

The Court of Wards Act, 1879

MANIPUR

India

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Act 9 of 1879

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The Court of Wards Act, 1879 Bengal Act 9 of 1879 Last Updated 7th February, 2020 As extended to the Union Territory of Manipur by the Government of India, Ministry of Home Affairs Notification No. F. 5/5/62-Judl. II UTL-54 of 17/12-62, published in the Manipur Gazette, Extraordinary No. 184-E-144 of 18/1/63. An Act to amend the law relating to the Court of Wards Whereas it is expedient to amend the law relating to the Court of Wards within the territories under the administration of the Lieutenant Governor of Bengal. It is enacted as follows:

Part I – Preliminary

1. Short title, extent and commencement.

(1) This Act may be called the Court of Wards Act, 1879. (2) It extends to the State of West Bengal, Bihar and Assam and that part of the State of Orissa which on the 30th day of July, 1879, was subject to the Lieutenant-Governor of Bengal.

2.

[Omitted].

3. Interpretation.

- In this Act, unless there be something repugnant in the subject or context-Civil Court. "Civil Court" includes the High Court for the State of Assam in the exercise of its ordinary and extraordinary civil jurisdiction or civil appellate or revisional jurisdiction;Collector. "Collector" includes any officer in charge of the revenue jurisdiction of a district;The Court. "the Court" means the Court of Wards;or, when the Court of Wards has delegated any of its power to a Commissioner or Collector or any other person, it means, in respect of such powers, the Commissioner or Collector or person to whom they are delegated;Estate, "estate" means all lands which are borne on the revenue-roll of a Collector as

liable for the payment of one and the same demand of land-revenue and includes a share in or of a estate other than an undivided share held in coparcenary as the property of a Hindu joint family governed by the Mitakshara or Mithila law; Minor, "minor" means a person who has not completed his age of twenty-one years; Section, "section" means a section of this Act; Ward, "ward" means any person who is under the charge of the Court of Wards, or whose property is under such charge.

4. Saving of Act 4 of 1912 and of jurisdiction of High Court as respects infants.

- Nothing contained in this Act shall affect any of the provisions of the Indian Lunacy Act, 1912 (4 of 1912), or the jurisdiction as respects infants, of any High Court of Judicature.

Part II – Functions and Duties of Court of Wards

5. Constitution of general duties of Court of Wards.

- The State Government shall be the Court of Wards for the territories to which this Act extends. It shall deal with every person and every property of which he may take or retain charge under this Act, or which may be placed under its charge by order of a competent Court in accordance with the provisions of this Act.

6. Disqualified proprietor.

- Proprietors of estates shall be held disqualified to manage their own property when they are-(a)females declared by the Court incompetent to manage their own property;(b)persons declared by the Court to be minors;(c)persons adjudged by a competent Civil Court to be of unsound mind, and incapable of managing their affairs;(d)persons adjudged by a competent Civil Court to be otherwise rendered incapable by physical defects or infirmities of managing their own property;(e)persons to whom the State Government has declared, on their own application, that they are disqualified, and that it is expedient in the public interest that their estate should be managed by the Court.

7. Jurisdiction of Court over disqualified proprietors.

- Whenever the sole proprietor of an estate, or all the joint proprietors of an estate are disqualified as provided in the last preceding section, the Court shall have power to take charge of all the property of every such proprietor or joint proprietor within its jurisdiction, and of the person of any such proprietor or joint proprietor who is resident within its jurisdiction; and also of the person and property of any minor member of the family or any such proprietor or joint proprietor who has an immediate or reversionary interest in the property of such proprietor or joint proprietor: Provided that the Court shall not be empowered to take charge of the property of a proprietor disqualified on his own application under Clause (e) of Section 6.

8. Court when bound to give up charge.

- Whenever the circumstances of any ward become such that the Court could not take charge of him or of his property if he were not under its charge already, the Court shall be bound to release from its charge such person and his property.

9. Discretion of Court as to taking and keeping charge.

- The Court may in its discretion, in any case in which it is empowered by this Act to take charge of the person and property of any disqualified proprietor, -(a)take charge of such property without taking charge of such person;(b)refrain from taking charge of any such person or property;(c)at any time withdraw from such charge, if taken;(d)at any time resume such charge, after having withdrawn from it.

9A. Effect of withdrawal from charge.

- When the Court of Wards withdraws from the charge of such property it shall publish, in the manner provided in Section 64-A, a notice of the termination of the charge and thereupon subject to the provisions of Clause (3) of Section 33-(a)such charge shall terminate with effect from the date fixed in accordance with the provisions of Section 65;(b)the owner of the said property shall be restored to the possession thereof from the said date subject to any order made by a Civil Court and to any contract entered into by the Court of Wards for the preservation or benefit of such property.

10. Application by Civil Court to Court of Wards to take charge.

- Whenever a Civil Court is satisfied that an order should be made under Section 7 of the Guardians and Wards Act, 1890 (8 of 1890), appointing a guardian of the person or property of a minor, or both; or whenever a Civil Court remove, under Section 39 of the same Act, the guardian of a minor; or whenever a person has been adjudged, under the Indian Lunacy Act, 1912 (4 of 1912) to be of unsound mind and incapable of managing his affairs ;if the property of such minor or disqualified proprietor consists, in whole or in part, of land or any interest in land, the Civil Court may apply to the Court of Wards to take charge of the person and property of such minor or disqualified, proprietors; and it shall be at the discretion of the Court of Wards to take charge of such person or property, or to refuse to do so. Nothing contained in Sections 73 to 81 (both inclusive) of the Indian Lunacy Act, 1912, shall be held to apply to persons or properties under the charge of the Court of Wards.

