to be produced at such time and place, and before him or any person appointed by the [Collector] for this purpose. The [Collector] may make suitable orders for the temporary custody and protection of such minor, and if the minor be a female such directions shall be given with due regard to the customs and usage of the country.

(2) Any action taken by the [Collector] under sub-section (1) shall be reported by him without undue delay to the Court, which shall decide whether the [Collector] should withdraw his management or submit a report under section 10.

9. Recovery of expenses incurred for protection of property

:-

The expenses incurred by a [Collector] acting under section 8, shall, whether or not the property is taken over by him or a manager appointed, be charged on the property concerned, and shall be recovered from the owner or the person whom the [Collector] may declare to be in possession of such property as an arrear of land-revenue.

10. Inquiry into circumstances of owner by order of Court :-

(1) Where a [Collector] has reason to believe that any owner residing, or having his property situated, within his territorial jurisdiction, is or should be declared to be disqualified under section 7, he shall report the facts and circumstances to the Court, and shall in accordance with the direction of the Court, make such inquiry, as may be necessary, into the circumstances of such owner and extent of his indebtedness.

(2) The Court as also the Government may on their own motion direct any [Collector] within whose territorial jurisdiction any owner resides who is or should be declared to be disqualified under section 7 resides, to make such inquiry as may be necessary, into the circumstances and debts of such owner.

(3) The [Collector] may either himself make an inquiry under subsection (1) or (2) or direct a *[Deputy or Assistant Collector] or any other person to make necessary inquiry.

(4) The officer conducting an inquiry under this section, shall, in addition to notifying in the [Official Gazette] the date appointed by him for inquiry, notify the same in such manner as the Government may by a special or general order prescribe in this behalf. He shall also cause to be served a notice on the owner, and where the owner is a minor, on the person having custody or charge of the person or property of the owner or both, and shall give them an opportunity to be heard and to adduce evidence.

(5) From the date of the notification in the [Official Gazette] the owner shall be subject to the prohibitions mentioned in section 29

so long as inquiry is proceeding and until the orders of Government are passed thereon.

(6) After the aforesaid inquiry, the [Collector] shall submit a report to the Court setting forth all the circumstance of the case.

(7) The question whether the provisions of this section have been complied with, shall be decided by the Government whose decision shall be final

11. Interim orders for protection of heirs and property in certain cases :-

The Court shall submit the report received under section 10 along with its opinion thereon to the Government, and may, pending orders of Government, adopt necessary measures at its discretion, for protection of the person and property of the owner.

12. Order for assumption of superintendence by Court and notifying it :-

(1) Where the Court has assumed protection and superintendence of the property or person and property of the owner under clause (a) of sub-section (1) of section 7, the Court shall cause the Firman of H.E.H. of Nizam to be published in the [Official Gazette].

(2) The Government may, on the Court's recommendation order the Court to assume protection and superintendence of the property or person and property of the owners mentioned in clauses (b), (c), (d) and (e) of subsection (1) of section 7. An order made by Government shall be published in the [Official Gazette].

13. Superintendence of Court on application of owners :-

Any owner may apply in writing to the Government to have his property placed under the superintendence of the Court, and the Government may, on such application, if it is of the opinion that it is expedient in the public interest and for the benefit of the applicant's family to protect his property, and that the said property is of such value that economical management by the Court is practicable, order the Court to assume the superintendence of the property and notify accordingly in the [Official Gazette].

14. Superintendence to extend to whole of wards property. Orders as to commencement of superintendence to be notified :-

(1) The Government may, for the purpose of publication of the

Firman of H.E.H., order and notification under sections 12 and 13, prescribe generally any other manner in addition to the [Official Gazette]. In view of any special case, the Government may in addition to the prescribed mode determine any other special manner.

(2) On publication under sub-section (1), the Court shall appoint the [Collector] or any person who shall under this Act, discharge the duties of a [Collector]

.

(3) With effect from the date of publication of Firman of H.E.H. and order under sections 12 and 13 the owner shall be deemed to become a ward and the protection and superintendence of his person or property or both by the Court shall be deemed to take effect from the said date.

(4) With effect from the said date all movable and immovable property of the owner whether the Court has or has no knowledge thereof, shall be deemed to be under the superintendence of the Court.

