

Rajasthan Escheats Regulation Act, 1956

23 of 1956

[10 July 1956]

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PREAMBLE

An Act to regulate the making of inquiries in the matter of properties vesting in the State of Rajasthan Qua ultimo hers under Article 296 of the Constitution of India by escheats or as bona vacant and to provide for the custody and disposal thereof.

Be it enacted by the Rajasthan State Legislature in the seventh year of the Republic of India as follows :-

1. Published in Raj. Gaz. Pt. IV-A, Ext.-ordi., dated 16.7.1956

1. Short title, extent and commencement :-

(1) This Act may be called the Rajasthan Escheats Regulation Act, 1956.

¹(2) It extends to the whole of the State of Rajasthan.]

(3) It shall come into force at once.

1. Substituted and omitted vide item (44) of the Schedule to the Rajasthan Act No. 27 of 1957, Pub. In the Raj. Gaz., Part IV-A, Ext ordi. dated 13.08.57.

2. Definitions :-

In this Act, unless the subject or context otherwise requires :-

(1) "Collector" and Tehsildar" means the officers appointed as such under any law for the time being in force and include respectively an additional Collector, and additional Tehsildar;

(2) "Court" means the Court of the District Judge having jurisdiction over the place where the property to which this Act applies is situated and, when such property is situated within the jurisdiction of more than one such Court, means the High Court;

(3) "Prescribed" means prescribed by rules made under this Act;

(4) "Property to which this Act applies" means any property vesting in the State qua ultimo hers under Article 296 of the Constitution of India by escheat or as bona vacant;

(5) ¹[x x]

1. Substituted and omitted vide item (44) of the Schedule to the Rajasthan Act No. 27 of 1957, Pub. In the Raj. Gaz., Part IV-A, Ext ordi. dated 13.08.57.

This Act now extends to the whole of the State of Rajasthan including the Abu, Ajmer and Sunel areas with effect from 1.9.1957 Pub. in Raj. GAZ. Pt.IV-A, Ex.-order., dt. 9.12.1957.

3. General Superintendence of escheats :-

The general superintendence of all property to which this Act applies is vested in the Collector who will inform himself fully through the Assistant Collectors subordinate to him of all such property and act in the matter subject to the directions of the Board and the orders of the State Government.

4. Report by Tehsildar :-

(1) Upon receipt of information as to the- existence within his Tehsil of any property to which this Act applies, whether or not in the possession of any person the Tehsildar shall-

(a) ascertain whether or not there is any person entitled to such property,

(b) prepare an inventory thereof showing the prescribed particulars,

(c) take over possession of it in the prescribed manner, and

(d) make a report to the Collector :

Provided that if such property is in the present possession of any person, such possession shall not be disturbed.

(2) Any property of which possession is taken under sub-section (1) and which is subject to speedy and natural decay or consists of livestock or is other wise of perishable nature may be forthwith sold by public auction by the Tehsildar and the fact of such sale together with the amount of the proceeds thereof shall be reported to the Collector.

5. Register of properties :-

The Collector shall cause to be kept and maintained a register in which shall be entered all the particulars of each item of every property to which this Act, applies and also, in the case of any such property having been sold under sub-section (2) of section 4, the amount of the sale proceeds thereof.

6. Inquiry by Collector :-

(1) Upon receipt of a report under section 4, the Collector shall immediately-

(a) make such orders as he thinks proper respecting the possession, maintenance, management, safe custody and taking care of each item of every property specified in the report, and

(b) issue a proclamation specifying the prescribed particulars and calling upon all persons having any interest therein or right thereto prefer their- claim in respect thereof to the Collector within thirty days from the service thereof in accordance with sub-section (2).

Explanation:-In the case of any such property consisting of land or other immovable property, the word "management" shall include the making of necessary arrangements for the cultivation and letting of the same.

(2) The proclamation issued under clause (b) of sub-section (1) be served-

(i) by exhibiting a copy thereof at some conspicuous spot on or adjacent to the place where the last known owner of such property, if any, resided last or where the property was found and also, in the case of such property being immovable, on such property.

