

THE CENTRAL PROVINCES COURT OF WARDS ACT, 1899

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THE CENTRAL PROVINCES COURT OF WARDS ACT, 1899

ACT NO. XXIV OF 1899

[13th October, 1899.]

An Act to consolidate and amend the law relating to the Court of Wards in the Central Provinces.

WHEREAS it is expedient to consolidate and amend the law relating to the Court of Wards in the Central Provinces; It is hereby enacted as follows:—

Preliminary.

1. Short title, extent and commencement.—(1) This Act may be called the Central Provinces Court of Wards Act, 1899.

(2) It extends to the territories for the time being administered by the Local Government of the Central Provinces; and

(3) It shall come into force at once.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(a) the expression “Government ward” means any person of whose property, or of whose person and property, the Court of Wards may, for the time being, have the superintendence under this Act;

(b) “land” includes the rights of a land-holder in respect of the land of which he is the malguzar or zamindar or the muafidar, jagirdar, ubaridar or other assignee of land-revenue, or in which he is interested; and

(c) “land-holder” means a malguzar as defined in the Central Provinces Land-revenue Act, 1881, XVIII of 1881, and the zamindar of any zamindari in a Scheduled District, and includes a muafidar, jagirdar, ubaridar or other assignee of land-revenue, and any person not hereinbefore specified who is interested in land and belongs to a class of which the Local Government, with the previous sanction of the Governor General in Council, has declared the members to be land-holders for the purposes of this Act.

3. Commissioner to be Court of Wards.—Subject to the provisions of section 9, the Commissioner shall be the Court of Wards for the limits of his division.

4. Superintendence by Court of Wards of property of disqualified land-holder.—The Court of Wards may, with the previous sanction of the Local Government, assume the superintendence of the property of any land-holder owning land within the local limits of its jurisdiction who is disqualified to manage his property.

5. Land-holders to be deemed disqualified in certain cases.—(1) The following persons shall, for the purposes of section 4, be deemed to be disqualified to manage their own property, namely:—

(a) minors;

(b) persons adjudged by a competent Civil Court to be of unsound mind and incapable of managing their affairs; and

(c) persons declared by the Local Government to be incapable of managing their property owing to—

(i) any physical or mental defect or infirmity;

(ii) their having been convicted of a non-bailable offence and being unfitted by vice or bad character; or

(iii) their being females.

(2) No suit shall be brought in any Civil Court in respect of any declaration made by the Local Government under sub-section (1), clause (c).

6. Superintendence by Court of Wards on application of proprietor.—(1) Any land-holder may apply to the Local Government to have his property placed under the superintendence of the Court of Wards, and the Local Government may on such application, if it thinks it expedient in the public interests, order the Court of Wards to assume the superintendence of the property.

(2) An order made by the Local Government under sub-section (1) shall be sufficient to authorize the Court of Wards to assume the superintendence of the property referred to therein, and no suit shall be brought in any Civil Court in respect of any such order.

7. Temporary provisions for custody of heirs and protection of property in certain cases.—(1) Whenever the Court of Wards receives information that any land-holder has died and has reason to believe that the heir of the land-holder is a person who is, or should be adjudged or declared to be, disqualified under section 5, the Court may—

(a) take such steps and make such order for the temporary custody and protection of the property inherited as it thinks fit; and,

(b) if the heir is a minor, direct that the person (if any) having the custody of the minor, shall produce him or cause him to be produced at such place and time and before such person as the Court may appoint, and make such order for the temporary custody and protection of the minor as it thinks fit:

Provided that, where the minor is a female and belongs to a class the females of which do not usually appear in public, her production shall be required only in accordance with the manners and customs of the country.

(2) Whenever the Court of Wards proceeds under this section, it shall forthwith report its action for the information of the Local Government.

8. Superintendence by Court of Wards of person of disqualified land-holder.—Where the Court of Wards assumes the superintendence of the property of a minor or of a person who has been adjudged by a competent Civil Court to be of unsound mind and incapable of managing his affairs, it may, with the previous sanction of the Local Government, assume the superintendence of his person also:

Provided that nothing in this section shall authorize the Court of Wards to assume the superintendence of the person of a female who is married to a man of full age and is in his custody.