(5) Where after the Court has assumed superintendence, the ward has inherited any property or acquired any right or is otherwise declared entitled to any property or right, such property or right shall be deemed to be under the superintendence of the Court :

Provided that the Court may, in the interest of the ward, assume or refuse to assume superintendence of any property or right successor or representative after the date on which an order of Government is published.

15. Bar of suits against Court :-

No suit against the Court shall be instituted in any Civil Court on the ground that the Court has exercised its powers of superintendence of the person or property of a person who was or is not an owner or a minor.

CHAPTER 4

Management and Guardianship

16. *[Collector] to take charge of wards property :-

When the Court has assumed superintendence of the property of a ward, the [Collector] named in the notification under sub-section (2) of section 14, or if so directed by the Court, the [Collector] of

the district in which any part of the property is situated, shall take possession and custody of the property on behalf of the Court and manage it in accordance with the rules made under this Act.

17. Powers of *[Collector] :-

A [Collector] who takes the property in his possession and custody, may-

(a) require any person in possession of any movable property to the possession of which the ward is entitled or of any accounts or papers relating to the property of the ward to deliver up such property, accounts or papers to him within a specified time ;

(b) in case there is reason to believe that any movable property to the possession of which the ward is entitled or any accounts or papers relating to the property of the ward, are to be found in any room, box or receptacle in any house in possession of the ward, break open or authorise to break open such house, or room, box or receptacle for the purpose of searching for such property or accounts or papers, and take or authorise any other person to take ;

(c) summon for examination any person who is or was in the employ of the ward and any person who was in the employ of the deceased owner from whom the ward got the property; and defray the necessary expenses for summoning and attendance out of the profits from the ward's property;

(d) require all persons in possession of the immovable property of the ward or interested thereon, to produce documents in respect of their possession or interest.

18. Allowance for ward and his family :-

The Court may, from time to time, determine the sums to be allowed for the expenses of any ward, his family and dependants.

19. Custody, education and residence of ward :-

The Court may, at its discretion, make orders and arrangements for custody, residence, education and marriage of the following persons

(a) ward whose person is under the superintendence of the Court ;

(b) any minor member of the ward's family who, in the opinion of the Court, should be maintained at the charge of the ward's property ;

(c) ward's next male heir being minor and entitled to maintenance.

20. Court to appoint manager etc :-

(1) The Court may appoint a guardian for the person of the ward and manager for his property and may supervise their work or remove them.

(2) The Court may, at its discretion, obtain from the person appointed under sub-section (1), security and guarantee for the performance and discharge of duties and may pay, if necessary, adequate remuneration for his service, from the property of the ward.

(3) An appointment made under sub-section (1) shall terminate on cessation of superintendence of the Court.

(4) The appointment of a guardian under this section shall be subject to the provisions contained in [sections 3 and 17 of the Guardians and Wards Act, 1890 (Central Act VIII of 1890)].

21. Collector to act in absence of guardian or manager :-

Where no guardian or manager is appointed by the Court for the person or property of the ward or such office is temporarily vacant, the [Collector] specified in the notification under section 14, or any other person whom the Court may appoint for this purpose; may, under the control of the Court, do all acts that might be done by such guardian or manager.

22. Who may appoint guardian :-

(1) No person being the next legal heir of a ward or appearing to have a direct or indirect advantage in the death or continued disqualification of such ward, shall be appointed as a guardian :

Provided that the Court may, at its discretion, appoint as guardian, the mother of a ward or any person who was appointed as guardian by will by any person empowered to make such appointment.

(2) Where a ward belongs to female sex a female shall be appointed to be her guardian, unless the Court, for special reasons otherwise directs. A male guardian shall be appointed for a minor who is a male above seven years of age:

Provided that no guardian shall ordinarily be appointed for a female ward whose husband is an adult.

23. Duties of guardian :-

(1) A guardian appointed under section 20 shall-

(a) be charged with the custody of the ward and subject to the control of the Court, make suitable provision for his maintenance, health and education and for such other matters as may be required by the religion and family custom and usage of the ward;

(b) keep and submit accounts at the time prescribed by the Court, for all moneys that may come in his control or possession

(c) pay the balances due from him as per the accounts.

(2) The guardian shall continue to be liable to account even after he has vacated the office.

(3) The guardian shall not without the sanction of the Court, do anything whereby the property of the ward is encumbered or expenses are incurred.