10A. Notice of creditors.

(1)Whenever the Court of Wards assumes charge of any person or property under Section 7 or Section 10, it shall publish, in the manner provided in Section 64-A, a notice calling upon all creditors having claims against the wards of his immovable property to submit the same in writing to the Court, at a place to be named in the notice, within six months from the date of the publication

of the notice aforesaid: Provided that if a suit or proceeding in respect of a claim is pending in any Civil Court at the date of the publication of such notice, intention of that fact shall be given by the creditor concerned to the Court of Wards within the period aforesaid and notice of the decision of the Civil Court in respect of such claim shall also be given to the Court of Wards within three months after the final disposal of such suit or proceeding. (2) Every such claim other than a claim on the part of the Government, not submitted to the Court in compliance with the provisions of sub-section (1), shall * * * notwithstanding any law, contract, decree or award to the contrary, cease to carry interest from the date of the expiry of the period for submission of the claim or in any case where a suit or proceeding in respect of a claim is pending in any Civil Court, the period of three months after the final disposal of such suit or proceeding referred to in the said sub-section: Provided that, if the Court is satisfied that the creditor was prevented by any sufficient cause from complying with the provisions of sub-section (1), it may consider and allow, either wholly or in part, his claim for interest at any time after the date of expiry of the period aforesaid.

10B. Creditor to furnish full particulars and documents.

- Every creditor submitting his claim in compliance with the provisions of sub-section (1) * * * of Section 10-A, shall furnish, along with his written statement of claim, full particulars thereof; and shall, within such time as the Court may appoint; produce all documents which are in his possession, power or control, including entries in books of account, on which he relies to support his claims, together with a true copy of every such document. (2) The Court shall, after marking, for the purpose of identification, every original documents so produced, and verifying the correctness of the copy, retain the copy and return the original to the creditor. (3) If any document which to the knowledge for the creditor is in his possession, power and control, is not produced by him as required by sub-section (1), the document shall not be admissible in evidence against the ward, whether during the continuance of the management or afterwards, in any suit brought by the creditor or by any person claiming under him in respect of such claim, unless good cause be shown, to the satisfaction of the Civil Court entertaining the suit, for the non-production of the document as required by sub-section (1).

10C. Bar to certain proceedings.

(1) Where any property is in charge of the Court of Wards no Civil Court shall execute any decree or order against the person or property of the ward within four years from the date of the commencement of this Act or from the date of the assumption of charge of the property by the Court of Wards, whichever is later, and for seven years thereafter if the interest due under such decree or order be paid in full every year during the said seven years. In calculating the period of limitation applicable to an application for the execution of a decree or order, the time during which the execution of such decree or order is barred under this sub-section shall be excluded. (2) Except as provided in Section 23-A, no property in charge of the Court of Wards shall be sold by any revenue authority under any law so long as the Court remains in charge thereof.

10CC. Special limitation for suits against wards.

- In calculating the period of limitation applicable to a suit against a ward, a period of four years shall be added to the period of limitation allowed by law.

10D. Adjudication of claims.

(1) On receipt of all claims, submitted in compliance with the provisions of Sections 10-A and 10-B, the Court shall proceed to investigate such claims, and shall decide which of them are to be wholly or partly admitted or wholly or partly rejected, as the case may be, and shall communicate its decision in writing to each claimant concerned. (2) When the Court has admitted any claim under sub-section (1), it may make to the creditor a proposal in writing for the reduction of the claim, or of the rate of interest to be paid in future, or of both and, if such proposal, or any modification of it, is accepted by the creditor and his acceptance is finally recorded and attested by the Court, it shall be conclusively binding upon the creditor and upon the ward. (3) Subject to the provisions of sub-section (2), nothing in this section shall be construed to bar the institution of a suit in a Civil Court for the recovery of a claim against a ward or his property which has been submitted to the Court of Ward: Provided that no decision of the Court of Wards under this section shall be proved in any such suit as against the defendant. (4) In calculating the period of limitation applicable to suits for the recovery of a claim which has been submitted to the Court of Wards the period from the date of submission of the claim up to the date of the communication of the Court's decision thereon to the creditor shall be excluded.

11. Procedure when any of the joint proprietors ceases to be disqualified or any person becomes entitled to property jointly with a disqualified proprietor.

- The Court of Wards may retain charge of the whole of the property of any joint proprietors disqualified under Section 6 of which the Court has taken charge under Section 7, or of any property of which the Court has taken charge under Section 10, notwithstanding the fact that a joint proprietor, or some joint proprietors, of such property has or have ceased to be subject to the jurisdiction of the Court or that any person has become entitled to such property or any part thereof jointly with any disqualified proprietor: Provided that if the share of such proprietor or person is duly partitioned the Court shall, subject to the provisions of Section 13-A, release such partitioned share: Provided further that if the disqualified joint proprietor be the manager of a Mitakshara joint family the Court shall, on his ceasing to be so disqualified and on application being made by him in this behalf, release the property.

12. Withdrawal from charge by Court.

- The Court of Wards may at any time withdraw from the charge of any person and property taken under Section 10 * * * and from the charge of any person or property which either before or after the commencement of this Act was or is placed under the charge of the Collector by a Civil Court under any enactment for the time being in force: Provided that it shall give notice of its intention to

withdraw to the Civil Court concerned, and that such notice shall be given not less than two months before the Court of Wards shall so withdraw.

