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THE SINDH REVENUE JURISDICTION ACT, 1876

'Act No. X OF 1876

[28th March, 1876]

An Act to limit the jurisdiction of the Civil Courts ?[in Sindh and the Karachi Division] in matters relating to the Land-revenue, and for other purposes.

Preamble. WHEREAS in certain parts of 3[Sindh and the Karachi Division] the jurisdiction of the Civil Courts in matters connected with the land-revenue is more extensive than it is in the “[other parts thereof];

AND WHEREAS it is expedient that the jurisdiction of all the Civil Courts in the said 5[territories] should be limited in manner hereinafter appearing;

AND WHEREAS it is also expedient to amend the °[Sindh Civil Courts Act], section 32 and to revive certain provisions of the ‘thirteenth section of Regulation XVII of 1827 of the Bombay Code, which was repealed by the Land Improvement Act, 1871.

8% * *.

It is hereby enacted as follows:—

°[1. Short Title and extent.—(1) This Act may be called the Sindh Revenue Jurisdiction Act, 1876 (2) It extends to !* * * Sindh and the !! [Karachi Division], but not so as to affect any of the provisions of Act XXIII of 1871].

2. [Repeal of enactments] Rep. by the Amending Act, 1891 (XII of 1891).

3. Interpretation-clause.—In this Act unless there be something repugnant in the subject or context,—

'For Statement of Objects and Reasons, see Gazette of India, 1873, Pt. V, p.534; for Preliminary Report on p. 70 ; for further Report of the Select Committee. see ibid., 1875, Pt. v, p. 210 and for Proceedings in Committee ibid., 1876, Supplement, pp. 344 and 405.

This Act has been amended in its application to the Province of Sindh, by the Sindh Act No. XVII of 1975.

°The original words “throughout the Bombay Presidency” were first subs. by A.O., 1949, Sch. and then amended by Ordinance, 1961 (1 of 1961), s. 3 and 2nd Sch., and A.O., 1964, Art. 2 and Sch., to read as above.

>The original words “the Presidency of Bombay” were first subs. by A.O., 1949, Sch., and then amended by Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955), Ord. 1 of 1961, s. 3 and 2nd Sch., to read as above.

‘The original words “rest of the said Presidency” have successively been amended by A.O., 1949, and Ordinance, 1955 (21 of 1955), to read as above.

*Subs. by Ord. 21 of 1960, s. 3 and 2nd Sch. (with effect from the 14th October, 1955), for “Province and Sch., for “Presidency”.

Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4 and III Sch., for “Bombay”.

7§. 17 of this Act which revived s. 13 of Bom. Reg. 17 of 1827 was rep. by the Bombay Revenue Jurisdiction Act, 1876, to which the Bombay Land Revenue Code. 1879 (Bom. 5 of 1879), has not been extended; see s. 17 of this Act.

'The words "and to provide for the recovery by the Local Government of advances made for purposes other than those specified in the Local Government (Recovery of Advances) Act, 1871" were rep. by the Repealing and Amending Act, 1894 (4 of 1894).

**Subs. by Act 26 of 1951, s. 4 and III Sch., for the original section 1 as amended by the Amending Act, 1891 (12 of 1891), the Repealing and Amending Act, 1895 (16 of 1895), and A. O., 1937.

The words "the Province of" omitted by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (w.e.f. 1 October, 1955).

"Subs. by A. O., 1964, Art. 2 and Sch., for "Federal Territory of Karachi" which had been subs. by the Repealing and Amending Act, 1961, s. 3 and 2nd Sch., for "Capital of the Federation".

“land” includes the sites of villages, towns and cities: it also includes trees, growing crops and grass, fruit upon, and juice in, trees, rights-of-way, ferries, fisheries and all other benefits to arise out of land, and things attached to the earth or permanently fastened to things attached to the earth:

“land-revenue” means all sums and payments, in money or in kind received or claimable by or on behalf [of the Government] from any person on account of any land held by or vested in him, and any cess or rate authorized *[by the Provincial Government] under the provisions of any law for the time being in force:

“Revenue-officer” means any officer employed in or about the business of the land-revenue, or of the surveys assessment, accounts or records connected therewith.