24. Powers of manager :-

Subject to the control of the Court, the manager may-

(a) collect the income of the ward's property under the superintendence of the Court, and all moneys due to the ward and grant receipts therefor

(b) under the orders of the Court, grant or renew leases for good management of the property and do any act for which he has been authorised by the Court, generally or specially.

25. Duties of manager :-

The manager shall diligently and faithfully manage the property placed under his charge and shall-

(a) keep and submit at the times and in the forms prescribed by the Court, accounts of all such moneys as may come under his control or in his possession

(b) deal with all moneys received by him in such manner as the Court may direct

(c) without the sanction of the Court, not do anything whereby the property of the ward is encumbered or expenses are incurred

(d) be responsible for any loss occasioned to the property by his negligence or wilful omission of duties

(e) continue liable to account even after he has ceased to be manager.

26. Employees of Court to be deemed Government servants

:-

Any guardian, manager or any other employee of the Court, shall be deemed to be a Government servant for the purposes of Chapter IX of the [Indian Penal Code, 1860 (Central Act XLV of 1860) and the word "Government" used in the definition of "legal remuneration" in section [161] of the said Code shall, for the purposes of this section, include the Court within its meaning.

27. Regulation of expenditure :-

The whole income from the property of any ward shall be expended on the following items, under the control of the Court. The charges in Class I shall have priority over all other charges and charges in Class II shall have priority over charges in Class III. CLASS I CHARGES Charges necessary for the maintenance, residence, education, marriage and indispensable religious ceremonies of the ward and his family, and for the management and supervision of his property. Payment of land-revenue, taxes and other Government demands due in respect of the ward's property or any part thereof. CLASS II CHARGES Rent and other demands due on account of any land in the possession of the ward and debts payable by the ward. Expenses necessary for pursuing cases in Courts and departments or otherwise for the protection of ward's interests. Charges for the maintenance of lands, buildings and other immovable property of the ward and upkeep of the furniture and other equipage or livestock and movable property. CLASS III CHARGES Under orders of the Court, payment of charges for the religious observances of the ward's family or of other religious or charitable aids, allowances and donations benefitting the position of the ward's family. Prevention and relief of distress among the ward's tenantry, improvement and benefit of the property of the ward generally.

28. Application of surplus :-

Any surplus, remaining after applying the income of the ward's property to the items specified in section 27 may, in consultation with the Finance Department, be utilised for the purchase of immovable property for the benefit of the ward, or be invested in the following securities

(a) Promissory notes, debentures and stock of the Government of

[Maharashtra] or the Government of India ;

(b) Bonds, debentures and annuities charged by the Imperial Parliament on the revenue of India or by the Government of [Maharashtra] on the revenue of the State;

(c) Shares, debentures or stock in railways or other companies the interest whereon is guaranteed by the Government of [Maharashtra] or the Government of India;

(d) debentures or other securities for money issued under any law, by any authority established in H.E.H. the Nizam's Dominions or in [any part of India] ;

(e) such other securities, stock and shares guaranteed by the Government of [Maharashtra] or the Government of India or by any *[State Government] ;

(f) first mortgages of immovable property where the owner's title thereto is not limited in time and which is situated in H.E.H. the Nizam's dominions or in [any part of India].

29. Acts which ward cannot do :-

(1) A ward shall not-

(a) transfer any part of his property under the superintendence of the Court;

(b) create any charge thereon or interest therein other than the interest created therein under clause (e) ;

(c) to enter into any contract or to make any acknowledgement involving him or his property in pecuniary liability ;

(d) marry without obtaining sanction of Government through the Court ;

(e) grant receipts for the rents and profits arising from the property or for debts or moneys which the Court is entitled to collect;

(f) adopt or give permission to adopt, without obtaining sanction of the Government through the Court ;

(g) dispose of his property by will without obtaining sanction of the Government through the Court ;

(2) The Government shall not refuse sanction under clauses (d) and

(e) of sub-section (1) :

Provided that the will or adoption is not contrary to the personal or special law applicable to the ward ; or the property is not likely to be encumbered by the will or adoption or the will or adoption is not likely to lower the influence and respectability of the ward's family.

(3) The Government may give its assent to the will or an adoption made or may confirm it.

(4) The provisions of clauses (d) and (e) of sub-section (1) shall not apply to an owner whose property has been placed under the superintendence of the Court under section 13.

