

BENGAL REGULATION 11 OF 1793
(THE BENGAL INHERITANCE REGULATION, 1793)¹

(1st May, 1793)

A Regulation for removing certain restrictions to the operation of the Hindu and Muhammadan laws with regard to the inheritance of landed property subject to the payment of revenue to Government.

1. A custom, originating in considerations of financial convenience, was established in these Provinces under the Native Administrations, according to which some of the most extensive zamindari are not liable to division. Preamble.

Upon the death of the proprietor of one of these estates it devolves entire to the eldest son or next heir of the deceased to the exclusion of all other sons or relations.

This custom is repugnant both to the Hindu and Muhammadan laws, which annexed to primogeniture no exclusive right of succession to landed property, and consequently subversive of the rights of those individuals who would be entitled to a share of the estates in question were the established laws of inheritance allowed to operate with regard to them as well as all other estates.

¹SHORT TITLE.—This short title was given by the Amending Act, 1897 (V of 1897), since repealed.

LOCAL EXTENT.—This regulation has been declared, by notification under the Scheduled District Act, 1874 (XIV of 1874), section 3, to be in force in the Districts of Goalpara (excluding the Eastern Duars) and Sylhet—see Notification Nos. 1242-J., dated 1st April 1897 and 1152-J., dated 3rd October 1879 in the Manual of Local Rules and Orders, Volume 1, and Notification No. 713-L., dated 27th September 1937.

SAVING.—This Regulation does not supersede or effect any established usage by which the succession to landed estates devolves upon intestacy to a single heir see the Bengal Inheritance Regulation, 1800 (X of 1800), post.

It likewise tends to prevent the general improvement of the country, from the proprietors of these large estates not having the means or being unable to bestow the attention, requisite for bringing into cultivation the extensive tracts of waste land comprised in them.

For the above reasons, and as the limitation of the public demand upon the estates of individuals as they now exist, and the rules prescribed for apportioning the amount of it, on the several shares of any estates which may be divided, obviate the objections and inconveniences that might have arisen from such divisions when the public demand was liable to annual or frequent variation, the Governor General in Council has enacted the following rules :

Descent of landed property after 1st July 1794. 2. * * *¹ If any zamindar, independent talukdar or other actual proprietor of land shall die without a will, or without having declared by a writing, or verbally, to whom and in what manner his or her landed property is to devolve after his or her demise, and shall leave two or more heirs, who by the Muhammadan or Hindu law (according as the parties may be of the former or latter persuasion) may be respectively entitled to succeed to a portion of the landed property of the deceased, such persons shall succeed to the shares to which they may be so entitled.

Estate how held on death of actual proprietor. 3. If any zamindar, independent talukdar or other actual proprietor of land shall die * * *² without a will, or without having declared by a writing or verbally, to whom and in what manner his or her landed property is to devolve after his or her demise, and shall leave two or more heirs, who by the Muhammadan or Hindu law (according as the parties may be of the former or latter persuasion) shall be respectively entitled to succeed to a portion of the landed property of the deceased, under the rule contained in (section 2)³ such persons shall be at liberty, if they shall prefer so doing, to hold the property as a joint undivided estates.

Ben. Act VIII of 1876. If one or more, or all of the sharers, shall be desirous of having separate possession of their respective shares, a division of the estate shall be made in the manner directed in [the Estates Partition Act, 1876]⁴, and such sharer or sharers shall have the separate possession of such share or shares accordingly.

¹Words and figures as to dates, which were repealed by the Repealing Act, 1874 (XVI of 1874), are omitted.

² The words and figures "subsequent to the period specified in section 22 which were repealed by the Repealing Act, 1874 (XVI of 1874), are omitted.

³ The word and figure "section 2" in s. 3 were substituted for the words "that section" by the Amending Act, 1891 (XII of 1891), (since repealed).

⁴ These words and figures in square brackets, in s. 3, were substituted for the word and figures "Regulation XXV, 1793," by the Amending Act, 1891 (XII of 1891), since repealed. Ben. Act VIII of 1876 has been repealed and re-enacted by the Estates Partition Act, 1897 (Ben. Act V of 1897), but neither Ben. Act VIII of 1876 nor Ben. Act V of 1897 has been extended to Assam or any part thereof.