4. Bar of certain suits.— Subject to the exceptions hereinafter appearing no Civil Court shall exercise jurisdiction as to any of the following matters:

(a) 3% * * * * *

‘claims against the *[Government!] relating to lands held under treaty or to lands granted or held as saranjam, or on other political tenure, or to lands declared °[by the Provincial Government] or any officer duly authorized in that behalf to be held for service;

(a) objections—

to the amount or incidence of any assessment of land-revenue authorized °[by the Provincial Government], or to the mode of assessment, or to the principal on which such assessment is fixed, or

to the validity or effect of the notification of surveyor settlement, or of any notification determining the period of settlement;

(c) claims connected with or arising out of any proceedings for the realization of land-revenue or the rendering of assistance *[by the Provincial Government] or any officer duly authorized in that behalf to superior holders or occupants for the recovery of their dues from inferior holders or tenants;

claims to set aside, on account of irregularity, mistake or any other ground except fraud, sales for arrears of land-revenue;

(d) “[claims against the [Government]]—

(1) to be entered in the revenue-survey or settlement records or village-papers as liable for the land-revenue, or as superior holder, inferior holder, occupant or tenant, or

(2) to have any entry made in any record of a revenue-survey or settlement, or

The original words “of Government” were first subs. by A.O., 1937 and then amended by A.O., 1961, Art. to read as above.

°Subs. by A.O., 1937, for “by Govt”.

>The first three paras of clause (a) , omitted by A.O., 1949, Sch.

4Subs. by A.O., 1937, for “claims against Govt.”.

SSubs. by A. O., 1961, Art. 2. for “Crown” (with effect from the 23rd March, 1956).

^oSubs. by A.O., 1937, for “by Govt.”.

⁷Subs. *ibid.*, for “claims against Govt.”.

⁸Subs. by A.O., 1961, Art. 2, for “Crown” (with effect from the 23rd March, 1956).

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(e) the distribution of land or allotment of land-revenue on partition of any estate under 'Bombay Act IV of 1868 or any other law for the time being in force;

(3) to have any such entry either omitted or amended;

(2) ?[claims against the *]>[Government]—

to hold land wholly or partially free from payment of land-revenue or to receive payments charged on or payable out of the land-revenue, or to set aside any cess or rate authorized "[by the Provincial Government] under the provisions of any law for the time being in force, or

respecting the occupation of waste or vacant land belonging *[to the Government];

(g) claims regarding boundaries fixed under Bombay Act No. I of 1865, or any other law for the time being in force, or to set aside any order passed by a competent officer under any such law with regard to boundary marks:

Proviso. Provided that, if any person claim to hold wholly or partially exempt from payment of land-revenue under

(A) any enactment for the time being in force expressly creating an exemption not before existing in favour of an individual or of any class of persons, or expressly confirming such an exemption on the ground of its being shown in a public record, or of its having existed for a specified term of years, or

(i) an instrument or sanad given by or by order of the '[Provincial Government] under 'Bombay Act No. II of 1863 section 1, clause first, or >Bombay Act No. VII of 1863 section 2, clause first, or

(i) any other written grant by the British Government expressly creating or confirming such exemption, or

(k) a Judgment by a Court of Law, or an adjudication duly passed by a competent officer under "Bombay Regulation XVII of 1827 Chapter X, or under !Act No. XI of 1852, which declares the particular property in dispute to be exempt, such claim shall be cognizable in the Civil Courts.

Illustrations to (h)

'Since rep. by the Bombay Land-Revenue Code, 1879 (Bom. 5 of 1879), in areas in which that Code is in

*Subs. by A. O., 1937 for "claims against Govt.".

3Subs. by A.O., 1961, Art. 2, for "Crown" (with effect from the 23rd March, 1956).

4Subs. by A.O., 1937, for "by Govt."

The original words "to Government" were first subs. by A.O., 1937, and then amended by A.O., 1961, Art. read as above.

"Bom. Act I of 1865 (except s. 37), and Bom. Reg. 17 of 1827 are rep. by the Bombay Land-revenue Cod latter Act is in force.

7Subs. by A. O., 1937, for "Governor of Bombay in Council".

'The Exemptions from Land-revenue (No. I) Act, 1863.

^oThe Exemptions from Land-revenue (No. II) Act, 1863.

Bom. Act I of 1865 (except s.37), and Bom. Reg. 17 of 1827 are rep. by the Bombay Land-revenue Code, 1879 (Bom. 5 of 1879). The latter Act is in force.

"The Bombay Rent-free Estates Act, 1852.

