

The Bengal Land-Revenue Assessment (Resumed Lands) Regulation, 1828

BIHAR

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Act 3 of 1828

- Published on 12 June 1828
- Commenced on 12 June 1828
- [This is the version of this document from 12 June 1828.]
- [Note: The original publication document is not available and this content could not be verified.]

The Bengal Land-Revenue Assessment (Resumed Lands) Regulation, 1828(Bengal Regulation 3 of 1828)[Dated 12th June, 1828]A Regulation for [* * *] [The words in the title repealed by Act 1 of 1903, are omitted.] more effectually securing the realization of the Public dues.

1. Preamble.

- [* * *] [Portions of Section 1 repealed by Act 1 of 1903, are omitted.] it appears to be expedient [* * *] [Portions of Section 1 repealed by Act 1 of 1903, are omitted.] to provide that all successions to the possession of land or rent, free of assessment, whether by sale, gift or inheritance, shall be regularly reported to the Revenue authorities;it has likewise appeared to be expedient and proper to make provision for the immediate settlement of the limits of the Sundarbans, as ascertained by careful local inquiry, conducted by the Commissioner specially appointed to the duty, and the surveyors under his authority; and also to declare the intent and meaning of certain parts of the existing Regulations in regard to which doubts have arisen;the following Rules have accordingly been enacted, to be in force from the date of their promulgation throughout the [territories] [Substituted by ALO.] immediately subordinate to the [Presidency of Fort William.] [This includes the present State of Bihar.]

2. to 8.

[* * * *] [Repealed by Act 1 of 1903.]

9.

[* * *] [Repealed by Act 12 of 1873.]

10. Regulation 2, 1819, modified and extended.

- First - The following Rules are hereby enacted in modification and extension of the provisions contained in Section 22, 23 and 24 Regulation 2, 1819. Decisions of Board of Revenue under Section 21 of Regulation 2, 1819, to be executed notwithstanding suit to contest them. - Second. - All decisions which have been or may be passed by the [Board] [Substituted by Act 1 of 1903, Schedule II, for 'Boards'.] of [Revenue] [As to the present constitution and powers of the Board of Revenue, see B. and O. Act 1 of 1913.] under the Rules in Section 31, Regulation 2 of 1819, declaring the liability to assessment of lands [* * *] [The words 'whether the same be situated in districts to which the jurisdiction of a special Commissioner has been extended or in any other district,' repealed by Act 1 of 1903.] shall be carried into immediate execution by the [Collectors] [As to the exercise of functions of Collectors by other officers, see Bengal Reg. 7 of 1822, Section 35.] or other local Revenue-officers of such district, notwithstanding that the parties against whom such decisions may have been or may be passed shall have sued or shall sue to contest the Board's decision in one of the established Court of Justice [* * *] [The words 'or to the Commissioner appointed under this Regulation,' repealed by Act 1 of 1903.] and such parties shall not be permitted to retain possession of the lands unless they enter into an engagement to pay the assessment which may be fixed upon them; such assessment to be collected under the general Rules for the realization of the Government Revenue from farmers thereof. Consequence of declining to pay assessment. - And if any person against whom the [Board] [Substituted by Act 1 of 1903, Schedule II, for 'Boards'.] may have decided shall decline to pay the assessment fixed on the lands, he shall be forthwith dispossessed, and such arrangements shall be made for the collection of the Government revenue as the [Collector,] [As to the exercise of functions of Collectors by other officers, see Bengal Reg. 7 of 1822, Section 35.] under the orders of the [Board,] [Substituted by Act 1 of 1903, Schedule II, for 'Boards'.] may see fit to adopt, but in the event of a final decision being passed, exempting the tenure of any such person from assessment, the net collections made on account of Government shall be refunded, with interest thereon at the rate of six per cent per annum. Trial of suit to contest Board's decision in cases in which jurisdiction of courts is not barred. - Third. - All suits which may be instituted in the established Courts of Justice under the provisions of Section 22 and 24, Regulation 2, 1819, and Section 5, Regulation 9, 1825, to contest decisions of the [Board] [Substituted by Act 1 of 1903, Schedule II, for 'Boards'.] of [Revenue] [As to the exercise of functions of Collectors by other officers, see Bengal Reg. 7 of 1822, Section 35.] shall, when the jurisdiction of the above Courts is not barred by the operation of this Regulation, be heard and determined in the same manner as regular appeals, and no further pleadings shall be required or received in such cases than the objections of the appellant to the decision of the [Board] [Substituted by Act 1 of 1903, Schedule II, for 'Boards'.] and the reply to those objections on the part of the Revenue-authorities; The said Courts shall likewise, on the admission of an appeal, invariably call for the original record of the [Board's] [Substituted by Act 1 of 1903, Schedule II, for 'Boards'.] proceedings in each case, and shall then require the parties to file their pleadings as above provided; but it shall not be competent to the courts to take further evidence, oral or documentary, unless it shall appear that such evidence