13. Procedure when succession to property of ward disputed.

- Whenever, on the death of any ward, the succession to his property or any part thereof is in dispute, the Court may either direct that such property or part thereof be made over to any person claiming such property, or may retain charge of the same under Bengal Act 7 of 1876 or the Assam Land and Revenue Regulation, 1886 or until the dispute has been determined by a competent Civil Court.

13A. Power of Court to retain charge of property of disqualified proprietor until discharge of debts.

- If, where any disqualified proprietor dies, or ceases to be disqualified within the meaning of this Act, there remain undischarged any debts or liabilities which incurred by, or are due from, such proprietor, or which are a charge upon his property or any part thereof or any liabilities which were incurred by the Court for the benefit of the property of such proprietor. then, notwithstanding anything contained in the foregoing sections, the Court may either withdraw from the charge of such property or retain such charge until such debts and liabilities, as the Court considered necessary to be discharged, together with all interests due thereon, have been discharged: Provided that, after the death of a proprietor, the Court shall not retain charge on account of any debt or liability which has been declared by a competent Civil Court not to be binding on his representatives.

14. General powers of the Court.

- Subject to the provisions of this Act, the Court-(a) may, through its manager, do all such things requisite for the proper care and management of any property of which it may take or remain charge under this Act, or, which may be placed under its charge by order of competent Civil Court, as the proprietor of any such property, if not disqualified, might do for its care and management, and (b) may, in respect of the person of any ward, do all such things as might be lawfully done by the legal guardian of such ward.

15. Exercise through others of powers conferred on Court.

- The Court may exercise all or any powers conferred on it by this Act through the Collectors of the districts in which any part of the property of the disqualified proprietor may be situated, or through any other person where it may appoint for such purpose. Delegation of powers. - The Court may, with the sanction of the State Government, from time to time, delegate any of its powers to such Collectors or other person as aforesaid and may at any time, with the like sanction, revoke such delegation.

16. Establishment and expenses.

- The Court may, from time to time order such establishment to be entertained and expenses to be incurred as it shall consider requisite for the care and management of the persons and properties under its charge, for superintendence, for the audit of accounts, and generally for all purposes of this Act; and may order that such expenses, inclusive of all salaries, gratuities and payments on account of the leave-allowances of such establishments, be charged against any one or more properties for the purposes of which such establishments are, or have been, entertained or such expenses have been incurred.

17.

18. Power to manage property.

- The Court may sanction the giving of leases or farms of the whole or part of any property under its charge, and may direct the mortgage or sale of any part, of such property, and may direct the doing of all such other acts as it may judge to be must for the benefit of the property and the advantage of the ward.

19. When Court may order property to be formed into separate estate.

- If the Court thinks it expedient to direct the sale or mortgage of any part of an estate of which the ward is the sole proprietor, it may order the Collector to partition off such part into a separate estate; and demand of land revenue and of the cesses for which the original estate was liable shall be assessed upon and divided between the two separate estates so formed, respectively in such manner as the Court, with the sanction of the State Government may direct.

20. Appointment of manager and guardians.

- The Court may appoint one or more managers for the property of any ward and one or more guardians for the care of the person of any ward, under the charge of the Court, and may control and remove any manager or guardian so appointed. On any disqualified proprietor becoming a ward, the Court may, at its discretion, confirm or refuse to recognize any appointment of a person to be guardian of such disqualified proprietor which may have been made by a will.

21. Custody, education and residence of wards.

- The Court may make such orders as to it may seem fit in respect of the custody, education and residence of a minor ward, and such minor members of the ward's family as are under its charge, and in respect of the custody and residence of any ward, not being a minor, whose person is under the charge of the Court.

22. Allowance for ward and his family.

- The Court shall allow, for the support and education of each ward for the support of his family such monthly sum as it thinks fit (if any) with regard to the rank and circumstances of the parties and the financial condition of the property of the ward under its charge.

Part III – Protection from Sale of Certain Estates

23. Estate under charge of Court exempt from sale.

- Clause I. Except as hereinafter provided by Section 23-A, every estate, and, subject to the provisions of Section 14 of Act 2 of 1859, every share or part of an estate for which a separate account has been opened under Section 10 or Section 11 of the said Act, or under Section 70 of Bengal Act 7 of 1876 [and subject to the provisions of Section 70, sub-section (2) of the Assam Land and Revenue Regulation, 1886, every share or part of an estate for which a separate account has been opened under Section 65 of the said Regulation] shall be exempt from sale for arrears of Government revenue which have accrued whilst such estate, share or part has been under the charge of the Court: Provided that all such arrears of revenue shall be the first charge upon the sale proceeds of any estate, share or part which may be sold for any other cause than for such arrears of revenue. Recovery of arrears of revenue, etc., due at the time when property ceases to be under charge of Court. Clause 2. If at the time when any property ceases to be under the charge of the Court of Wards, any liabilities enumerated in this clause or outstanding in respect of any part of the property, the Collector may attach the whole or any part of such property whether consisting of estates, or shares or parts of estates, or tenures or holdings and collect the rents, cesses and other demands due and all arrears thereof, managing the property so attached either directly or through a manager or by farming as he may think fit: Provided that such attachment shall not remain in force for a period exceeding five years. The Collector shall, from the proceeds of such property, discharge the liabilities of the whole property in the following order of priority: (1) cost of management; (2) arrears of Government revenue and interest; (3) current revenue; (4) cesses due to the Government; (5) arrears of rent and cess due to the superior landlords and interest thereon; (6) Other sums due to the Government, including the principal of and interest on any loans advanced by any Government; and (7) current rent. After satisfaction of the above liabilities the Collector shall, subject to any order of the Civil Court in this behalf, release the property to the proprietor and pay to him or his duly constituted agent any surplus that remains in the hands of the Collector, and shall furnish such proprietor with an account of the receipts and expenditure extending over the time when the property was under attachment. Administration of property by trustees on withdrawal from charge by the Court of Wards. Clause 3(1). When the Court of Wards decides to withdraw from the charge of any property on the ground that in its opinion the property is insufficient to pay the liabilities of the proprietor, secured and unsecured, within a reasonable period, it shall give the proprietor and his creditors such opportunities as it thinks reasonable to come to an agreement regarding the release of the property from the charge of which it is about to withdraw and if any such agreement is reached, the Court of Wards, if it is of opinion that the agreement is valid, shall release the property to the proprietor. If the property is not so released, the