30. Powers of Court as to property under superintendence :-

The Court may generally, in respect of the whole property under its superintendence, or any part thereof, pass such order and do such act not inconsistent with the provisions of this Act or any other law for the time being in force, as may be necessary for the welfare of the ward and benefit of the property. The Court may, subject to the general power, sell or mortgage the whole or any part of any property, other than [State grants], under its superintendence, or may, at its discretion, lease out the whole or any part of such property for any term or may remit rent or other dues in respect of the property :

Provided that where the property has been taken under superintendence under section 13, the immovable property shall not in any way be encumbered, given on a lease for a term exceeding ten years, sold, mortgaged or exchanged, without the consent of the owner and the sanction of the Government and in other cases without the sanction of the Government.

31. Expenses for superintendence :-

The Court may, for the care and management of the ward and the property under its superintendence, and generally for carrying out the purposes of this Act, make necessary appointments and may defray the charges in proper proportion from the properties under its superintendence :

Provided that in no case the charges for supervision and management shall exceed two annas per rupee on the gross income of the said estate.

32. Eviction of person from possession of wards property :-

The Court may summarily evict any person in possession of, or occupying in contravention of the provisions of this Act, any property under its superintendence. For this purpose the Court may exercise all the powers which a [Collector] has under section 157 of the Hyderabad Land Revenue Act No. VIII of 1317 Fasli.

33. Rent, profits and other sums recoverable as land revenue :-

The Court shall, in respect of rents, lease money or land revenue due in respect of the property under its superintendence, have the same powers, possessed by a [Collector] for the recovery of land revenue under the Hyderabad Land Revenue Act No. VIII of 1317 Fasli.

34. Immovable property under Courts superintendence not to :-

be sold for payment of land revenue No immovable property under the superintendence of the Court, shall be liable to auction or sale for the purpose of paying the arrears of land revenue. But if such property is auctioned or sold for any other reason, the arrears of land revenue shall first be paid from the proceeds of sale.

CHAPTER 5

Ascertainment of Debts

35. Notice for filing claims :-

(1) On the publication of a notification under sub-section (1) of section 14 the [Collector] or any other person appointed under sub-section (2) of the said section shall, as soon as possible, notify in the [Official Gazette] and at such places and by such means as the Court may, by a general or special order determine, that persons having any pecuniary claims whether immediately enforceable or enforceable in future, against the ward or his property, should furnish to him full particulars of their claims in writing, within six months from the date of such notification. A copy of the notification shall be sent by registered post to the person whom the person notifying knows to have a pecuniary claim against the ward or his property :

Provided the person publishing the notification knows or can easily know the address of such person.

(2) The Government may at any stage of the proceedings under sections 335, 36 and 39, invest any person either by name or by

virtue of his office with the powers of a [Collector] for all or any of the purposes of the said sections.

Explanation For purposes of this section and section 36 every claim shall be deemed to be a pecuniary claim, notwithstanding that a suit in respect thereof is pending or a dispute with regard to such claim has been referred to arbitration or a decree or an arbitration award has been passed in relation to such claim.

(3) Any claim against the ward or his property, other than a claim by the Government, not filed before the [Collector] in accordance with the notice under sub-section (1), shall, save in the cases provided for in clause (d) of sub-section (2) of section 43 of this Act or * [section 7 of the Indian Limitation Act, 1908 (Central Act IX of 1908)], be deemed, to have been duly discharged, for all purposes and on all occasions whether during the continuance of the superintendence of the Court or afterwards, unless in any suit or proceeding instituted by the claimant, or his legal representative, it is proved to the satisfaction of the Civil Court that the plaintiff or his legal representative has, for good and sufficient reasons, failed to act in accordance with the notice published under sub-section (1).

36. Claims to be submitted with full particulars :-

(1) Every person having a money claim to be satisfied immediately or in future, against a ward or his property shall, within the period prescribed in section 35, present his claim in writing to the [Collector] with full particulars thereof. Any claim presented within six months from the expiration of such period, shall be admitted, if the [Collector] is satisfied that there was good and sufficient cause for not notifying the claim within the period :

Provided that where the Court is satisfied that any claim as aforesaid, could not have been presented within the period prescribed under section 35 due to reasonable and sufficient cause it may, with the sanction of the Government, allow him to file such claim at any time after the expiration of such period. But notwithstanding any contract, decree, award or law to the contrary, no interest shall be allowed on such claim for the period between the date of expiry of the period and the date of presentation of the claim.