9. Superintendence by Court of Wards where disqualified land-holder owns land in more than one division.—Where a land-holder owns land within two or more divisions, such one only of the Courts of Wards as the Local Government may determine in this behalf shall assume the superintendence of the property, or of the person and property, of the land-holder.

10. Assumption of superintendence to be notified and to extend to whole of Government ward's property.—(1) Whenever the Court of Wards assumes the superintendence of the property of any person under this Act, the fact of such assumption, and the date on which it was sanctioned by the Local Government, shall be notified in the local official Gazette.

(2) On and with effect from the date of such sanction, the whole of the property, moveable or immoveable, of such person, whether the existence of any such property may be known to the said Court or not, shall be deemed to be under the superintendence of the Court of Wards.

(3) Any property which the Government ward may inherit subsequently to the date of such sanction, shall also be deemed to be under the superintendence of the Court of Wards.

(4) The Court of Wards may, in its discretion, assume, or refrain from assuming, the superintendence of any property which the ward may acquire, otherwise than by inheritance subsequently to the date of such notification.

11. Barring of suits to contest authority to assume superintendence.— No suit shall be brought in any Civil Court to contest the authority of the Court of Wards in respect of the property, or of the person and property, of any person under this Act on the ground that such person was not, or is not, a land-holder or a minor.

12. Notices to claimants against Government ward.—(1) On the issue of a notification under section 10, the Court of Wards shall publish in the local official Gazette and in such other manner as the Local Government may, by general or special order, direct, a notice, in English and also in the vernacular, calling upon all persons having claims against the Government ward or his immoveable property to submit the same in writing to it within six months from the date of the publication of the notice aforesaid.

(2) Every such claim (other than a claim on the part of the Government) not submitted to the Court of Wards in compliance with the provisions of sub-section (1), shall, save in the case provided for by section 16, sub-section (2), clause (c), be deemed for all purposes and on all occasions, whether during the continuance of the management or afterwards, to have been duly discharged:

Provided that, if the Court of Wards is satisfied that the claimant was unable to comply with the provisions of sub-section (1), it may receive his claim at any time after the date of the expiry of the period aforesaid, but any claim so received shall, notwithstanding any law, contract, decree or award to the contrary, cease to carry interest from the date of the expiry of the period aforesaid.

13. Claimants to furnish full particulars and documents.—(1) Every claimant submitting his claim in compliance with the provisions of section 12, sub-section (1), shall furnish, along with his written statement of claim, full particulars thereof, and shall, at the same time, produce all documents (including entries in books of account) on which he relies to support his claim, together with a true copy of every such document.

(2) The Court of Wards shall, after making, for the purpose of identification, every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the claimant.

(3) If any document, which is in the possession or under the control of the claimant, is not produced by him as required by sub-section (1), the document shall not be admissible in evidence against the Government ward, whether during the continuance of the management or afterwards, in any suit brought by the claimant or by any person claiming under him.

14. Stay of proceedings of Civil Courts.—If a Civil Court has directed any process of execution to issue against any immoveable property of a Government ward or the rents thereof or any crops standing thereon, the Court of Wards may, at any time within one year after the issue of a notification under section 10, apply to the Civil Court to stay proceedings in the matter of such process, and the Civil Court may, on such terms regarding interest or compensation for delay as may appear to it to be just and reasonable, stay such proceedings accordingly.

15. Adjudication of claims.—(1) On receipt of all claims submitted in compliance with the provisions of sections 12 and 13, the Court of Wards shall proceed to investigate such claims and shall decide which of them are to be wholly or partly admitted or wholly or partly rejected, as the case may be, and shall communicate its decision in writing to each claimant concerned.

(2) When the Court of Wards has admitted any claim under sub-section (1), it may make to the claimant a proposal in writing for the reduction of the claim, or of the rate of interest to be paid in future, or of both; and, if such proposal, or any modification of it, is accepted by the claimant and his acceptance is finally recorded and attested by the Court of Wards or by any Revenue-officer not being below the rank of an Assistant Commissioner whom the Local Government may, by general or special order, appoint in this behalf, it shall be conclusively binding upon the claimant:

Provided that, if when the superintendence of the property by the Court of Wards is relinquished or otherwise terminates, any portion of the claim reduced as aforesaid is still unsatisfied, the claimant shall be entitled to recover a sum bearing the same proportion to the original claim admitted under sub-section (1) as the unsatisfied portion bears to the reduced claim.

