

# The Waste Lands (Claims) Act, 1863

February 26, 2013

## Preamble

<sup>1</sup>[The WASTE LANDS (CLAIMS) ACT, 1863]

[ACT NO.23 OF 1863]<sup>2</sup>

[10th March 1863.]

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1. Short title given by the Indian Short Titles Act, 1897 (14 of 1897)

**2. This Act has been declared to be in force in all Part A States except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s.3.**

It has been declared by notification under s.3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts namely:—

West Jalpaiguri	See Gazette of India	1881, Pt.I, P.1.
The Districts of Hazaribagh, Lohardaga (now the Ranchi District, see Calcutta Gazette, 1899, Pt.1p.44), and Manbhum and Pargana	Ditto	1881, Pt.I, p.504.
Dhalbhum and the Kolhan in the District of Singbhum		
The Porahat Estate in the Sing bhum District	Ditto	1897, Pt.I, p.1059
Kumaon and Garhwal	Ditto	1876, Pt.I, p.605
The Scheduled portion of the Mirzapur District	Ditto	1879, Pt.I, p.383.
Jaunsar Bawar	Ditto	1879, Pt.I, p.382.
The District of Lahaul	Ditto	1886, Pt.I, p.'301



The Districts of Kamrup, Naugong, Darrang, Sibsagar, Lakhimpur, Goalpara (excluding the Eastern Duars) and Cachar (excluding the North Cachar Hills)	Ditto	1878, Pt.I, p.533.
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It has been declared under s.3 (b) of the same Act not to be in force in the Scheduled Districts in Ganjam and Vizagapatam, see Gazette of India, 1898, Pt.I, p.872

It has been extended, by notification under s.5 of the last-mentioned Act, to the following Scheduled Districts, namely:—

Western Duars.	Gazette of India,	1875, Pt.I, p.497.
The Tarai of the province of Agra	Ditto	1876, Pt.I, p.505

It has been repealed in Bombay by the Waste Lands (Claims) (Bombay Repeal) Act, 1943 (Bom.9 of 1943).

This Act has been extended to the new provinces and Merged States by the Merged States (Laws) Act, 949 (59 of 1949) and to the States of Manipur, Tripura and Vindhya Pradesh by the part C States (Laws) Act, 1950 (30 of 1950).



An Act to provide for the adjudication of claims to waste lands.

WHEREAS it is expedient to make special provision for the speedy adjudication of claims which may be preferred to waste lands proposed to be sold, or otherwise dealt with, on account of <sup>1</sup>[the Provincial Government], and of objections taken to the sale or other disposition of such lands;

It is enacted as follows:—

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**1. Subs. by the A.O.1937 for " Govt."**

## Section 1. Provision for enquiry in claims, to land, or objection to sale of same

When any claim shall be preferred to any waste land proposed to be sold, or otherwise dealt with, on account of <sup>1</sup>[The State Government], or when any objection shall be taken to the sale or other on disposition of such land, the Collector of the district in which such land is situate, or other officer performing the duties of a Collector of Land Revenue in such district by whatever name his office is designated, shall, if the claim or objection be preferred within the period mentioned in the advertisement to be issued for the sale or other disposition of such land, which period shall not be less than three months, proceed to make an enquiry into the claim or objection.

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**1. Subs. by the A.O.1937 for " Govt."**

## Section 2. Procedure in such cases

The Collector or other officer as aforesaid shall call upon the claimant or objector to produce any evidence, or documents, upon which he may rely in proof of his claim or objection; and after considering the same, and making any further enquiry that may appear proper, shall dispose of the case by an order for the admission or rejection of the claim or objection; and if the land is proposed to be sold, for the sale of the same subject to any condition or reservation which, to such Collector or other officer as aforesaid, shall appear to be proper.

Notification of conditions. If the land is ordered to be sold subject to any condition or reservation, such condition or reservation shall be notified to intending purchasers at the time of sale.

## Section 3. Postponement of sale pending enquiry, to allow claimant to contest rejection of claim

Pending an enquiry into any claim or objection under the date last preceding section, the Collector or other officer as aforesaid shall postpone the sale or other disposition of the land;

And, if he shall order that such claim or objection be rejected, he of shall further postpone the sale or other disposition of the land, to allow the claimant or objector to contest the order of rejection in the manner hereinafter provided.