(2) Every document, in the possession of or under the control of the claimant and relevant to the claim, shall be produced before

the [Collector] with the statement of claim, within the prescribed period. But where the claim related to an amount secured by a decree or award, it shall be sufficient for the claimant to produce a certificate by the Court passing or executing the decree, specifying the amount recoverable or a certified copy of the award specifying the amount recoverable thereunder, and if the claim is pending in any Court or has been referred to arbitration, it shall be sufficient for the claimant to produce certified copy of the plaint, and if the stage for filing a plaint has not reached, a certified copy of the reference to arbitration.

Explanation For the purposes of this sub-section, a document shall include entries in books of account.

(3) The [Collector] may require the claimant to produce, such other documents in his possession or power, relating to the claim, other than those mentioned in sub-section (2).

(4) Unless the [Collector] otherwise directs, every document produced under this section, shall be accompanied by a copy thereof. The [Collector] shall mark the original document for the purpose of identification and after comparing the copy with the original, shall retain the copy and return the original to the person producing the same.

37. Government claims etc., not to be affected :-

Nothing contained in sections 35 and 36 shall apply to claims of Government or of any local authorities, or to claims for maintenance for wages and salaries due to servants.

38. Effect on subsequent transaction :-

Nothing contained in this Chapter shall apply to any claim in respect of any transaction subsequent to the date of publication of the notification under section 14.

39. Claims admitted or disallowed :-

(1) The [Collector] shall, after making such inquiry as he deems fit, decide as to which claims notified to him or presented to him under section 36, are to be allowed in whole or in part and which are to be disallowed. On such decision being confirmed by the Court, the [Collector] shall give written notice of the same to the claimants.

(2) The [Collector] may, where he has admitted any claim or part thereof, make to the claimant a proposal in writing for the

reduction in the claim or for the rate of interest to be paid in future or for both or for the terms of payment. If the claimant accepts such proposal in writing, with or without modification, and such written acceptance is attested by the [Collector] himself or by any Revenue Officer, not below the rank of a [Deputy or Assistant Collector], appointed by the Government by a general or special order for the purpose, it shall be binding upon the claimant.

(3) Subject to the provisions of sub-section (2) nothing contained in this section shall preclude any claimant from instituting or containing any suit in a Civil Court in respect of any claim against a ward or his property, whether such claim is allowed or disallowed by the Court:

Provided that where a suit instituted no decision made under this section shall be used as against the defendant:

Provided further that where the claimant has failed to notify his claim under section 36, no suit or proceeding in respect of such claim shall be maintainable unless the plaintiff satisfies the Civil Court that there was reasonable and sufficient cause for not notifying his claim.

40. Execution of decree to be stayed till certificates is produced :-

(1) On the publication of a notification under section 35 the Court shall not proceed with the execution of a decree against the person or property of the ward, until a certificate to the effect that the decree-holder has acted in accordance with section 36 is produced or until the expiration of [Collector] of a written application by the decree-holder, for such certificate, accompanied by a certified copy of the decree.

(2) Any person, holding a decree against the ward or his property, shall be entitled to receive from the [Collector], free of cost, the certificate under sub-section (1). Such certificate shall be conclusive proof of the matters stated therein.

41. Inadmissibility in evidence of document not produced under section 36 :-

Where any document which is under the possession or under the control of a claimant is not produced by him as required by section 36, such document shall not be admitted in evidence in any suit instituted by the claimant or his legal representative during the

continuance of the superintendence of the Court or after it is withdrawn, in respect of any claim or liability founded upon such document or supported by it, unless the Court is satisfied that there was reasonable and sufficient cause for not producing such document before the [Collector].

42. Stay of execution against property of ward :-

Where a Court has passed an order for execution of a decree against any property of a ward, the [Collector] may, within one year from the date on which superintendence is assumed, apply to the Court to stay the execution ; and the Court may secure the interest and any loss of the decree-holder and stay execution of the decree for a reasonable period.

43. Notice of withdrawal of superintendence and its effect :-

(1) When all the claims have been confirmed under section 39, the [Collector] shall submit to the Government through the Court, a schedule of the debts and liabilities of the ward , and the Government may, where the property appears to be involved in debts beyond any hope of extrication, or for any other sufficient cause, by order published in the [Official Gazette], direct that on a date to be specified, the superintendence of the property of the ward shall be withdrawn. From the said date -

- (a) the superintendence shall terminate,
- (b) the possession of the property under superintendence shall be delivered to the owner thereof;
- (c) the contracts entered into by the Court for the preservation and benefit of the property shall be binding upon the owner, and
- (d) the claims referred to in sub-section (3) of section 35 shall revive.