(3) Subject to the provisions of sub-section (2), nothing in this section shall be construed to bar the institution of a suit in a Civil Court for the recovery of a claim against a Government ward or his property which has been submitted to and received by the Court of Wards:

Provided that, no decision of the Court of Wards under this section shall be proved in any such suit as against the defendant.

16. Report to Chief Commissioner.— (1) When all claims have been investigated under section 15, the Court of Wards shall submit to the Local Government a schedule of the debts and liabilities of the Government ward, and the Local Government may, when the estate appears to be involved beyond all hope of extrication or for any other sufficient reason, by an order published in the Local official Gazette, direct that, on a date to be fixed by the order, the superintendence of the property and person of the ward shall be relinquished by the Court of Wards.

(2) On the date so fixed—

(a) the superintendence shall terminate;

(b) the owner of the property under superintendence shall be restored to the possession thereof, subject to any contracts entered into by the Court of Wards for the preservation or benefit of such property;

(c) the claims referred to in section 12, sub-section (2), shall revive.

(3) In calculating the periods of limitation applicable to suits to recover and enforce debts and liabilities revived under this section, the time during which such superintendence has continued shall be excluded.

17. Appointment, etc., of managers by Court of Wards.—The Court of Wards may appoint a manager of the property of any Government ward under its superintendence.

18. Delegation of powers by Court of Wards.—(1) With the general or special sanction of the Local Government, the Court of Wards may, from time to time, delegate all or any of its powers to the Deputy Commissioner of any district in which any part of the property of a Government ward is situated, or to any other person whom it may appoint in this behalf; and may, at any time, with the like sanction, revoke such delegation.

(2) Subject to any general or special orders of the Local Government, the Court of Wards may exercise all or any powers conferred on it by this Act through the Deputy Commissioner of any district in which any part of the property of a Government ward is situated, or through any other person whom it may appoint in this behalf, and, subject to the like orders, any such Deputy Commissioner may exercise all or any powers delegated to him under this Act through any Revenue-officer subordinate to him.

19. Liabilities, etc., of managers and other servants of Court of Wards.—(1) Every manager appointed by the Court of Wards shall—

(a) give such security as the Court thinks fit duly to account for what he receives in respect of the rents and profits of the property under his management;

(b) be entitled to such allowance as the Court thinks fit for his care and pains in the execution of his duties; and

(c) be responsible for any loss occasioned to the property under his management by his wilful default or gross negligence.

(2) Every manager or other servant of the Court of Wards shall be deemed a “public servant” within the meaning of sections 161, 162, 163, 164 and 165 of the Indian Penal Code (XLV of 1860); and in the definition of “legal remuneration” contained in the said section 161, the word “Government” shall, for the purposes of this sub-section, be deemed to include the Court of Wards.

20. Power for Court of Wards to appoint guardians of certain Government wards.—The Court of Wards may appoint guardians for the care of the persons of Government wards whose persons are, for the time being, under its superintendence.

21. General powers of Court of Wards.—Subject to the provisions of this Act and of any rules thereunder, the Court of Wards—

(a) may, of itself or through the manager (if any) appointed by it under this Act, do all such things requisite for the proper care and management of any property, of which it assumes the superintendence under this Act, as the owner of the property, if it were not under the superintendence of the Court of Wards, might do for its care and management; and

(b) may, of itself or through the guardian (if any) appointed by it under this Act, do, in respect of the person of any Government ward whose person is, for the time being, under its superintendence, all such things as may lawfully be done by a guardian.

22. Custody, education and residence of certain Government wards.— The Court of Wards may pass such orders as it thinks fit in respect of the custody and residence of any Government ward whose person is, for the time being, under its superintendence, and, when he is a minor, in respect of his education.

23. Allowance for Government ward and his family.— The Court of Wards may, from time to time, determine what sums shall be allowed in respect of the expenses of any Government ward and of his family and dependants.

24. Duties of Court of Wards or manager.—The Court of Wards, or the manager (if any) appointed by it under this Act, shall manage the property of every Government ward under its superintendence or under his management diligently and faithfully for the benefit of the Government ward, and shall in every respect act to the best of its or his judgment for the Government ward's interest as if the property were its or his own.