Court of Wards may, upon notice to the proprietor, call a meeting of his creditors to elect not less than two trustees to administer the property. At such meeting the creditor shall have votes in proportion to the debts owing to them respectively. The opinion of creditors to whom three-fourths of the debts of the proprietor are owing shall prevail. The procedure relating to the holding of such meeting shall be laid down by the Court of Wards. If the creditors fail to elect the trustees or if the trustees elected refuse to act within a time to be fixed by the Court of Wards the Court of Wards, may appoint the trustees. The trustees so elected or appointed shall be deemed to be appointed by the Civil Court. (2) Upon the trustees so elected or appointed, as the case may be, expressing their willingness to act as trustees the property shall, subject to the right of the Collector to attachment, collection and discharge of the liabilities mentioned in Section 23, vest in them, in trust to administer it under the discretion of such Civil Court as may be prescribed by rules for discharging the other liabilities of the proprietor and making over the residue, if any, to him. The Collector shall pay to the trustees, instead of to the proprietor or his agent, any surplus that remains in his hands. Notice of the withdrawal of the Court of Wards and the vesting of the property in the trustees shall be published in the manner provided in Section 64-A. (3) Upon the vesting of the property in the trustees the charge of the Court of Wards shall be deemed to be withdrawn but the proprietor shall not become liable to arrest or imprisonment in execution of any decree or order for such liabilities. (4) Any adjudication of claims by the Court of Wards or compromise under Section 10-D shall be binding in the same manner and to the same extent as if the Court of Wards and not withdrawn from charge of the property and as if the Civil Court had made such adjudication or recorded such compromise. (5) The Civil Court shall have all the powers given by law, including the law of insolvency, for the administration of the said property and the trust mentioned above and shall also have power to remove trustees and appoint new trustees. (6) The proprietor or the creditors will be at liberty to apply to the Civil Court from time to time as there may be occasion, for such removal or appointment, for the framing of a scheme of administration, or for the termination of the trust and discharge of the trustees. (7) The form of notice, the manner of service thereof, the manner of signifying the willingness of trustees to act, the procedure for the election of trustees and the Civil Court under whose directions the trustees shall administer the property may be prescribed by rules to be framed by the State Government.

23A. Conditions under which estate may be sold for arrears of revenue accrued under court.

- Notwithstanding anything in Clause (5), Section 8, Regulation I of 1973, or Section 23 of this Act, contained, any estate, share or part of an estate on which an arrear of revenue has accrued while under the charge of the Court, may at any time, be sold under the provisions of the law for the time being in force for the recovery of arrears of Government revenue, if the Court has certified in writing that the interest the ward require that such estate, share or part be sold, and has stated in writing the reasons upon which it has arrived at such conclusion.

24. Restriction on sale for arrears of revenue of estate belonging to minor.

- No estate, the sole property of a minor or of two or more minors, and descended to him or them by the regular course of inheritance, or by virtue of the will of, or some settlement made by, some

deceased owner thereof, shall be sold for arrears of revenue accruing subsequently to his or their succession to the same, until such minor or one of such minors has completed his age of twenty-one years; but all arrears of revenue shall be the first charge upon the proceeds of such estate if the estate is sold for any other cause during such minority. Power to Collector to attach such estate. - The Collector may, on an arrear so accruing on any such estate, attach the estate and collect the rents and all arrears of rent due, managing the estate, either directly or through a manager or by farming it, as he may think fit, for a period not exceeding ten years, nor extending beyond the time when such minor or one of such minors completes his age of twenty-one years.

25. Section 24 not to apply unless notice given.

- The exemption from sale for arrears of revenue given by Section 24 shall only apply to cases in which a written notice of fact that the estate is the sole property of one or more minors and entitled to such exemption, has been served on the Collector before the sale.

26. Application of proceeds of estate framed under Section 24.

- When an estate has been farmed under the provisions of Section 24 the proceeds of such farm shall be paid to the Collector; and the Collector, after deducting the amount of the claims of the Government for revenue and other public demands, and the charges of management shall, either pay the proceeds to the person authorised to receive them for the proprietor, or shall dispose of them in any of the modes mentioned in Section 49 or in Section 50.

Part IV – Ascertainment of Disqualification

27. Procedure for ascertaining and declaring disqualification.

- Whenever any Collector has reason to believe that any person residing in his district, or being the proprietor of an estate borne on the revenue-roll of his district should be declared or adjudged to be a disqualified proprietor under Section 6, he shall make such inquiry as he may deem necessary; and if satisfied that such person should be so declared or adjudged, shall make a report of the same to the Court; and the Court shall, on receipt of such report, make such order consistent with this Act as may seem to it expedient.

