

# The Bengal Alluvion and Diluvion Regulation, 1825

MAHARASHTRA

India

## The Bengal Alluvion and Diluvion Regulation, 1825

### Act 11 of 1825

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The Bengal Alluvion and Diluvion Regulation, 1825 Bengal Regulation 11 of 1825 was declared in force in the Central Provinces by the Central Provinces Laws Act, 1875 (20 of 1875), Section 3 and Schedule, *infra.*, dated 26th May, 1825 Short title, The Bengal Alluvion and Diluvion Regulation, 1825, see the Amending Act, 1897 (V of 1897). A 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 takes place in the channel of the principal rivers that inserted the [territories] [Substituted by the word 'Provinces' by Adaptation Order, 1950.] immediately subject to the Presidency of Fort William, 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 the 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 Muhammadan 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 officers 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 [territories] [Substituted for the word 'Provinces' by Adaptation Order, 1950.] subject to the Presidency of Fort William.

## **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 junction of land by the encroachment or recess of a river may have been immemorially established, for determining the rights of the proprietors of two or more contiguous estates divided by a river (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 encroach 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 local 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. Land 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 by a Zamindar or other superior landholder, or as a subordinate tenure, by any description of under tenant whatever :Extents of interest in increment of person in possession. - Second. - 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 of 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 of any assessment for the public revenue to which it may be liable under the provisions of [Regulation II of 1819] [Bengal Regulation II of 1819 is not in force in the Central Provinces, but see the Central Provinces Land Revenue Act, 1917 (II of 1917).] 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 khudkast raiyat, holding a maurusi istimrari 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 an 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 justly liable. 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 cases the

land, on being clearly recognised, shall remain the property of its original owner. Chars thrown up in navigable river or sea : Third. - 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. Property therein when channel fordable. - But if the channel between such island and 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. Chars, etc. thrown up in small shallow rivers : Fourth. - In small and shallow rivers, the beds of which, with the jalkar right of fishery, may have been heretofore recognised as the property of individuals, any san-bank or char that may be thrown up shall, as hitherto, belong to the proprietor of the bed of the river, subject to the provisions stated in the first clause of the present section. Disputes relative to lands gained by alluvion or by dereliction not provided for by Regulation : Fifth. - 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 of 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 of 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] [The words 'and city' were repealed by the Repealing and Amending Act, 1903 (1 of 1903), Section 4, Bengal Code.] Magistrates or any other officers of the Government, who may be duly empowered for that purpose, from removing obstacles which appear to interfere with the safe and customary navigation of such rivers, or which shall in any respects obstruct the passage of boats by tracking on the banks of such rivers, or otherwise.