(ii) by having the contents thereof proclaimed at the aforesaid place by beat of drum.

(iii) by affixing a copy thereof on the notice board of the office of the Collector issuing it and

(iv) by publishing a copy thereof in the ¹[Official Gazette] and where the last owner of such property, if any, was, at the time of his death, residing in some place outside the State also in some local daily newspaper having free circulation in the region.

(3) Any income accruing from any such property shall be kept in deposit till the final disposal of all claims in respect thereof.

(4) If any property to which this Act applies consists of several items lying within different districts, the Board shall decide as to the Collector of one of such districts who shall proceed under this section in respect of the entire property.

(5) It shall be the duty of the Collector to obtain full information from the public records and by personal inquiries respecting any property to which this Act applies, being in all cases careful not to infringe any private rights or to occasion unnecessary trouble or vexation to individual.

(6) Every claim preferred within the time specified in subsection (1) shall be enquired into in the prescribed manner and if the Collector is satisfied as a result of such inquiry that the claimant is entitled to any such property and has, the right to receive and hold the same in any capacity whatsoever, such property together with the income, if any, accrued there from and kept in deposit under subsection (3) shall be delivered to him on payment of the expenses, if any, incurred in the maintenance, management, safe custody and taking care thereof :

Provided that any claim preferred after the expiry of the time

specified in sub-section (1) may be accepted and enquired into if the Inspector is satisfied that the claimant had sufficient reasons for not preferring the claim within such time :

Provided also that if any such property has been sold under subsection (2) of section 4 the claimant shall be entitled to get the sale proceeds thereof on payment of such expenses and the costs, if any, of the sale.

(7) The Collector may, if any inquiry under this section involves a complicated question of law as to title or status which has not been previously adjudicated upon by a Civil Court of competent jurisdiction, and shall, if there are two or more claimants in respect of the same property, require any or all of the claimants to apply for a succession Certificate in respect of such property or to institute a suit for a declaration of title thereto within such period not exceeding six months in the aggregate as the Collector may from time to time fix, and if such application or suit has been made or instituted; the Collector shall stay the proceedings before him and the disposal of the property shall be subject to the result thereof.

(8) The Collector may for reason to be recorded in writing, make over any inquiry and claims under this section of any Assistant Collector subordinators to him. Such officer shall after taking the necessary step in accordance with this section record his findings and submit the same to the Collector.

(9) If the Collector is satisfied after enquiry in accordance with this section that-

(a) the property in question is not of the nature to which this Act applies, he shall order the proceedings to be closed and the property to be allowed to remain with the person in whose possession it might then be, or in possession thereof has been taken under section 4, of section 6, to be restored to the person from whom possession was so taken, or

(b) the last owner of the property in question died in the state and without leaving any known heir, that the claim preferred under sub-section (6) is not prima facie maintainable, that there is no such person entitled to claim such property and that it is a bona fide case of property vesting in the State as ultimo heiress under Article 296 of the Constitution of India, by escheat or as bona vacant a for want of rightful owner, he shall apply to the Court for a vesting order in respect of the property and for the custody thereof in the meanwhile :

Provided that no application for restoration of such possession or for vesting order shall be made until the time prescribed for preferring an appeal under section 7 has expired or until the appeal, if any, preferred has been disposed of.

1. Substituted by section 4 of the Rajasthan Act No. 27 of 1957, Pub. in the Raj. Gaz., Part IV-A. Ext. ordi, dated 13.08.1957.

7. Appeal :-

Any person aggrieved by the final order of the Collector under sub-section (9) of section 6 may appeal to the Board within sixty days of the passing thereof.

8. Proceedings by Court :-

(1) Upon the presentation of an application, the Court shall issue a proclamation in the prescribed form calling upon any person claiming to be entitled to the property set out therein to attend and prefer his claim.