(2) In computing the period of limitation, applicable to suit, in respect of claims, referred to in clause (d) of sub-section (1), the time during which the property has been under the superintendence of the Court, shall be excluded.

44. Provisions regarding leases with inadequate consideration :-

(1) Where any property of a ward in the possession of any person

who has been granted a lease by the ward and dated within the three years immediately preceding the commencement of superintendence of the Court, or of any representative of such lessee, the [Collector] may inquire into the sufficiency of the consideration for which the lease was granted ; and if the Collector is of the opinion that the consideration is inadequate, he may, with the previous sanction of the Court, give notice in writing to the lessee that the lease shall determine at the end of the then current revenue year, unless the lessee or his representative pays or agrees to pay such additional consideration specified in such notice within the date therein fixed. If such person fails to pay or to agree to pay the additional consideration agreed upon by the [Collector], the lease shall determine at the end of the then current revenue year. If the lessee or his representative is aggrieved by the said notice of the [Collector], he may within three months from the date of receipt of such notice, institute a suit against the ward, in a competent Court for determining the following matters

- (a) Whether the consideration for the lease was adequate;
- (b) If the consideration is found to be inadequate, the consideration which would be reasonable.
- (2) The Court, if satisfied that the lease was granted for adequate consideration, shall pass a declaratory decree.
- (3) If the Court is of the opinion that the consideration is inadequate, it shall determine the amount of additional consideration.
- (4) If no suit is instituted as aforesaid or after institution of a suit, the Court decrees an additional consideration, and the lessee does not, within a month from the date of the decree pay or enter into an agreement to pay the additional consideration, the [Collector] may, without resorting to a Court, enter upon the property, and may evict the lessee or any person resisting on his behalf.

CHAPTER 6

Suits

45. Civil Court not to entertain suits regarding exercise of discretion :-

- (1) No Court shall question the propriety of an order passed by the Government or the Court in the exercise of its discretion under this Act.

(2) No suit shall lie against any Government servant or any guardian manager, or servant appointed by, and discharging his duties under, the Court, for anything done by him in good faith under this Act:

Provided

(a) that any person evicted under section 32 may sue for restitution ; and

(b) that any person from whom rent, lease money or revenue has been recovered under section 33, may sue for recovery of the same or any part thereof.

46. Suit not to be instituted without written notice to * [Collector] :-

(1) No suit relating to the person or property of any ward, shall be instituted in any Civil Court unless the plaintiff has given notice in writing of his intention to the [Collector] or to the person appointed under sub-section (2) of section 14 and until the expiration of two months after such notice is given.

(2) The written notice referred to in sub-section (1) shall state the name and place of abode of the plaintiff, the relief which he claims, and the cause of action ;and the plaint shall contain a statement that such notice has been delivered. No notice shall be required in respect of a suit the period of limitation for which will expire within three months from the date of notification under section 14.

47. Suit or proceedings by or against ward :-

A suit or proceedings in any Civil or Revenue Court by or against ward shall be in his name ; but shall be conducted or defended by the manager appointed under section 20 as next friend or guardian and where no manager is appointed, the officer competent to act as manager under section 21.

48. Costs of suits to be charged to wards property :-

The costs decreed by Court in any suit or proceeding against the manager of the property or the officer appointed under section 21, shall be paid out of the property of the ward.

49. Suits not to be instituted on behalf of ward without leave of Court :-

No suit shall be instituted on behalf of any ward, by the manager of the property or the officer appointed under section 21, unless

authorised by some general or special order of the Court:

Provided that a suit about to be barred by limitation, may be instituted without leave of the Court, but the Court shall not further proceed with such suit until the Court ratifies the institution of the suit.

50. Settlement of disputes between two or more wards :-

Where in any suit or proceeding wards being parties, have conflicting interest, the Court shall appoint for each such ward a next friend to conduct the suit or proceeding under supervision of the Court.

51. Procedure for arbitration in suits between two or more wards :-

(1) If, in the opinion of the Court, any dispute between two or more wards is a fit subject for reference to arbitration, it shall appoint a next friend for each ward and shall direct him to submit the dispute to the arbitration of such referees or arbitrators as may be nominated by the Court.

