

The Public Wakfs (Extension Of Limitation) Act, 1959

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Act 29 of 1959

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1353.

Following the partition of the country in August, 1947, a number of wakf properties passed into unauthorised hands. Many of the mutawallis who were in charge of these properties had migrated to Pakistan and the few who stayed behind could not for various reasons institute civil proceedings for the recovery of possession of unauthorised occupants. Under the law as it stands at present the title of the true owners would be extinguished if the properties are in adverse possession for twelve years or more. It is, therefore, proposed to extend the period of limitation up to the 15th August, 1967, in respect of suits for the recovery of possession of any immovable property forming part of a public wakf in any case where the dispossession has taken place at any time between the 15th August, 1947 (date of partition) and the 7th May, 1954 (the date from which power to declare any property as evacuee property under the Administration of Evacuee Property Act, 1950, ceased). This would enable the Wakf Boards constituted under the Wakf Act and other interested persons to institute such suits. Since the period of limitation in some cases would expire in August, 1959, an ordinance was promulgated for making the necessary alteration in the law of limitation. The present Bill seeks to replace the Ordinance by an Act of Parliament. - Gazette of India, 1959, Extra Pt. II, section 2, page 583. The Public Wakfs (Extension of Limitation) Act, 1959 (C.A. 29 of 1959) had provided for and extended period of limitation for suits to recover possession of wakfs properties which expired on 31-12-1970. The Government of India has informed that it would not be possible for it to move for further extension of the period of limitation and that the State Wakf Boards may approach the State Governments concerned to amend the Act locally of the number of wakf properties yet to be recovered from unauthorised occupation necessitating further expansion of the period of limitation. Accordingly, the Commissioner of Wakfs, West Bengal, has moved the State Government with a proposal for further extension of the period of limitation beyond 31-12-1970, on the ground that in West Bengal a large number of wakf properties are still in unauthorised occupation for the recovery of which suits have to be filed. Considering all the aspects of the matter it has been proposed that

the period of limitation may be extended upto 31st December, 1976, by amending the Public Wakfs (Extension of Limitation) Act, 1959. The Bill has been prepared to give effect to this proposal. - Cal. Gaz. 28-7-1972, Pt. IV-A, p. 1566-b.[1st September, 1959.]An Act to extend the period of limitation in certain cases for suits to recover possession of immovable property forming part of Public Wakfs.BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:-

1. Short title and extent.

(1)This Act may be called the Public Wakfs (Extension of Limitation) Act, 1959.(2)It extends to the whole of India except the State of Jammu and Kashmir.

2. Definition.

In this Act, "public wakf" means the permanent dedication by a person professing Islam of any immovable property for any purpose recognised by Muslim law as a public purpose of a pious, religious or charitable nature.

3. Extension of period of limitation in certain cases for suits to recover possession of immovable property forming part of public wakfs.

Where a person entitled to institute a suit of the description referred to in article 142 or article 144 of the First Schedule to the Indian Limitation Act, 1908, (9 of 1908.) for possession of any immovable property forming part of a public wakf or any interest therein has been dispossessed, or has discontinued the possession, at any time after the 14th day of August, 1947, and before the 7th day of May, 1954, or, as the case may be, the possession of the defendant in such a suit has become adverse to such person at any time during the said period, then, notwithstanding anything contained in the said Act, the period of limitation in respect of such a suit shall extend up to [the 31st day of December, 1970] [Substituted by Act 9 of 1969, s. 2, for "the 31st day of December, 1968"].

4. Repeal and saving.

(1)The Public Wakfs (Extension of Limitation) Ordinance, 1959(2 of 1959.), is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act as if this Act had commenced on the 20th day of July, 1959.

In its application to the below mentioned States and Union Territory, the period of limitation prescribed in Section 3 has been extended as under :-Andhra Pradesh - 31-12-1996 - A.P. Act 26 of 1994, S.2 (w.e.f. 1-1-87).Bihar - Section 3 substituted and deemed always to have been substituted as under -"3. Extension of period of limitation in certain cases for suits to recovers possession of immovable property forming part of Public Wakfs. - Where a person entitled to institute a suit of the description referred to in Article 65 of the Schedule to the Limitation Act, 1963 (36 of 1963) for possession of any immovable property forming part of a Public Wakf or any interest therein has

been dispossessed or has discontinued the possession at any time after the 14th day of August, 1947 and before the 7th day of May, 1954, or, as the case may be, the possession of the defendant in such a suit has become adverse to such person at any time during the said period, then notwithstanding anything contained in the said Act, the period of limitation in respect of such a suit shall extend upto 31st day of December, 1990." - Bihar Act 10 of 1986, S.2.U.T. of Delhi - 31-12-1985 - Cen. Act 39 of 1982, S.2 (w.e.f. 1-1-1981)Haryana - 31-12-1975 - Har. Act 6 of 1975, S.3 (24-1-1975).Himachal Pradesh - 31-10-1985, H.P. Act 17 of 1984, S.2 (w.e.f. 1-1-1979).Karnataka - 31-12-1987 - Deemed and always deemed to have been substituted by Karnataka Act 26 of 1987, S.2.Kerala - 31-12-1987, Kerala Act 1 of 1975, S.2 (w.e.f. 1-1-1973).Madhya Pradesh - 31-12-1983 - M.P. Act 22 of 1982, S.2 (w.e.f. 31-12-1980).Orissa - 31-12-1986 - Orissa Act 12 of 1982, S.2 (w.e.f. 1-1-1982).Punjab - 31-12-1985 - Punjab Act 15 of 1981, S.2 (w.e.f. 1-1-1977).Rajasthan - 31-12-1986 - Rajasthan Act 15 of 1983, S.2 (w.e.f. 1-1-1981).Tamil Nadu - Act repealed by T.N. Act 34 of 1982, S.4.West Bengal - 31-12-1976 - W.B. Act 33 of 1972, S.3 (w.e.f. 1-1-1971).