28. Power to enforce provisions of Act without report.

- Nothing in Section 27 shall prevent the Court or the State Government from putting the provisions of this Act in force without any report from the Collector.

29. Power of Collector as to preservation of property on death of a proprietor whose heirs should be declared disqualified.

- Whenever any Collector receives information that the sole proprietor of an estate which is borne on the revenue-roll of his district has died, or that the sole proprietor of any estate has died within his district, and such Collector has reason to believe that the heirs of such proprietor should be declared or adjudged to be disqualified under Section 6, he may take such step and make such orders for the safety and preservation of the movable property of such heirs, and of all deeds, documents or papers relating to the property of such heirs, as to him may seem fit. Such Collector may call upon any other Collector in whose jurisdiction any such movable property, or any such deeds, documents or papers may be, to take charge of the same; and thereupon such other Collector shall have the same powers with respect to such property, deeds, documents and papers within his district as are conferred by this section on the first mentioned Collector. Recovery of expenses if property is not taken under charge of Court. - If the property is not afterwards taken under the charge of the Court, all expenses incurred by a Collector acting under this section shall be recoverable as arrears of land revenue from the owner of such property or the person or persons whom the Collector shall find to be in possession of such property, and shall constitute a demand under Bengal Act 7 of 1868 or any similar law for the time being in force.

30. Production of minor proprietor, and order for his temporary custody.

- A Collector acting under the last preceding section may direct that any person who has the custody of a minor heir of any such deceased proprietor shall produce such minor before such Collector or before any other Collector on a day fixed; and the Collector before whom the minor is so produced may make such order for the temporary custody and protection of such minor as to him may seem fit. If the minor is a female, she shall not be brought into the presence of the Collector, but the Collector may take such steps for her identification as he may think fit.

31. Application to Civil Court in case of lunatics.

- If a sole proprietor of an estate who does not reside within the local limits of the ordinary original jurisdiction of the High Court, is reported by a Collector to be of unsound mind and incapable of managing his affairs, the Court may order the Collector making such report, or such other Collector, as the Court may appoint, to apply, in pursuance of the provisions of the Indian Lunacy Act, 1912 (4 of 1912), to the Civil Court of the district within the jurisdiction of which such proprietor may reside.

32. Application to Civil Court to make inquiry regarding disqualification on ground of physical defect or infirmity.

- If a sole proprietor of an estate, who does not reside within the local limits of the ordinary original civil jurisdiction of the High Court is reported by a Collector to be incapable of managing his property on the ground of some physical defect or infirmity other than unsoundness of mind, the Court may order the Collector making such report, or such other Collector, as the Court may appoint, to apply to the principal Civil Court of the district within which such person may be residing; and, upon such Collector so applying, such Civil Court shall inquire into and determine the question as to the alleged incapacity.

33. Similar application when proprietor resides within original jurisdiction of Court of Judicial Commissioner or beyond the Union territory of Manipur.

- If a sole proprietor of an estate, who is resident within the local limit of the ordinary original civil jurisdiction of the High Court, or resident beyond the territories administered by the State Government, shall be reported by a Collector to be incapable of managing his property by reason of some physical defect or infirmity other than unsoundness of mind, the Court may order the Collector making such report, or such other Collector, as the Court may appoint, to apply to the principal Civil Court or such other Civil Court as the State Government on application made to him by the Collector in that behalf, may determine. Such Civil Court shall thereupon inquire into and determine the question as to the alleged incapacity.

34. Powers and duties of Courts when inquiry is instituted under Section 32 or 33.

- When any inquiry is instituted by a Civil Court under Section 32 or Section 33 such Court shall, for the purpose of making such inquiry, have the powers conferred and proceed in the manner prescribed by the Indian Lunacy Act, 1912 (4 of 1912) with respect to the inquiries directed to be made by the said Act. The Civil Court shall transmit to the Court of Wards a copy of the order made on each such inquiry; and the Court of Wards shall thereupon in case the proprietor has been found by the Civil Court to be incapable as aforesaid, make such order, consistent with this Act, as it shall think fit. The Civil Court shall have, with reference to proprietor who have been adjudged to be incapable as aforesaid, the same powers as are conferred on a Civil Court by Section 82 of the Indian Lunacy Act, 1912, with reference to persons adjudged to be of unsound mind and incapable of managing their affairs.

34A. Recovery of expenses incurred by Collector under Sections 31 to 33.

- All expenses incurred by a Collector in taking action under Section 31 or Section 32 or Section 33 in respect of any person shall, if the property of such person is not taken under the charge of the Court, be recoverable from such person or from the person whom the Collector finds to be in possession of such property as arrears of land revenue, or under the procedure provided by the Bengal Public Demand Recovery Act, 1913, for the recovery of public demands.

Part V – Procedure after Ascertainment of Disqualification

35. Order declaring person or property to be under charge of Court.

- Whenever the Court has determined to take the person or property of a disqualified proprietor under the charge, whether in accordance with an order of the Civil Court or otherwise, the Court shall make an order declaring the fact and directing that possession be taken of such person and property or of such property on behalf of the Court; and the Court shall be held to be in charge of such property from the time when possession shall have been so taken.

36. Collector to take possession of movable property.

- As soon as conveniently may be after an order is made under the provisions of Section 35, the Collector of every district within which any part of the ward's property may be situated, or some person authorised in writing by him in that behalf, shall take possession of all accounts, papers and movable property of the ward, and place under proper custody such portion thereof as he may think necessary. Any such Collector, or some person authorised as aforesaid may, in case he has reason to believe that any such account, paper or property is in any room, box or receptacle within any house in the actual possession of the ward, break upon the same for the purpose of searching for such account, paper or property.