(2) An award made under sub-section (1) shall have the same effect and consequences, as an award made by referees or arbitrators to whom a dispute is referred by persons who are not wards.

52. Court not liable for expenses :-

When a suit is instituted in a Court in respect of any property of the ward under the superintendence of the Court, and the title of the ward to such property is lost by reason of a decree of the Court, the expenses incurred in the course of litigation, shall be paid from any other property of the ward.

CHAPTER 7

Withdrawal Of Superintendence Of Person And Property

53. Withdrawal of superintendence :-

The Court shall, save as provided in section 56, withdraw superintendence of the person and property of the ward when-

- (a) the ward attains majority ;
- (b) a Civil Court declares that he is no more insane ;
- (c) [an order of the Government] is issued if the superintendence was imposed under clause (a) of sub-section (1) of section 7;

(d) the Government revokes its declaration that any owner is disqualified:

Provided that where superintendence has been assumed under section 12, the Court may with the previous sanction of the Government, at any time withdraw its superintendence from the person or property of the ward or from both.

54. Withdrawal of superintendence when debts cannot be liquidated within reasonable time :-

(1) Where the Court is satisfied that it is impracticable to liquidate within a reasonable time all the debts of any owner who has been made a ward under section 13, or the debts and liabilities due by him, it may, with the previous sanction of the Government, within two years from the date of publication of the notification under section 14, withdraw its superintendence, on a day to be notified, whether during continuance of superintendence, the debts and liabilities are partly liquidated or not liquidated at all. From the date of such withdrawal such owner shall cease to be a ward, and the provisions of section 36 shall not apply to any debts and liabilities which become due after withdrawal of superintendence.

(2) In computing the period of limitation applicable to a suit brought or application made against the owner from whose property superintendence has been withdrawn as aforesaid, the time during which the superintendence of the Court continued shall be excluded.

55. Withdrawal of superintendence of estate taken over under section 13 :-

If, in respect of any owner who has been made a ward under section 13, the Court is satisfied that his debts and liabilities have been discharged to an extent that he will thereafter be able to manage his estate and admitted his affairs, the Court may, with the sanction of the Government, make over the management of the estate to the owner on a day to be notified. The owner shall, on the date when the management is made over, cease to be disqualified.

56. Circumstances in which superintendence may continue :-

Where a ward dies or ceases to be disqualified before the debts and liabilities have been discharged, the Court may, with the sanction of the Government, retain the property under its superintendence until the debts and liabilities are discharged or for any shorter

period and when for the purpose of discharging such debts and liabilities, Court has raised money on condition that it should retain the superintendence of the property until the money so raised is repaid the Court shall not, without the consent of the lender, withdraw the superintendence until the money so raised is repaid.

Provided that, after the death of the ward, the Court shall not retain superintendence on account of any debts or liabilities which have been declared by a Civil Court not to be binding on the representatives of the deceased ward.

57. Disqualification of owner :-

If the Court retains superintendence of the property under section 56, the owner who has ceased to be disqualified or the person succeeding to the property, shall, in respect of the property under superintendence, be deemed to be a ward so far as the prohibitions contained in clauses (a), (c) and (e) of sub-section (1) of section 29 are concerned ; and any debts and liabilities incurred by such owner or person before he succeeded, shall not be chargeable on the property under superintendence, until the debts and liabilities to discharge which the superintendence has continued, that have been discharged.

58. Appointment of guardian before release :-

(1) When the Court decided to withdraw its superintendence from the person and property of any minor, it may, before withdrawing such superintendence, by an order in writing, appoint any person to be the guardian of the person or property or of both of the minor.

(2) The appointment of guardian shall take effect from the date of release.

(3) In appointing a guardian under this section,' the Court shall have due regards for the provisions of [sections 3 and 17 of the Guardians and Wards Act, 1890 (Central Act VIII of 1890)].

(4) Every such appointment shall be notified to the District Judge within whose jurisdiction the property of the minor or any part thereof is situated.

(5) Such a guardian shall be deemed to have been appointed by the District Judge and to be subordinate to him, and shall have, and be subject to the same rights, duties and liabilities as a guardian appointed under [the Guardians and Wards Act, 1890

(Central Act VIII of 1890)].

59. Recovery of expenses after release of estate :-

Any expenses incurred by the Court on account of any property under its superintendence, and not defrayed during superintendence, shall be recovered as an arrear of land revenue from any person in whose favour such property or any part thereof has been released :

Provided that the expenses so recovered shall not exceed the value of the property so released.

