

The (Bengal) Alluvion and Diluvion Regulation, 1825

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Rule

THE-BENGAL-ALLUVION-AND-DILUVION-REGULATION-1825 of 1825

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The (Bengal) Alluvion and Diluvion Regulation, 1825A Regulation for declaring the rules to be observed in determining claims to lands gained by alluvion or by dereliction of a river or the sea

1. Preamble.

- In consequence of the frequent changes which take place in the channel of the principal rivers that intersect the Provinces immediately subject to the [Presidency of Fort William] [Includes the former Province of Bihar and Orissa except Sambalpur] and the shifting of the sands which lie in the beds of those rivers, chars, or small islands are often thrown up by alluvion in the midst of the stream or near one of the banks, and large portions of land are carried away by an encroachment of the river on one side, whilst accessions of land are at the same time, or in subsequent years, gained by dereliction of the water on the opposite side; similar instances of alluvion, encroachment and dereliction also sometimes occur on the sea-coast which borders the southern and south eastern limits of Bengal. The lands gained from the rivers or sea by means above-mentioned are a frequent source of contention and affray, and although the law and custom of the country have established rules applicable to such cases these rules not being generally known, the Courts of Justice have sometimes found it difficult to determine the rights of litigant parties claiming chars or other lands gained in the manner above described. The Court of Sadar Diwani Adalat, with a view to ascertain the legal provisions of the Mohammedan and Hindu laws on this subject, called for reports from their law officers of each persuasion, and on consideration of the reports furnished by the law officer, in consequence, as well as of the decisions which have been passed by the Court of Sadar Diwani Adalat in cases brought before them in appeal which involved the rights of claimants to lands gained by alluvion, or by dereliction of rivers or the sea. The Governor-General in Council has deemed it proper to enact the following rules for the general information of individuals as well as for the guidance of the Courts of Judicature, to be in force, as soon as promulgated, throughout the

whole of the provinces subject to the [Presidency of Fort William.] [Includes the former Province of Bihar and Orissa except Sambalpur]

2. Claims and disputes as to alluvial lands to be decided by usage when clearly recognised and established.

- Whenever any clear and definite usage of shikast paiwast respecting the disjunction and conjunction of land by the encroachment or recess of river may have been immediately established, for determining the rights of the proprietors of two or more contiguous estates divided by power (such as that the main channel of the river dividing the estates shall be the constant boundary between them, whatever changes may take place in the course of the river, by encroachment on one side and accession on the other), the usage so established shall govern the decision of all claims and disputes relative to alluvial land between the parties whose estates may be liable to such usage.

3. Where no usage established, claims how decided.

- Where there may be no legal usage of the nature referred to in the preceding section, the general rules declared in the following section shall be applied to the determination of all claims and disputes relative to lands gained by alluvion or by dereliction either of a river or the sea.

4. Lands gained by gradual accession from recess of river or sea.

- First -When land may be gained by gradual accession, whether from the recess of a river or of the sea, it shall be considered an increment to the tenure of the person to whose land or estate it is thus annexed, whether such land or estate be held immediately from [the Government] [Substituted for 'the Crown' by A.O.] by a zamindar or other superior land-holder, or as a subordinate tenure by any description or under-tenant whatever :Extent of interest in increment of person in possession-Provided that the increment of land thus obtained shall not entitle the person in possession of the estate or tenure to which the land may be annexed to a right of property or permanent interest therein beyond that possessed by him in the estate or tenure to which the land may be annexed and shall not in any case be understood to exempt the holder of it from the payment to [the Government] [Substituted for 'the Crown' by A.O.] of any assessment for the public revenue to which it may be liable under the provisions of Regulation 11, 18, 19 or of any other Regulation in force.Nor, if annexed to a subordinate tenure held under a superior landholder, shall the under-tenant, whether a khudkasht raiyat, holdings a maurusi istamrari tenure at a fixed rate of rent per bigha, or any other description of under-tenant liable by his engagements, or by established usage to in increase of rent for the land annexed to his tenure by alluvion, be considered exempt from the payment of any increase of rent to which he may be justifiable.Second - When river by sudden change of course intersects estate-The above rule shall not be considered applicable to cases in which a river, by a sudden change of its course may break through and intersect an estate, without any gradual encroachment, or may by the violence of stream separate a considerable piece of land from one estate and join it to another estate, without destroying the identity and preventing the recognition of the land so removed.In such case the land on being clearly recognised, shall remain

the property of its original owner. Third - Chars thrown up in navigable river - When a char or island may be thrown up in a large navigable river (the bed of which is not the property of an individual), or in the sea, and the channel of the river or sea between such island and the shore may not be fordable, it shall, according to established usage, be at the disposal of [the Government.] [Substituted for 'the Crown' by A.O.] Property therein when channel fordable - But if the channel between such land on the shore be fordable at any season of the year, it shall be considered an accession to the land tenure or tenures of the person or persons whose estate or estates may be most contiguous to it, subject to the several provisions specified in the first clause of this section with respect to increment of land by gradual accession. Fourth - Chars, etc., thrown up in small shallow rivers - In small and shallow river, the beds of which, with the Jalkar right of fishery may have been heretofore recognised as the property of individuals, any sand bank or char that may be thrown up shall, as hitherto, being to the proprietor of the bed at the river, subject to the provisions stated in the first clause of the present section. Fifth - Disputes relating to lands gained by alluvion or dereliction not provided for by Regulation - In all other cases, namely, in all cases of claims and disputes respecting land gained by alluvion or by dereliction of a river or the sea, which are not specifically provided for by the rules contained in this Regulation, the Courts of Justice, in deciding upon such claims and disputes, shall be guided by the best evidence they may be able to obtain or established local usage, if there be any, applicable to the case, or if not by general principles of equity and justice.

5. Encroachments on beds or navigable rivers and other obstructions.

- Nothing in this Regulation shall be construed to justify any encroachments by individuals on the beds or channels of navigable, rivers, or to prevent zila [* * *] [Repealed vide amending Act, 1903.] Magistrates or any other officers of [the Government] [Substituted for 'the Crown' by A.O.] who may be duly empowered for that purpose from removing obstacles which appear to interfere with the safe and customary navigation of such river, or which shall in any respect obstruct the passage of boats by tracking on the banks of such rivers or otherwise.