37. Additional powers of Collector.

- Any such Collector may also order all persons in the employ of the ward, or all persons who were in the employ of the deceased proprietor from whom the ward has derived his property to attend before him, and may order any person to deliver up any accounts, papers or movable property belonging to the ward, or any accounts or papers relating to the ward's property, which the Collector has reason to believe are in such person's possession, and may order all holders of tenures and under-tenures of such property to produce their title to such tenure and under-tenures.

Part VI – Management and Guardianship

38. Collector when to be deemed manager.

- If no manager of the property of a ward is appointed by the Court, the Collector of the district in which the greater part of such property is situated, or any other Collector whom the Court may appoint in that behalf, shall be competent to do, under the order of the Court, anything that might be lawfully done by the manager of such property.

39. Powers of manager.

- Every manager appointed by the Court shall have power to manage all property which may be committed to his charge, to collect the rents of the land entrusted to him, as well as all other money due to the ward, and to grant receipts therefor; and may, under the orders of the Court, grant or renew such leases and farms and may be necessary for the good management of the property.

40. General duties of manager.

- Every manager shall manage the property committed to him diligently and faithfully for the benefit of the proprietor, and shall, in every respect, act to the best of his judgement for the ward's interest as if the property were his own.

41. Specific duties of manager.

- Every manager appointed by the Court shall-(a)have the care of so much of the property of the ward as the Court may direct;(b)give such security (if any) as the Court thinks fit, to the Collector, duly to account for all such property and for what he shall receive in respect of such property;(c)continue liable to account to the Court, after he has ceased to be manager, for his receipts and disbursements during the period of his management;(d)pass his accounts at such periods and in such forms as the Court may direct;(e)pay the balance due from him thereon;(f)apply for the sanction of the Court to any act which may involve the property in expense not previously sanctioned by such Court;(g)sign all papers, deeds, documents and writings which may be executed by him by virtue of his office;(h)be entitled to such allowance to be paid out of the property as the Court may think fit, for his care and pains in the execution of his duties;(i)be responsible for any loss occasioned to the property by his wilful default or gross negligence.

42. General duties of guardian.

- A guardian appointed to the care of a ward shall be charged with the custody of the ward, and must look to his maintenance, health, and, if he be a minor, to his education.

43. Specific duties of guardian.

- Every guardian appointed by the Court shall-(a)give such security (if any) as the Court thinks fit, to the Collector for the due performance of this duty;(b)pass his accounts at such periods and in such form as the Court may direct;(c)pay the balance due from him thereon;(d)continue liable to account to the Court, after he has ceased to be guardian, for his receipts and disbursements during the period of his guardianship;(e)apply for the sanction of the Court to any act which may involve expenses not previously sanctioned by the Court;(f)be entitled to such allowance to be paid out of the property of the ward as the Court may think fit, for his care and pains in the execution of the duties.

44. Exclusion of certain interested persons from guardianship.

- No person who would be the next legal heir of a ward or would otherwise be immediately interested in outliving a ward, shall be appointed to be his guardian ;but nothing in this section shall apply to the mother of a ward or to a testamentary guardian.

45. Who to be guardian of female ward.

- If the ward is a female, a female of the same religion shall, except in the case of a testamentary guardian, be appointed guardian, preference being given to female relative if any such be eligible. But no guardian shall ordinarily be appointed or continued for a female ward if she has an adult husband.

46. Recovery of sums due to the Court.

- Every sum due to the Court from a manager or guardian, or from the sureties of a manager or guardian, or from any officer or servant employed under Court, or from the sureties of any such officer or servant, shall be recoverable as demand under Bengal Act 7 of 1868 or any similar law for the time being in force.

47. Court may order guardian or manager to make over property.

- The Court may order any past or present manager or guardian, past or present officer subordinate to a manager or guardian, to deliver up his accounts or any property which may be in his possession within such time as may be fixed by the Court.

48. Application of moneys received by the manager.

- All moneys received by the manager shall be applied to the purposes hereinafter mentioned, in accordance with such instructions as the Court may, from time to time, give in that behalf. Unless the Court shall specially otherwise direct, priority shall be given to the purposes included in Class I over those included in Class II, to the purposes included in Class II over those included in Class III and to the purposes included in Class II over those included in Class IV. Class I(1)The payment of all charges necessary for the management and supervision of the property of the ward;(2)the payment of all charges referred to in Section 22; and(3)the discharge of the instalments of Government revenue and of all cesses and other public demands from time to time due in respect of such property or any part of such property ;Class II(1)The payment of all rents, cesses and other demand due to any superior landlords in respect of any land held on behalf of the ward; and(2)the payment of interest at not more than four and a half per centum per annum on all debts incurred by the Court on behalf of the ward or on all debts incurred by the ward which the Court has admitted in the following order of priority:(a)debts incurred by the Court in order to consolidate or pay off previous debts incurred at a higher rate of interest,(b)debts secured by immovable property of the ward,(c)debts which the Court has reduced under sub-section (2) of Section 10-D, and(d)other debts which the Court has admitted.Class III(1)The maintenance in an efficient condition of the estates, buildings and other immovable property belonging to the ward; and(2)the payment, on such scale as the Court may authorise, of such religious, charitable and other allowances not exceeding the amounts paid out of the proceeds of the property before it came under the charge of the Court and such allowances and donations benefiting the position of the ward's family and such expenses for the education of the members of the ward's family as the Court may authorise to be paid.Class IV(1)The payment of the difference between interest at four and a half per centum per annum and interest at the rate contracted for on all debts of the ward admitted by the Court in the order specified in Clauses (b), (c) and (d) of item (2) in Class II;(2)liquidation of the principal amount of the debts in reasonable instalments; and(3)improvement of the land and property of the ward and benefit of the ward and his property generally.