60. Procedure where succession is disputed :-

Where on the death of a ward, the succession of his property or any part thereof is disputed, the Court may retain its superintendence until a claimant has established his title to the same in a Civil Court or a Revenue Court, or institute a suit or proceeding against all the claimants for settlement of their claims.

61. Retention of superintendence when there are more owners than one :-

(1) If there are more owners than one of any property under the superintendence of the Court, and if any one of such owners had ceased to be a ward and the Court considers this cause expedient in the interests of the owner who remains a ward, it may retain the whole property under its superintendence.

(2) If the Court under sub-section (1) retains superintendence of the share of any owner who has ceased to be a ward, such owner shall not be competent to transfer or create any charge and incur any liability on any part of his share during the superintendence of the Court; but he shall not be prevented from making a testamentary disposition, or from applying to a Court or competent department for partition of his share, and from the date of such application until such partition takes place, the Court shall pay to such owner the surplus income accruing from his share of the property.

62. Powers in respect of property the superintendence of which is retained :-

When the Court retains superintendence of any property under section 56 or 60 or 61, it may exercise all the powers conferred by this Act in respect of any property of a ward. All acts done by the Court under this section shall be binding on the owner of such

property.

63. Delivery of documents and accounts on withdrawal of superintendence :-

When the Court withdraws its superintendence of any property it shall deliver to the owner all documents of title and all papers; and accounts and such records as it may think proper relating to such property.

64. Notification for withdrawal of superintendence :-

The fact of withdrawal of superintendence of person or property shall be notified in the [Official Gazette].

65. Withdrawal of superintendence without discharging liability :-

When the Court withdraws its superintendence of any property under the provisions of Chapter VII, without discharging the liabilities thereof, the time from the date of publication of notice under section 35 of the date of such withdrawal shall be excluded in computing the period of limitation applicable to suit for the recovery of the claims outstanding at the date of such publication.

CHAPTER 8

Miscellaneous

66. Power of Court in regard to religious endowments, of which ward is hereditary Mutawalli or manager :-

If a ward is mutawalli or hereditary manager of a temple, mosque or other religious establishment or endowment, the Court may, during his wardship, make arrangements for the discharge of his duties as mutawalli or manager :

Provided that, for the personal management by the ward of the affairs of any such establishment or endowment, the Court shall appoint suitable person other than Government servant, and shall as far as possible restrict its superintendence to the preservation of the property belonging to such establishment or endowment.

67. Penalty for abetment in marriage :-

Whoever, without previous written permission of the Court, abets the marriage of any person specified in section 19 and who is maintained in the tenor of the said section, by the ward's estate within the meaning of that section, shall be liable on conviction before a Court of Session, to be punished with fine which may extend to two thousand rupees or with imprisonment for a term not

exceeding six months or with both.

68. Power to compel attendance of witnesses :-

In holding any inquiry under this Act, the [Collector] or a person authorised shall have the powers vested in a Civil Court [under the Code of Civil Procedure, 1908 (Central Act V of 1908)].

69. Appeals :-

(1) An appeal shall lie from every order passed under this Act, within sixty days from the date of order whether such order is original or on appeal.

(2) An appeal, from an order passed by the Court, shall lie to the [Government].

(3) An appeal, from an order passed by the [Collector], shall lie to the Court.

(4) In all other cases the first appeal shall lie to the [Collector] but in no case there shall be a third appeal.

(5) Sections 161, 163, 164 and 165 of the Hyderabad Land Revenue Act No. VIII of 1317F shall apply to appeals under this section.

70. Power to make rules :-

(1) The Government may make and Rules. enforce rules to carry out the purposes of this Act.

(2) Without prejudice to the generality of sub-section (1), the Government shall make and enforce rules for the following matters

(a) appointment, salary and removal of manager or guardian ;

(b) manner in which security shall be taken from manager and amount thereof;

(c) matters relating to the superintendence or management of the ward's property which shall be reported for the sanction of the Government;

(d) forms of accounts and returns, the manner of, time and period of their submission ;

(e) custody of securities and other title deeds belonging to a ward ;

(f) procedure of filing appeal from an order of the Court ;

(g) manner of notifying the powers of a manager to the persons concerned and the manner of publication thereof :

(h) manner in which the powers and duties of the Court under this Act shall be exercised and discharged .