## Section 4. Sale to be stopped if claim appear to be established, but may afterwards be proceeded with

If the Collector or other officer as aforesaid shall consider the claim or objection to be established, and that the sale or other disposition of the land should not take place, he shall stop the sale or other disposition of the land:

But such sale or other disposition of the land may afterwards be proceeded with, if, on an order issued <sup>1</sup> to try to claim or objection, as provided in section 6 of this Act, the claimant or objector shall fail to establish the same.

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**1. The words "by the L.G." rep.by Act 4 of 1914, Sch., Pt.I**

## Section 5. Delivery to claimant of copy of order of rejection or of sale

If the Collector or other officer as aforesaid shall order that the claim or objection be rejected, or that the land be sold subject to any condition or reservation, or that it be otherwise dealt with, he shall cause a copy of such order to be delivered to the claimant or objector;

Order when final. and if such claimant or objector shall not, within one week from the delivery of such copy, or within such further time as the Collector or other officer as aforesaid, for any



special reason to be recorded, shall see fit to grant, give notice in writing to such Collector or other officer as aforesaid, that he intends to contest such order, the order shall be final.

Report to Board. If the claimant or objector shall, within the time allowed, give such notice, the Collector or other officer as aforesaid shall immediately make a report to the <sup>1</sup>Superior revenue authority <sup>2</sup>[to which he is immediately subordinate] and shall forward with such report a copy of his order, stating fully all the circumstances of the case, and the evidence adduced in support, or otherwise, of the claim or objection;

Decision of Board. and such <sup>3</sup>Authority, on the receipt of such report, and after calling for any further information which it may consider necessary, of may confirm, modify or reverse the order of the Collector or other officer as aforesaid.

Certification to Court. If the <sup>3</sup>authority as aforesaid confirm the order of the Collector or other officer as aforesaid, or modify such order in such to manner as to leave any part of such order in force adverse to the claimant or objector, the Collector or other officer as aforesaid shall certify such order to the Court constituted as hereinafter provided;

Notice to claimant. and such Court shall forthwith give notice to the claimant or objector;

Decision when final. and if such claimant or objector shall not <sup>4</sup>institute a suit in such Court to establish his claim or objection, the order of the <sup>3</sup>authority aforesaid shall be final.

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**1. The words "Board of Revenue of other" were repealed by the Decentration Act, 1914 (4 of 1914), Sch., Pt. I.**

**2. Inserted, by the Decentration Act, 1914 (4 of 1914), Sch., Pt. I.**

**3. The words " Board or other " rep. by Act 4 of 1914, Sch., Pt.I**

**4. The words " within thirty days from the delivery of such notice from the Court" rep by Act 9 of 1871. (9 of 1871).**

## Section 6. Power to order suit to try claim admitted by Collector

The State Government may, within twelve months after the date on which the claim of any claimant of waste land, or the objection of any objector, as aforesaid, shall have been admitted under this Act by the Collector or other officer as aforesaid, direct a suit to be brought to try the claim or objection of the claimant or objector, in a Court constituted as hereinafter provided.

## Section 7. Special Court for trying claims

For the investigation and trial of claims under this Act, the State Government shall constitute, in every district in which there may be any waste lands capable of being sold, or otherwise dealt with, on account of <sup>1</sup>[the State Government], a Court consisting of an uneven number of persons, not less than three, of whom the Judge of the district, or the officer presiding in the principal Civil Court of original jurisdiction in the district, by whatever name his office may be designated, shall be one.



Power of members. Any one or more of the members of which such Court shall consist shall have power to make all such orders in the case as may be necessary prior to the hearing of the suit:

Exclusion of officer making original enquiry. Provided that, whenever the Collector, or other officer, by whom the original enquiry was held, is the officer presiding in the principal Civil Court of original jurisdiction in the district, such officer shall not be a member of such Court.

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**1. Subs. by the A.O.1937 for " Govt."**

## Section 8. Notice of constitution of special Courts

Whenever any Court is constituted under this Act, notice thereof shall be given by a written proclamation, copies of which shall be affixed in the several Courts, and in the offices of the several Collectors and Magistrates of the district:

Claims not cognizable in other Courts. and from the date of the issue of such proclamation no other Court shall be competent to entertain any claim or objection belonging to the class of claims or objections for the trial and determination of which such Court is constituted.

## Section 9. Special Court where held

The Courts constituted under this Act shall be held at such place, or places, within the limits of their respective jurisdictions, as shall be considered most convenient.