25. Powers of Court of Wards as to property of Government wards.—The Court of Wards may let the whole or any part of the property of any Government ward under its superintendence, and may, with the previous sanction of the Local Government, mortgage, sell or exchange the whole or any part of such property, and may do all such other acts as it may judge to be best for the benefit of the property and the advantage of the Government ward.

26. Notice of suit.— No suit relating to the person or property of any Government ward shall be brought in any Civil Court until the expiration of two months after notice in writing, stating the name and place of abode of the intending plaintiff, the cause of action and the relief claimed, has been delivered to, or left at the office of, the Court of Wards; and the plaint shall contain a statement that such notice has been so delivered or left:

Provided that notice under this section shall not be required in the case of any suit the period of limitation for which will expire within three months from the date of a notification issued under section 10, sub-section (1).

27. Manager or Court of Wards to be next friend or guardian in suit by or against Government wards.— In every suit brought by or against a Government ward, the manager of the ward's property or, if there is no manager, the Court of Wards having the superintendence of the ward's property shall be named as the next friend or guardian for the suit, as the case may be.

28. Payment of costs.—If, in any suit brought by or against a Government ward, any Civil Court decrees any costs against the Government ward's next friend or guardian for the suit, the Court of Wards shall cause the costs to be paid out of any property of the Government ward which may, for the time being, be in its hands.

29. Processes against Government ward to be served on next friend or guardian.— Every process which may be issued out of any Civil or Revenue Court against any Government ward shall be served on the Government ward's next friend or guardian for the suit.

30. Authority of Court of Wards required in case of suits brought on behalf of Government wards.—No suit shall be brought, and no appeal in any suit shall be preferred, on behalf of any Government ward unless it is authorized by an order in writing of the Court of Wards:

Provided as follows:—

(1) a manager may authorize a plaint to be filed in order to prevent a suit from being barred by the law of limitation, but the suit shall not afterwards be proceeded with except under the sanction of the Court of Wards;

(2) a suit for arrears of rent may be brought on behalf of a Government ward, if authorized by an order of the manager of the property on which the rent is due.

31. Disabilities of a Government ward.— (1) A Government ward shall be incompetent to transfer or create any charge on, or interest in, his property or any part thereof (except such interest as may be created by a will made in accordance with section 32), or to enter into any contract which may involve him in pecuniary liability; and no suit shall be brought in any Civil Court whereby to charge any person upon any promise made after he has ceased to be a Government ward to pay any debt contracted during the period when he was a Government ward, or upon any ratification made after he has ceased to be a Government ward of any promise or contract made during the period aforesaid, whether there is or is not any new consideration for such promise or ratification.

(2) Nothing in this section shall be deemed to affect the capacity of a Government ward to enter into a contract of marriage:

Provided that a Government ward shall not incur, in connection with such a contract, any pecuniary liability, except such as, having regard to the personal law to which he is subject and to his rank and circumstances, the Court of Wards may, in writing, declare to be reasonable.

32. Consent of Local Government necessary to adoptions or wills made by Government wards.— No adoption by a Government ward, and no written or verbal permission to adopt given by a Government ward, or will made by a Government ward, shall be valid without the consent of the Local Government obtained, either previously or subsequently to the adoption or to the giving of the permission, or the making of the will, on application made to it through the Court of Wards.

33. Procedure when succession to Government ward's property is disputed.— Whenever, on the death of any Government ward, the succession to his property or any part thereof is disputed, the Court of Wards may, with the previous sanction of the Local Government, either direct that the property or the part thereof be made over to any person claiming the property, or retain the superintendence of the property until one of the claimants has established his claim to the same in a competent Civil Court, or institute a suit of interpleader against all the claimants.