49. Disposal of surplus moneys.

- If the ward is a female of sound mind, who has completed her age of twenty-one years, or a male has completed his age of twenty-one years, whose property is under the charge of the Court under Clause (e) of Section 6, any surplus which remains after providing, so far as the Court may think it, for the objects mentioned in Section 48 shall be paid to such ward: Provided that, before paying any portion of such surplus to such wards, the Court may deduct therefrom and retain at its disposal any sums which it may consider necessary to retain-(1) as a working balance for the management of the property and expenses incidental thereto; (2) in order to make provision for any special charges which are expected to become payable on account of the property, and which probably cannot be met from the expected surplus of the following years.

50. Power to invest surplus.

- If the ward is not a female or male as aforesaid, and if any surplus remains after providing so far as the Court may think fit, for the objects mentioned in Section 48, the same shall be applied in the purchase of other landlord property, or invested at interest on the security of promissory notes, debentures, stocks and other securities of the Central Government or the Government of the United Kingdom of Great Britain and Ireland; bonds, debentures and annuities, which before the fifteenth day of August, 1947 were charged by an Act of Parliament of the United Kingdom on the revenue of India or of any State; stock or debentures of or shares in railway or other companies, the interest whereon had, before the Fifteenth day of August, 1947, been guaranteed by the Secretary of State for India in Council; debentures or other securities for money paid by or on behalf of the municipal body under the authority of any Central or Provincial Act or Act of the Legislature of a Part A State or Part C State; or such other securities, stocks or shares, guaranteed by the Central Government or the State Government as to the Court shall seem fit; or mortgages on immovable property.

Part VII – Suits

51. Manager or Collector to be next friend or guardian in suits by or against ward.

- In every suit brought by or against any ward he shall be therein described as a ward of Court; and the manager of such ward's property, or, if there is no manager, the Collector of the district in which the greater part of such property is situated, or any other Collector whom the Court of Wards may appointed in that behalf, shall be named as next friend or guardian for the suit, and shall in such suit, represent such ward; and no other person shall be ordered to sue or be sued as next friend or be named as guardian for the suit by any Civil Court in which such suit may be pending.

52. Power of Court of Wards to nominate another person to be next friend or guardian for suit.

- The Court of Wards may, by an order, nominate or substitute any other person to be next friend or guardian for any such suit; and, upon receiving a copy of any such order of substitution, the Civil Court in which such suit is pending shall substitute the name of the next friend or guardian for the suit to appoint for the name of the manager or Collector.

53. Payment of costs.

- If in any such any Civil Court shall decree any costs against the next friend or guardian for the suit of the ward, the Court of Wards shall cause costs to be paid out of any property of the ward which for the time being may be in its hands.

54. Service of process against wards.

- Every process which may be issued out of any Civil Court against any ward shall be served, through the Collector, upon the next friend or guardian for the suit as aforesaid of such ward.

55. Suits not to be brought on behalf of wards unless authorised by the Court of Wards.

- No suit shall be brought on behalf of any ward by a manager, unless the same be authorised by some order of the Court: Provided that a manager may authorise a plaint to be filed in order to prevent a suit from being barred by the law of limitation; but such suit shall not be afterwards proceeded with except under the sanction of the Court: Provided also that suits for arrears of rent may be brought on behalf of any ward if authorised by an order of manager of the landed property on which such rents are due.

55A. Indemnity.

- No decree or order shall be made by a Civil Court against any person for anything done, honestly and with due diligence, under this Act.

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Part VIII – Penalties

57. For disobeying certain orders of Collector.

- Any person who refuses to comply with an order of a Collector under Section 29,30,36 or 37 shall be liable by order of the Collector, to a fine not exceeding five hundred rupees.

58. For disobeying orders under Section 47.

- Any person who refuses to comply with an order made under Section 47 may be punished, by order of the Court, with simple imprisonment and attachment of his property until the order is complied with: Provided that the Collector may release any person who has been so imprisoned, on his furnishing sufficient security for his attendance and for delivery of the accounts or property required within such time as the Collector shall think fit. The Collector may, at any time, rescind such order of release, and direct that effect shall be given to the previous order of imprisonment.

58A. Penalty on farmer neglecting to furnish accounts, etc.

- Any farmer, holding or having held lands under the Court, who, upon notice served upon him to that effect at any time during the currency of the lease or within six months after the expiry of the lease under which such lands were held or after he has relinquished such lands, omits or refuses to furnish accounts or produce documents or papers required under such notice, and shall not show sufficient cause for such omission or refusal, shall be liable to such fine as the Collector may think fit to impose, not exceeding one hundred rupees, for such omission; and the Collector may impose such further daily fine, as he may think proper, not exceeding twenty rupees for each day during which such farmer shall omit to furnish the accounts, documents or papers required after a date to be fixed by the Collector in a notice warning the farmer that such further daily fine will be imposed. Such notice shall be served by tendering to the person to whom it may be directed a copy thereof, attested by the Collector or by delivering such copy at the usual place of abode of such person or to some adult male member of his family, or in case it cannot be so served, by posting some copy upon such conspicuous part of the usual or last-known place of abode of such person; and in case such notice cannot be served in any of the ways hereinbefore mentioned it shall be served in such a way as the Collector issuing the notice may direct; and the date fixed by such notice shall not be less than fifteen days after service thereof. The Collector may proceed, from time to time, to levy any amount which has become due in respect of any fine imposed under this section notwithstanding that an appeal against the order imposing such fine may be pending: Provided that, whenever the amount levied under such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Court of Wards and so further levy in respect of such fine shall be made otherwise than by the authority of the Court.