was tendered by the party adducing it to the [Collector] [As to the exercise of functions of Collectors by other officers, see Bengal Reg. 7 of 1822, Section 35.] or the [Board] [Substituted by Act 1 of 1903, Schedule II, for 'Boards'.], and was then rejected on insufficient grounds or that such evidence is essential to the ascertainment of some fact material to the issue, which may not have been fully inquired into in the course of the previous investigation: Proviso as to admission of appeals from inferior to superior Court. - Fourth. - Provided, however, and it is hereby enacted that nothing contained in the preceding clause shall be construed to bar the admission of a further appeal on the part of the Revenue-authorities to [* * *] [The words 'the Provincial Courts or', repealed by Act 16 of 1874.] the Court of Sadar Diwani Adalat, from decisions passed on the first instance in the Zila [* * *] [The words 'or the Provincial' repealed by Act 16 of 1874.] Courts [* * *] [The word 'respectively', repealed by Act 16 of 1874.] in cases of the nature described and specially provided for in Section 6, Regulation 14, 1825, nor the admission by those tribunals of the special appeal on the application of the party opposed to Government under the Rules in Section 26, Regulation 2, 1819. Appeals from Board's decisions to be kept distinct. - Fifth. - Appeals filed in the established Courts of Civil Judicature to contest decisions of the Board of [Revenue] [For the present Constitution and powers of the Board of Revenue See B. and O. Act, 1 of 1913.] shall be kept on a file or register distinct from that on which other suits before those Courts are entered [* * *] [Repealed by Act 16 of 1847.].

11.

[* * * *] [Clause First repealed by Act 16 of 1874.] Persons succeeding to possession of lands revenue-free or on mukarrari jama to Collector. - Second. - Persons succeeding to the possession of any lands held free of assessment or held on a mukarrari jama, on the decease of a former occupant, or by gift, purchase or other assignment or transfer of proprietary right, are hereby required immediately to notify the same to the Collector or other officer exercising the powers of [Collector] [For the exercise of functions of Collectors by other officers, see Bengal Reg. 7 of 1822.] within the district in which the land may be situated, and any omission to notify such succession or transfer for a period of six months or more shall subject such land to immediate attachment by the Revenue-officers. Nor shall land so attached be restored to party who may claim to hold it, though the validity of the tenure be subsequently established to the satisfaction of the Revenue authorities, until such party shall have paid to the [State] [Substituted by ALO.] Government in fine equal to one year's rent; and, if the revenue derivable from the land be not awarded to be the right of the individual, the party shall further be required to refund the amount of the collections made by him, with interest thereon at the rate of twelve per cent per annum: provided that also that the said rent and collections shall be estimated according to the assessment demandable from the raiyats at the time of attachment. Investigation of claims to recover possession of attached lands - Third. - Where the lands of any individual may be attached under the above Rule, any claim which he may prefer to recover possession thereof, and to hold the same free of assessment or on a mukarrari jama shall be investigated and determined by the [Collector] [For the exercise of functions of Collectors by other officers, see Bengal Reg. 7 of 1822.] under the provisions of Regulation 2, 1819, as modified by the present Regulation and by those which have been intermediately enacted.