## Section 10. Plaintiff and defendant in suit under section 5

In every suit instituted under section 5 of this Act, the claimant of the waste land, or objector to the sale or other disposition of such land, shall appear as plaintiff; and the Collector, or other officer aforesaid, shall appear as defendant on the part of <sup>1</sup>[the State Government].

Appearance. Either party may appear by pleader or by agent:

Proviso. Provided that if such other officer as aforesaid be the presiding officer of the principal Civil Court of original jurisdiction in the district, the State Government shall appoint some other officer to appear as defendant in the case on its behalf.

Plaintiff and defendant in suits under section 6. In any suit ordered to be instituted <sup>2</sup>under section 6 of this Act, { <sup>1</sup>[the State Government] by any officer, to be appointed for the purpose, shall appear as plaintiff; and the claimant or objector as aforesaid shall appear as defendant.

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**1. Subs. by the A.O.1937 for " Govt."**

**2. The words " by the L.G." rep.by Act 4 of 1914, Sch., Pt.I.**

## Section 11. Regulation of proceedings

In suits instituted under this Act, except as hereinafter provided, the proceedings shall be regulated, so far as they can be, by the Code of Civil Procedure.

## Section 12. Procedure before hearing

The Court shall fix a day for the appearance of the parties and for the hearing of the suit, of which due notice shall be given to the parties or their agents; and on the day so fixed, the parties or their agents shall bring their witnesses into Court, together with any documents on which they may intend to rely in support of their respective statements.

Procuring attendance of witnesses. If either party require the assistance of the Court to procure the attendance of a witness on such day, he shall apply to the Court in sufficient time before the day fixed for the hearing of the suit; and the Court shall issue a subpoena requiring such witness to attend the Court on that day.

Power to require attendance of claimant. It shall be competent to the Court to require the personal attendance of the claimant of the waste land, or objector, as aforesaid, on the day fixed for the hearing, or at any subsequent stage of the suit.

## Section 13. Procedure on hearing

On the day fixed for the hearing of the suit, or as soon after as may be practicable, the Court shall proceed to examine the claimant of the waste land, or the objector, or his agent (when his personal attendance is not required), and the witnesses of the parties;

And upon such examination, and after inspecting the documents of the parties, and making any further enquiry that may appear

Necessary, shall proceed to pass such order in the case as it may consider just and proper.

## Section 14. No appeal or revision

No appeal shall lie from any decision or order passed under in this Act, nor shall any such decision or order be open to revision.

## Section 15. Reference of question of law, etc., to High Court, etc

If, on the trial of any suit under this Act, any question of to law or of usage having the force of law, or the construction of a document affecting the merits of the case, shall arise, on which the Court shall entertain reasonable doubts, the Court may, either of its own motion, or on the application of any of the parties to the suit, draw up a statement of the case and submit it, with its own opinion, for the opinion of the High Court of Judicature, or of the highest Civil Court of Appeal and Revision in the territory in which the land is situate:

When reference obligatory. Provided that it shall be the duty of every Court held under this Act to make such reference to such High Court, or Court of Appeal, if, in any suit under this Act, any question shall arise in volving any principle of general importance, or the rights of a class.

## Section 16. Court may proceed notwithstanding reference

The Court may proceed in the case notwithstanding a reference to the High Court, or other highest Civil Court of Appeal as aforesaid; and may pass an order contingent upon the opinion of



the High Court, or other Court as aforesaid, on the point referred;

But not make final order. but no final order for the sale or other disposition of the land in question in the suit, or for the admission or rejection of any claim or objection which shall be before the Court in such suit, shall be passed, until the receipt of the order of the said High Court, or highest Civil Court of Appeal.

## Section 17. Records of cases where to be deposited

The record of cases disposed of by Courts constituted under this Act shall be deposited amongst the records of the principal Civil Court of original jurisdiction in the district in which the property in dispute is situate.

