

The Punjab Limitation (Custom) Act, 1920

PUNJAB

India

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Act 1 of 1920

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The Punjab Limitation (Custom) Act, 1920Punjab Act No. 1 of 1920Statement of Objects and Reasons. - 1. The present Bill is the outcome of proposals by the Punjab Customary Law Conference convened by His Honour the Lieutenant Governor in 1915.2. Among the recommendations made by this Conference were the following :-(1) That the period of limitation for a declaratory suit in regard to an alienation, whether by a male or a female, be reduced to 6 years.(2) That limitation for a suit for possession (where no declaratory decree has been obtained) by contesting an alienation by a male or female be reduced to 6 years, time to run as laid down in the Punjab Limitation Act, 1900.(3) That this Conference recommended a rule to apply mutatis mutandi the principles of the above suggested rules to suits.(a) for possession of land where the setting aside of an adoption is a question involved;(b) for a declaration that an adoption is invalid.3. In viging effect to these recommendations it has been felt preferable to consolidate the law of limitation as affecting custom in the Punjab in one Act, rather than to amend the existing legislative provisions contained in the Indian Limitation Act, and the Punjab Limitation Act. The present Bill is the ultimate form which the measure has assumed.Published vide Punjab Gazette, 1919 Part V. at Page 24.Received the assent of the Lieutenant-Governor of the Punjab on the 5th April, 1920, and that of the Governor-General on the 2nd May, 1920, and was first [published in the Punjab Gazette of the 28th May, 1920.] [See Punjab Gazette, 1920, Part V, pages 119-25.]An Act to amend and consolidate the law governing the limitation of suits relating to alienations of ancestral immovable property and appointments of heirs by persons who follow custom in [Punjab] [Substituted for the words 'East Punjab' (which had been inserted for the word 'Punjab' by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948 by the Adaptation of Laws (Third Amendment) Order, 1951.].Whereas it is expedient to amend and consolidate the law governing the limitation of suits relating to alienations of ancestral immovable property and appointments of heirs by persons who follow custom in [Punjab] [Substituted for the words 'East Punjab' (which had been inserted for the word 'Punjab' by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948 by the Adaptation of Laws (Third Amendment) Order, 1951.];And whereas the previous sanction of the Governor-General has been accorded under section 79(2) of the Government of India Act, 1915, to the passing of this Act;It is hereby enacted as follows :-

1. Short title and extent.

(1) This Act may be called the Punjab Limitation (Custom) Act, 1920. (2) It extends to [Punjab] [Substituted by Adaptation of Laws Order, 1950, for 'East Punjab'.].

2. Repeal.

- The Punjab Limitation (Ancestral Land Alienation) Act, 1900 [Punjab Act 1 of 1900] , is hereby repealed.

3. Definitions.

- In this Act - "Alienation" includes any testamentary disposition of property. "Appointment of an heir" includes any adoption made or purporting to be made according to custom.

4. Savings.

- This Act shall not affect any suit pending in any court on the date on which this Act comes into force.

5. Dismissal of suits of the descriptions specified in the Act if instituted after the period of limitation therein prescribed has expired.

- Subject to the provisions contained in sections 4 to 25 (inclusive), of the Indian Limitation Act, 1908, and notwithstanding anything to the contrary contained in the first schedule of the said Act, every suit, of any description specified in the schedule annexed to this Act, instituted after the period of limitation prescribed therefor in the schedule shall be dismissed, although limitation has not been set up as a defence.

6. Provision for suits for which the period prescribed is shorter than that prescribed by the Indian Limitation Act or the Punjab Limitation Act.

- Notwithstanding anything herein contained, any suit for which the period of limitation prescribed by this Act is shorter than the period of limitation prescribed by the Indian Limitation Act, 1908, or by the Punjab Limitation (Ancestral Land Alienation) Act, 1900, may be instituted within the period of one year next after the commencement of this Act or within the period prescribed for such suit by the Indian Limitation Act, 1908, or by the Punjab Limitation (Ancestral Land Alienation) Act, 1900, whichever period expires first.

7. Limitation on suits for possession where no declaratory decree has been obtained.

- Subject to the provisions of section 6 -(a)No suit for the possession of ancestral immovable property on the ground that an alienation of such property or the appointment of an heir is not binding on the plaintiff according to custom shall lie if a suit for a declaration that the alienation or appointment of an heir is not so binding would be time-barred, unless a suit for such a declaration has been instituted within the period prescribed by the schedule.(b)No suit for the possession of ancestral immovable property by a plaintiff on the ground that he is an heir appointed in accordance with custom entitled thereto shall lie if a suit for a declaration that his alleged appointment as heir was validly made according to custom would be time-barred, unless a suit for such a declaration has been instituted within the period prescribed by the schedule.

8. Benefit of declaratory decree. -

When any person obtains a decree declaring that an alienation of ancestral immoveable property or the appointment of an heir is not binding on him according to custom, the decree shall enure for the benefit of all persons entitled to impeach the alienation or the appointment of an heir.

Schedule

Description of suit	Period of limitation	Time from which period begins to run
1. A suit for a declaration that an alienation of ancestral immovable property will not, according to custom, be binding on the plaintiff after the death of the alien or (if the alien or is a female) after her death or forfeiture of her interest in the property	6 years	Firstly:- If the alienation is by a registered deed, the date of registration of such deed. Secondly:- If the alienation is not by a registered deed -(a) if an entry regarding the alienation in the Register of Mutation has been attested by a Revenue Office under the Punjab Land Revenue Act, 1887, the date on which the entry is attested ;(b) if such entry has not been attested, the date on which the alien takes physical possession of the whole or any part of the property alienated in pursuance of such alienation ;(c) in all other cases the date on which the alienation comes to the knowledge of the plaintiff.
2. A suit for possession of ancestral immovable property which has been alienated on the ground that the alienation is not binding on the plaintiff according to custom - (a) if no declaratory decree of the nature referred to in Article 1 is obtained	6 years	As above
(b) if such declaratory decree is obtained	3 years	The date on which the right to sue accrues or the date on which the declaratory decree is obtained, whichever is later.

3. A suit for a declaration that an alleged appointment of an heir is invalid as being opposed to custom or in fact never took place	6 years	The date on which the alleged appointment of an heir becomes known to the plaintiff.
4. A suit for possession of ancestral immovable property on the ground that an appointment of an heir is invalid or never in fact took place -		
(a) if no declaratory decree of the nature referred to in Article 3 is obtained ;	6 years	The date on which the alleged appointment of an heir becomes known to the plaintiff.
(b) if such declaratory decree is obtained	3 years	The date on which the right to sue accrues, or the date on which the declaratory decree is obtained, whichever is later.
5. A suit for a declaration that an alleged appointment of an heir was validly made according to custom	6 years	The date when the rights of the alleged appointed heir are interfered with.
6. A suit for possession of ancestral immovable property by a plaintiff on the ground that he is an heir appointed in accordance with custom entitled thereto -		
(a) if no declaratory decree of the nature referred to in Article 5 is obtained;	6 years	The date when his rights as such heir are interfered with.
(b) if such declaratory decree is obtained	3 years	The date of the death of the person making the appointment or if (such person is a female) of her death or of the forfeiture of his interest in the property or the date on which the declaratory decree is obtained, whichever is later.