12. Unregistered tenures liable to resumption, unless declare hereditary by decree of competent authority.

- All tenures which may not have been duly registered in the manner prescribed by Regulations, or of which the specification contained in the register shall not purport the same to be held under an hereditary title or as perpetual endowment, shall be and be held to have been liable to resumption, unless the same may have been declared hereditary by a final decree of a competent Court of Judicature, on the demise of the persons who were in possession at the dates respectively of Regulations 19 and 37, 1793, and 12, 1805, according as the lands may be within the districts to which those Regulations are severally applicable, or in other part of the country at the date at which the same came into the possession of the British Government. And Collectors and other officers exercising the powers of [Collector] [For the exercise of functions of Collectors by other officers, See Bengal Regulation 7 of 1822.] shall accordingly proceed to assess, and if necessary, attach all lands liable to resumption as above, in the same manner and with the same powers as they are authorized and required to proceed in the case of a lapsed form, anything in the existing Regulations to the contrary notwithstanding: Provided further that the nature and extent of the interests vested in the holders of lands and rents exempted from assessment shall, when the title-deeds are forthcoming, and their authenticity recognized, be construed and defined with reference to the whole of the matter contained in such deeds, and not merely by the designation of the tenure. Jagirs consequently shall not be held to be life-tenures in case in which the recital of the grant shall be such as clearly to convey an hereditary interest: nor shall any tenures, howsoever designated, be considered to be hereditary and perpetual if the grants under which they are held shall not convey, in express terms, an hereditary or perpetual interest.

13. Sundarbans declared property of State and Government competent to make grants and to take measure for clearance.

- First - The uninhabited tract known by the name of the Sundarbans has ever been and is hereby declared still to be, the property of the State: the same not having been alienated or assigned to zamindars, or included in any way in the arrangements of the perpetual settlement, it shall therefore be competent to the [State] [Substituted by ALO.] Government to make, as heretofore, grants, assignments and leases of any part of the said Sundarbans, and to take such measures for the clearance and cultivation of the tract as [it] [The word 'he', in the original text, is to be read as if the word 'it' were substituted therefor-see Bengal Act 1 of 1903.] may deem proper and expedient. Grantees' right. - And parties to whom such grants, leases or assignments shall have been made, or to whom they may hereafter be made, shall be entitled to hold or to take possession of any tract of Sundarbans jungle so granted or assigned without question or opposition, and all public officers shall aid and assist the same. Suit to contest such right. - Provided also that if any zamindar, talukdar or other sadar malguzar or any other person owning and occupying or collecting the rent or revenue of cultivated land in the neighbourhood of the land so granted, leased or assigned shall sue in any Court of Adalat [* * *] [The words 'Or before a special Commissioner under this Regulation', repealed by Bengal Act 1 of 1903.] to contest the validity of the title or the right of possession of any such lessee or grantee under such grant, lease or assignment, then if the land aforesaid shall be

proved to be, or to have been, or be not denied to be or to have been, when so granted, leased or assigned, within the limit of the unoccupied jungle so named and described, the suit shall be dismissed with costs. Compensation to zamindar claiming valuable interest. - Provided, however that if any zamindar, talukdar or other person aforesaid shall claim to possess a valuable interest in any part of the Sundarbans, by virtue of authority to collect money or other valuable things from the person engaged in gathering wax, or cutting wood or obtaining other jungle products of the tract, or by virtue of any other similar privilege or advantage which may have been recognised as part of the assets on which the assessed revenue of his zamindari, talukdari or other tenure was adjusted at the time of farming the perpetual settlement of the district, and the collection of which was not subsequently stopped and due compensation made under the Rules relative to the collection of said revenue or other similar arrangement, such zamindar, talukdar or proprietor shall be entitled to receive [from the [State] [Substituted by AO for 'from Government'.] Government] compensation for any diminution in the value of such interest and advantage consequent on the arrangements adopted for the cultivation of the Sundarbans the same being duly established after an investigation conducted under the Rules of Regulation 2, 1819, as modified by this Regulation.[* * *] [Clause Second repealed by Bengal Act I of 1905.]