59. For disobeying order of Court.

- Any person who disobeys any lawful order of the Court shall be liable, on conviction before a Magistrate, to a fine not exceeding five hundred rupees and, if he is a manager or guardian appointed by the Court, to a fine not exceeding one thousand rupees.

59A. Persons employed by Court to be "public servants".

- Every person employed by the Court under this Act shall, for the purposes of the Indian Penal Code (Act 45 of 1860), be deemed to be a public servant.

Part IX – Miscellaneous

60. Disabilities of wards.

- No ward shall be competent to create, without the sanction of the Court, any charge upon, or interest in, his property or any part thereof, or to assign over or charge any allowance to be received by him from the Court.

60A. Exemption of ward's property from execution proceedings in certain cases.

- No property which is or has been under the charge of the Court shall be liable at any time, except with the leave of the Court, to be taken in execution of a decree made in respect of any contract entered into by the ward without the leave of the Court while his property was under such charge.

60B. Certain persons to be deemed to be wards.

- For the purposes of Section 10-C, Part VII and Sections 60 and 60-A, a person whose property is under the charge of the Court of Wards under Section 11 by reason of the fact that such person has become entitled to the property jointly with a disqualified proprietor, or charge of whose property has been retained under Section 13-A, shall be deemed to be a ward, but only so far as regards such property.

61. Adoption by ward invalid without consent of Chief Commissioner.

- No adoption by any ward, and no written or verbal permission to adopt given by any ward, shall be valid without the consent of the Chief Commissioner obtained either previously or subsequently to such adoption, or to the giving of such permission, on application made to him through the Court.

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63A. Recovery of interest on arrears of rent.

- Any amount of interest which has accrued due, on arrears of rent or other demand recoverable as rent payable to the manager of an estate which is in charge of the Court, may be recovered in any manner and by any process according to which such arrears may be recovered under any law for the

time being in force; and any Court or officer who is competent to make an order or certificate in execution of which such arrears or other demand are recoverable may direct that any costs incurred by the manager in obtaining such order or certificate, and in executing the same, shall be recovered in the same manner and by the same process as if the amount thereof had been included in the said order or certificate.

64. Record of reasons when penalty imposed under Section 57 or 58.

- When any penalty is imposed by any order under Section 57 or Section 58, the Collector or Court passing such order shall make a formal record of the same, with the reasons or grounds thereof.

64A. Publication of notices.

- Any notice required to be published by the provisions of Section 9-A or sub-section (1) of Section 10-A or Clause (3) of Section 23 and any order required to be published under Section 65, shall be published-(a)in the official Gazette;(b)in at least three issues each of one English and one Vernacular newspaper published in Assam;(c)in two issues of a newspaper (if any) published in the district in which the ward ordinarily resides, or has last resided; and(d)by pasting such notice on the notice boards in the offices of the Collector and of the Judge of the district in which the place named in the notice is situate.

65. Procedure when Court's jurisdiction ceases.

- When the Court has determined to release the property of a ward from its charge, it shall make an order that the jurisdiction of the Court over such property shall cease on a date not more than sixty and not less than fifty days from the date of such order; and copies of such order shall be published in the manner provided in Section 64-A.

65A. Recovery of expenses after release of property.

- Any expense incurred by the Court on account of any property under its charge may, after the release of such property, be recovered * * * * as a public demand under the Bengal Public Demands Recovery Act, 1913, from any person into whose possession such property or any part thereof may have passed immediately after the release by the Court of such property:Provided that the sum so recovered from any such person shall not be greater than the value of any such property which so passed into the possession of such person.

66. Judicial powers of Collector in making inquiries.

- A Collector making any inquiry under this Act may exercise any power conferred by the Code of Civil Procedure, 1908 (Act 5 of 1908), on a Civil court for the trial of suits.

67. Appeals.

- An appeal shall lie from every order of a Collector under this Act to the Court.

68. Control of Court.

- All orders or proceedings of the Collector under this Act shall be subject to the supervision and control of the Court, and the Court may, if it thinks fit, revise, modify or reverse any such order or proceeding, whether an appeal is presented against such order or proceeding or otherwise.

69. Control by State Government.

- In exercise of the powers and in discharge of the duties conferred and imposed respectively on the Court by this Act, the Court shall be guided by such orders and instructions as it may, from time to time, receive from the State Government.

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70. Power of Court to make rules.

- The Court may make rules, consistent with this Act,-(a)defining the powers of Collector respectively when the property of a ward is situated in two or more districts, or two or more divisions.(b)prescribing what reports shall be made from time to time by Collectors on the condition of the ward and his property;(c)prescribing the periods at which and the mode in which accounts shall be submitted by managers and guardians respectively; and the mode in which such accounts shall be audited;(d)regulating the custody of securities and title deeds belonging to the estate or property of a ward;(e)regulating the procedure in appeals from orders of Collectors under this Act;(f)prescribing the procedure to be observed when a property ceases to be under the charge of the Court; and(g)generally for the better fulfilment of the purposes of this Act.The Court may from time to time alter, add to or repeal such rules.