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(1) It is enacted that, in the event of the proprietary right in lands, the property of Government, being transferred to individuals, they shall be permitted to hold the lands for ever at the assessment at which they are transferred. The proprietary right in certain lands is transferred to A at an assessment of Rs.100. An exemption from higher assessment not before existing is expressly created in favour of A by enactment, and he may seek relief in the Civil Court against over-assessment.

(2) It is enacted that, when a specific limit to assessment has been established and preserved, the assessment shall not exceed such specific limit. A is the owner of land worth Rs. 100 for assessment. He claims to be assessed at Rs.50 only on the strength of a course of dealing with him and his predecessors under which his land has not been more highly assessed. There is no exemption not before existing created by enactment, and A's claim is cognizable in a Civil Court.

(3) It is enacted that land-revenue shall not be leviable from any land held and entered in the land-registers as exempt. A claims to hold certain land as exempt on the ground that it has been so held by him, and is so entered in the land-register. This is an exemption expressly confirmed by enactment on the ground of its being shown in a public record, and A's claim is cognizable in a Civil Court.

(4) It is enacted that the Collector shall confirm existing exemptions of all lands shown in certain maps to be exempt. A claims exemption, alleging that his land is shown in the maps to be exempt. A's claim is cognizable in Civil Court.

(5) It is enacted that assessment shall be fixed with reference to certain considerations and not with reference others. This is not an enactment creating an exemption in favour of any individual or class, and no objection to an assessment under such an enactment is cognizable in a Civil Court.

5. Saving of certain suits— Nothing in section 4 shall be held to prevent the Civil Courts from entertaining the following suits:

(a) suits [against the Government] to contest the amount claimed, or paid under protest, or recovered, as land revenue, on the ground that such amount is in excess of the amount authorized in that behalf" [by the Provincial Government], or that such amount had, previous to such claim, payment or recovery, been satisfied, in whole or in part, or that the plaintiff, or the person whom he represents, is not the person liable for such amount;

(b) suits between private parties for the purpose of establishing any private right, although it may be affected by any entry in any record of revenue-surveyor settlement or in any village-papers;

(c) suits between superior holders or occupants and inferior holders or tenants regarding the dues claimed or recovered from the latter;

and nothing in section 4, clause (g), shall be held to prevent the Civil Courts from entertaining suits, other than suits [against the Government], for possession of any land being a whole survey number or a recognized share of a survey-number;

3 mK 1% 1% * *

'The original words "against Government" were first subs. by A.O.,1937 and then amended by A. O.,1961 (1956), to read as above.

*Subs. by A.O., 1937, for "by Govt."

>Third paragraph omitted by A.O., 1949, Sch. It was inserted by the Bombay Revenue Jurisdiction (Amdt

6. Bar of certain suits against Revenue-officers.— Revenue-officers shall not be liable to be sued for damages in any Civil Court for any act bona-fide done or ordered to be done by them as such in pursuance of the provisions of any law for the time being in force.

If any Revenue-officer absconds or does not attend when called on by his official superior, and if the Collector of the district proceeds against him or his sureties for public money, papers or property according to the provisions of any law for the time being in force, such Collector shall not be liable to pay damages or costs in any suit brought against him by such officer or sureties although it appears that a part only, or no part whatever, of the sum demanded was due from the officer so absconding or failing to attend, or that he was not in possession of the papers or property demanded of him.

7. Punishment or prosecution of Revenue-officers no bar to civil remedies. Nothing in any law for the time being in force which authorizes the punishment departmentally of any Revenue-officer for any offence or breach of duty, or which sanctions his prosecution criminally for such offence or breach, shall be held to bar any remedy which may be had in the Civil Court against such officer.

8 to 10. [Suits against Revenue-officers. Appeals from their proceedings. Power for Local Government to call for record.] Rep. by the Bombay Revenue Jurisdiction Act, 1880 (XV of 1880).

11. Suits not to be entertained unless plaintiff has exhausted right of appeal.— No Civil Court shall entertain any suit [against the Government] on account of any act or omission of any Revenue-officer unless the plaintiff first proves that, previously to bringing his suit, he has presented all such appeals allowed by the law for the time being in force as, within the period of limitation allowed for bringing such suit, it was possible to present.

12. Power of Government to refer questions for decision of High Court.—If, in the trial or investigation of any suit, claim or objection which, but for the passing of this Act, might have been tried or investigated by a Civil Court, there arises any question on which * * * the *[Provincial Government] desires to have the decision of the 3[High Court], * * * the [Provincial Government] >* * * may cause a statement of the question to be prepared, and may refer such question for the decision of the °[High Court].