(2) Such proclamation shall be served in the manner laid down in sub-section (2) of section 6 and also by affixing a copy thereof on the notice board of the Court issuing it.

(3) The Court may, pending the disposal of the application appoint

an administrator for the possession, safe custody, due care, maintenance and management of the property forming the subject matter of the application.

(4) Such administrator shall, previous to his entering upon office, give security in a sum to be fixed by the Court for the faithful discharge of his trust and shall be entitled to such remuneration as the Court may fix.

(5) In the event of the administrator failing to give such security and of there being no other person willing to accept the appointment and give the required security, the Court shall appoint the Collector to be the administrator with power to continue or alter the arrangements if any made under clause (a) of sub-section (1) of section 6 and without being required to give any security.

9. Claims and vesting order :-

(1) If in response to the proclamation issued under section 10, any person prefers a claim and satisfies the court of his right to the possession of the property, in question or any part of it, the Court shall direct the Collector or the administrator, as the case may be, to deliver the property to such person after deducting or on payment of the expenses, if any, incurred in the maintenance, management, safe custody and taking care thereof. The Collector or administrator shall act according to such direction and the provision of sub-section (6) of the section 6 shall apply.

(2) If no person prefers a claim and establish his right the Court shall, after the expiry of twelve months from the date of the service of proclamation issued under section 10, pass an order declaring the property in question to have vested in the State on the date of death of the last owner thereof and send a copy of such order to the Collector.

10. Action to be taken by Collector :-

(1) Upon receipt of the order passed under sub-section (2) of section 9, the Collector shall pass order for the sale of the property by public auction, if it has not already been sold under sub-section (2) of section 4 :

Provided that if such property or any part thereof consist of any work of artistic or historical importance, the disposal thereof by sale or otherwise shall be subject to accordance with the orders of the State Government to which a report in that behalf shall be made.

(2) When an order for sale has been passed under sub-section (2) such sale shall be held and conducted in the manner laid down for the sale of like property for the recovery of arrears of revenue.

(3) From the proceeds of such sale shall be recovered the cost thereof, if any, and the expenses till then incurred in the maintenance, management, safe custody and taking care of the property sold and the surplus shall be kept in deposit for a further period of one year from the date of sale.

(4) If during such further period no claim is preferred and established such deposit shall lapse to and vest in the State and be credited to the Consolidated fund of the State.

11. Enforcing surrender of possession :-

If the Collector or any other officer acting under his direction is opposed, resisted or impeded in obtaining possession in accordance with the provisions of this Act over any property to which this Act applies, such Collector shall, if a Magistrate, enforce the surrender of such property and, if not a Magistrate, he shall send a requisition to a Magistrate who shall enforce such surrender.

12. Power to make rules :-

The State Government may make rules generally for the purpose of

carrying out the provisions of this Act, and in particular for all matters, which by this Act, may, or are required to be prescribed.

13. Delegation :-

(1) The State Government may, by notification in the ¹[Official Gazette], delegate to the Board all or any of its powers, except the power to make rules.

(2) The Board may, with the approval of the State Government, from time to time issued direction from the guidance of the Collector and subordinate revenue officers in carrying out the provisions of this Act.

1. Substituted by section 4 of the Rajasthan Act No. 27 of 1957, Pub. in the Raj. Gaz., Part IV-A. Ext. ordi, dated 13.08.1957.

14. Savings :-

Nothing in this Act shall in any way-

(i) apply to or affect any proceedings taken in respect of any unclaimed property under the Code of Criminal Procedure, 1898 or under the Police Act, 1861 of the Central Legislature as adapted to ¹[the State of Rajasthan,] or

(ii) be construed to preclude any person who may conceived that he has just grounds do complaint on account of any orders which may be passed by the Collector or the Board or State Government or the Court under this Act from proceeding in the regular course of law for the recovery of any property to which such orders or for compensation for any loss or injury supposed to have been unduly sustained by him.

1. Omitted vice item (44) of the Schedule-ibid.

15. [Omitted] :-

¹[x x x]

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