## Section 18. Limitation as to claims to land sold or dealt with

No claim to any land, or to compensation or damages in respect of any land, sold or otherwise dealt with on account of <sup>1</sup>[the State Government] as waste land, shall be received after the expiration of three years from the date on which such land shall have been delivered <sup>1</sup>[the State Government] to the purchaser, or otherwise dealt with. Provision for such claims if preferred within time. If within three years after any lands have been delivered by <sup>1</sup>[the State Government] to the purchaser, or otherwise dealt with, any claimant or objector shall prefer a claim to the land so delivered, or otherwise dealt with, or an objection to such sale, or to compensation or damages in respect thereof, in the Court constituted under this Act for the district in which the land is situate; and shall show good and sufficient reason for not having preferred his claim or objection to the Collector or other officer as aforesaid, within the period limited under section 1 of this Act; such Court shall file the claim or objection, making the claimant or objector plaintiff, and the Collector of the district or other officer as aforesaid (with the like provision as aforesaid if such other officer be the presiding officer of the principal Civil Court of original jurisdiction in the district), the defendant in the suit;

And the foregoing provisions of this Act shall be applicable to the trial and determination of the suit.

The report of the officer employed to give delivery, or to take possession, on the part of <sup>1</sup>[the State Government], of the land sold or otherwise dealt with, shall be conclusive evidence as to the date on which such delivery was made, or possession was taken.

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

## Section 19. If claim established, possession not to be given, but compensation

In any case in which the land has been sold, if the Court shall be of opinion that the claim of the claimant is established, the Court shall not award the claimant possession of the land in dispute, but shall order him to receive from <sup>1</sup>[the State Government] Treasury, by way of compensation, a sum equal to the price at which the , land was sold, in addition to the costs of suit.

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



## Section 20. When land sold not absolutely, or not sold, but otherwise dealt with

If the land shall have been sold subject to any condition reservation, or shall not have been sold, but shall have been otherwise dealt with on account of <sup>1</sup>[the State Government], and the Court shall be of opinion that the claim to such land, or the objection of an objector, is established, the Court shall award the claimant or objector to receive such sum, in respect of his interest in such land, as shall be awarded in that behalf under the provisions of <sup>2</sup>Act 6 of 1857 (for the acquisition of lands for public purposes),

And thereupon the State Government shall proceed under the said Act to obtain an upward of the value of such interest.

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

**2. See now the Land Acquisition Act, 1894 (1 of 1894), s.2.**

## Section 21. Award under two last sections to be in full satisfaction

An award under any of the provisions of the two last preceding sections shall be in full satisfaction of the claim of the claimant or objector; and shall bar any future claim on his part, in respect to the land in suit resting on the same cause of action, or on a cause of action which existed prior to the date of the sale or other disposition of the land on account of <sup>1</sup>[the State Government].

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**1. Subs. by the A.O.1937 for " Govt."**

## Section 22. Government not barred from awarding compensation for land absolutely sold, though claim be not preferred in time

Nothing in this Act shall be held to prevent the State Government from awarding, to any claimant of waste land sold on account of <sup>1</sup>[the State Government], on proof to the satisfaction of the State Government of the claim of such claimant (notwithstanding that he may not have preferred his claim either to the Collector or other officer as aforesaid, or to the proper Court constituted under this Act, within the period prescribed by this Act), such amount as compensation for the said land, within the limit as to amount mentioned in section 19 of this Act, if the land have been sold not subject to any condition or reservation, as to such State Government may seem proper.

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**1. Subs. by the A.O.1937 for " Govt."**

## Section 23. Compensation for land sold subject to condition, if claim proved, though not preferred in time





If the land have been sold subject to any condition or reservation, or have been otherwise disposed of, on account of <sup>1</sup>[the State Government], and any claim to such land, or objection to the sale or other disposition of the land, shall be proved to the satisfaction of the State Government; although not preferred to the Collector or other officer as aforesaid, or to the Court constituted under this Act, within the period prescribed by this Act, the State Government may award to such claimant or objector such amount as to such State Government may appear to be the value of the interest of such claimant or objector in such land.

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**1. Subs. by the A.O.1937 for " Govt."**

## Section 23A. Exercise of power of the State Government by the Board of Revenue or the Financial Commissioner

<sup>1</sup>[23-A. Exercise of power of the State Government by the Board of Revenue or the Financial Commissioner. In a State for which there is a Board of Revenue or a Financial Commissioner, the powers and duties of the State Government under sections 6, 10, 22 and 23 may be exercised by such Board or Financial Commissioner, as the case may be.]

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**1. Ins. by Act 4 of 1914, Sch., Pt.I.S. 23-A has been omitted in its application to the U.P., see the U.P.Board of Revenue Act, 1922 (U.P.12 of 1922).**

## Section 24. Interpretation-clause. Number Gender

Rep. by Repealing and Amending Act, 1914 (10 of 1914), s.3 and Sch.II.