The "[High Court] shall fix an early day for the hearing of the question referred, and cause notice of such day to be placed in the court-house.

The parties to the case may appear and be heard in the >[High Court] in person or by their advocates or pleaders.

The >[High Court] when it has heard and considered the case, shall send a copy of its decision, with the reasons therefor, under the seal of the Court, to the Government by which the reference was made, and, subject to any appeal which may be presented to *[the Supreme Court], the case shall be disposed of conformably to such decision.

'The words "the G. G. in C. or" rep. by A. O., 1937.

*Subs. *ibid.*, for "L. G.".

3Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960) , s.3 and 2nd Sch. (with effect from the 14th October, 1955), for "High Court".

4The words "the G.G. in C. or," rep by A. O., 1937.

*The words "as the case may be" rep. *ibid.*

"Subs. by Ord. 21 of 1960, s. 3 and 2nd Sch. (with effect from the 14th October, 1955), for "Chief Court of

Sch., for "High Court of Judicature at Bombay".

"The original words "said High Court" have successively been amended by A. O., 1949, Sch., and Ord. 21 of 1960, s. 3 and 2r the 14th October, 1955), to read as above.

SSubs. by A. O., 1961, Art. 2 and Sch., for "Her Majesty in Council" (with effect from the 23rd March, 1956).

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If the '[High Court] considers that any such statement is imperfectly framed, the '[High Court] may return it for amendment.

The costs (if any) consequent on any such reference shall be dealt with as the '[High Court] in each case directs.

13. Power of Civil Judge to refer questions of jurisdiction to High Court.— If in any suit instituted, or in any appeal presented, in a Civil Court, the Judge doubts whether he is precluded by this Act from taking cognizance of the suit or appeal, he may refer the matter to the '[High Court].

The '[High Court] may order the Judge making the reference either to proceed with the case or to return the plaint.

The order of the '[High Court] on any such reference shall be subject to appeal to *[the Supreme Court], and, save as aforesaid, shall be final.

14. Composition of Bench.— Every reference under section 12 or section 13 shall be heard by a Bench consisting of such number of Judges, not less than three, as the Chief Justice from time to time directs.

15. [Amendment of section 32 of Act XIV of 1869.] Rep. by the Repealing Act, 1938 (1 of 1938), s. 2 and Sch.

3[16. Privileges of Government in suits defended by it.— Whenever any suit is brought in any Court of a Subordinate Judge of the first class "[against the Government] or against any Revenue-officer, *[and the Government undertakes] the defence thereof, it shall be lawful *[for the Provincial Government], by certificate signed by a Secretary thereto, to require that the trial of any such suit shall have precedence over the trial of any other suit or other civil proceeding then pending in the Court of the first class Subordinate Judge, or, if the suit is transferred, in the Court of the District Judge; and the Court shall give effect to every such requirement.

The privilege conferred "[on the Provincial Government] by this section shall, mutatis mutandis, apply to any appeal or special appeal against any decree in any such suit as is described in this section.]

17. [Revival of section 13 of Bom. Reg. XVII of 1827. Operation of Bom. Reg. XVII of 1827 in sites of villages and towns. Recovery of certain advances made by Local Government.] Rep. by the Bombay Revenue Jurisdiction Act, 1880 (XV of 1880)°.

SCHEDULE.-{Enactments repealed.] Rep, by the Amending Act, 1891 (XII of 1891).

THE SECOND SCHEDULE Omitted by A. O., 1949, Schedule.

'Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960) , s.3 and 2nd Sch. (with effect which had been subs. by A. O., 1949, Sch., for "High Court".

*Subs. by A. O., 1961, Art. 2 and Sch., for "Her Majesty in Council" (with effect from the 23rd March, 1956).

3Subs. by the Bombay Revenue Jurisdiction (Amendment) Act, 1929 (Bom. 21 of 1929), s. 2, for the orig

'The original words "against Government" were first subs. by A.O., 1937 and then amended by A.O., 1944 from the 23rd March, 1956), to read as above.

5The original words "against Govt. undertakes" were first subs . by A. O., 1937 and then amended by A . from the 23rd March, 1956), to read as above.

°Subs, by A.O., 1937, for “for the Govt.”.

"Subs. *ibid.*, for “on Govt.”.

6The repeal of the first clause of s. 17 does not operate in any Scheduled District unless and until the Bombay Land Revenue Act 1879), has been extended to that district; see Act 15 of 1880, s. 2.

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