

The Religious Endowments Act, 1977 (1920 A.D)

JAMMU & KASHMIR

India

The Religious Endowments Act, 1977 (1920 A.D)

Act 50 of 1977

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The Religious Endowments Act, 1977 (1920 A.D) Act No. 50 of 1977 [Sanctioned by His Highness the Maharaja Sahib Bahadur per Chief Minister's endorsement No. 8372, dated the 11th September, 1920 read with State Council Resolution No. 1, dated 8th April, 1925 (Notification No. 14-L/81) and published in Government Gazette dated 16th Chet., 1977.] An Act to enable persons interested in religious endowments to sue the trustee, manager or superintendent of such endowment. Preamble. - Whereas it is expedient to make provisions to enable person interested in a religious endowment to sue the trustee, manager or superintendent of such endowment; It is hereby enacted as follows:-

1. Short title and extent.

(1) This Act may be called the Religious Endowments Act, 1977. (2) It shall extend to the whole of the State. It shall come into force on the 1st day of Baisakh, 1978.

2. Persons interested may singly sue in case of breach of trust, etc.

- Any person or persons interested in any mosque, temple or religious establishment, [x x x x] [Omitted by Act XXXVI of 1978, Section 2.] or in the provenance of the worship or of the service thereof, or the trusts relating thereto, may, without joining as plaintiff any of the other persons interested therein, sue before the Civil Court the Trustee, manager or superintendent of such mosque, temple or religious establishment, for any misfeasance, breach or trust or neglect of duty, committed by such trustee, manager or superintendent in respect of the trusts vested in, or confined to them respectively; Power of Civil Court. and the Civil Court may direct the specific performance of any act by such trustee, manager or superintendent, and may decree damages and costs against such trustee, manager or superintendent.

3. Nature of interest entitling person to sue.

- The interest required in order to entitle a person to sue under the last preceding section need not be a pecuniary, or direct or immediate, interest or such an interest as would entitle the person suing to take any part in the management or superintendence of the trusts. Any person having a right of attendance, or having been in the habit of attending, at the performance of the worship or service of any mosque, temple or religious establishment, or of partaking in the benefit of any distribution of alms, shall be deemed to be a person interested within the meaning of the last preceding section.

4. Reference to arbitrators.

- In any suit or proceeding substituted under this Act it shall be lawful for the Court before which such suit or proceeding is pending to order any matter in difference in such suit to be referred for decision to one or more arbitrators. Arbitration Act applied. - Whenever any such order shall be made, the provisions of [Chapter IV of the Jammu and Kashmir Arbitration Act] [Substituted for 'Schedule II of the Code of Civil Procedure' by Act II of 2002.] shall in all respects apply to such order and arbitration, in the same manner as if such order had been made on the application of the parties under [section 21 of the said Act.] [Substituted for 'Schedule II Paragraph 1 of the said Code' by Act II of 2002.]

5. Reference under Arbitration Act.

- Nothing in the last Preceding section shall prevent the parties from replying to the Court, or the Court from making the order of reference under [section 21 of the Jammu and Kashmir Arbitration Act.] [Substituted for 'Schedule II Paragraph 1 of the said Code' by Act II of 2002.]

6. Application for leave to institute suits.

- No suit shall be entertained under this Act without a preliminary application being first made to the Court for leave to institute such suit. The Court, on the perusal of the application shall determine whether there are sufficient prima facie grounds for the institution of a suit, and, if in the judgment of the Court there are such grounds, leave shall be given for its institution. Costs. - If the Court shall be of opinion that the suit has been for the benefit of the trust, and that no party to the suit is in fault the Court may order the costs of such portion as it may consider just to be paid out of the estate.

7. Court may require accounts of trust to be filed.

- Before giving leave for institution of a suit, or, after leave has been given, before any proceeding is taken, or at any time when the suit is pending, the Court may order, the trustee, manager or superintendent, as the case may be, to file in Court the accounts of the trust, or such part thereof as the Court may seem necessary.

8. Proceedings for criminal breach of trust.

- No suit or proceeding before any Civil Court under the preceding sections shall in any way affect or interfere with any proceeding in a Criminal Court for criminal breach of trust.