34. Withdrawal of superintendence of Court of Wards.— (1) The Court of Wards may, with the sanction of the Local Government, at any time withdraw its superintendence from the person or property, or both, of a Government ward, and shall withdraw its superintendence as soon as,—

(a) in the case of a person disqualified under clause (a) of section 5, sub-section (1), he attains his majority;

(b) in the case of a person disqualified under clause (b) of the same, he ceases to be of unsound mind and incapable of managing his affairs;

(c) in the case of a person disqualified under sub-clause (i) of clause (c) of the same, his physical or mental defect or infirmity is removed or ceases:

Provided as follows:—

(i) whenever a Government ward lies or ceases to be disqualified and his property is still encumbered with debts and liabilities, the Court of Wards may, with the previous sanction of the Local Government, either release such property or retain it under its superintendence until such debts and liabilities have been discharged; and,

(ii) if one or more of the proprietors of a property remain disqualified, although another or others may have ceased to be disqualified, the Court of Wards may, with the previous sanction of the Local Government, retain the whole of the property under its superintendence, paying any proprietor who has ceased to be disqualified, the surplus income accruing from his share of the estate.

(2) Where any question arises as to whether the superintendence of the Court of Wards should be withdrawn from any person or property, or both, under clause (a), or from any property under clause (c), of sub-section (1), the decision of the Local Government thereon shall be final, and no suit shall be brought in any Civil Court in respect of such decision.

35. Appointment of guardian in certain cases.— (1) Where, in exercise of the power conferred by section 34, the Court of Wards decides to withdraw its superintendence from the person and property of any minor, it shall, before such withdrawal, by an order in writing, appoint some person to be guardian of the person or property, or both, of the minor, and such appointment shall take effect from the date of such release.

(2) In appointing a guardian under this section, the Court of Wards shall be guided by the provisions of the Guardians and Wards Act, 1890 (VIII of 1890); and every guardian so appointed shall have, and be subject to, the same rights, duties and liabilities as if he had been appointed under that Act.

36. Withdrawal to be notified in Gazette.—Where the Court of Wards withdraw its superintendence from any person or property under this Act, the fact of such withdrawal shall be notified in the Local official Gazette.

37. Appeals.—An appeal shall lie from every order passed under this Act, whether original or on appeal,—

(a) if the order is that of a Commissioner, to the Local Government;

(b) if the order is that of a Deputy Commissioner, to the Commissioner;

(c) in all other cases, to the Deputy Commissioner:

Provided that in no case shall a third appeal lie.

38. Control of Local Government.— All orders or proceedings under this Act shall be subject to the supervision and control of the Local Government; and the Local Government may, if it thinks fit, revise, modify or reverse any such order or proceeding, whether an appeal is presented against any such order or proceeding or not.

39. Exercise of discretion not to be questioned in Civil Court.— No suit shall be brought in any Civil Court in respect of the exercise of any discretion conferred by this Act.

40. Power for Local Government to make rules.— (1) The Local Government may make rules to carry out the purposes and objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe the matters to which regard should be had in appointing or removing guardians and managers, and in fixing their remuneration;

(b) regulate the amount of security to be given by managers;

(c) prescribe the cases in which proposals or arrangements connected with the administration of the properties of Government wards shall be reported for the sanction of the Local Government;

(d) prescribe the accounts and other returns which, and the periods and form at and in which, they shall be rendered to the Court of Wards and by the Court of Wards to the Local Government;

(e) regulate the custody of securities and title-deeds belonging to the estate or property of a Government ward;

(f) regulate the procedure in inquiries by, and in appeals from orders of, the Court of Wards under this Act, and fix the periods of limitation which shall apply to such appeals;

(g) confer upon the Court of Wards for the purposes of this Act any of the powers exercised by a Civil Court in the trial of suits;

(h) prescribe the mode in which powers delegated to managers are to be notified for the information of persons concerned; and

(i) generally prescribe the manner in which the powers and duties of the Court of Wards under this Act shall be exercised and performed.

(3) All rules made under this section shall be published in the Local official Gazette, and shall on such publication have effect as if enacted by this Act.

41. Repeal.—The enactments mentioned in the schedule are repealed to the extent specified in the fourth column thereof.

THE SCHEDULE.

Year.	No.	Short title.	Extent of repeal.
1	2	3	4
1885	. XVII	The Central Provinces Government Wards Act, 1885.	The whole.
1890	. VIII	The Guardians and Wards Act, 1890.	So much of section 2 and the schedule as relates to Act XVII of 1885.
1891	. XII	The Repealing and Amending Act, 1891.	So much as relates to Act XVII of 1885.