

ACT NO. I OF 1874.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 10th
February 1874).

An Act for the quieting of Titles depending on judgments delivered by certain Settlement Officers in the North-Western Provinces.

WHEREAS, by Act XIV of 1863, section eight, Preamble.
the Local Government of the North-Western Provinces was empowered to invest any officer employed in making or revising settlements of the land-revenue with the powers of a Collector as described in Act X of 1859, for the decision of suits arising within the local limits of the jurisdiction assigned to such officer, of the nature mentioned in section twenty-three of the same Act, or in the said Act XIV of 1863, while such officer is so employed :

And whereas shortly after the passing of the said Act XIV of 1863, the Local Government determined that all Collectors, Assistant Collectors and Deputy Collectors at any time employed in making or revising settlements, should, during such employment, be invested with the powers described in section eight of the same Act, and after the said determination such officers have in fact exercised such powers from the date of their respective employments in the duties aforesaid, and large numbers of suits of the nature mentioned in the same section have been heard and decided by such officers notwithstanding that their employment commenced subsequently to the year 1863, and notwithstanding that the Local Government may not have expressed their intention to invest them with the said powers otherwise than by appointing them to such employment :

And

[Price two annas and three pies.]

And whereas it has recently been held that certain Deputy Collectors whose employment in settlement-work commenced subsequently to the twenty-first day of April 1863, have not been invested with the said powers :

And whereas, by Act X of 1859, section one hundred and fifty, it is enacted that all the powers vested in the Collector by the preceding sections of that Act may be exercised by any Deputy Collector in cases referred to him by a Collector ; and in all cases without such reference, by any Deputy Collector placed in charge of any sub-division of a district :

And whereas, by section ten of Act XIV of 1863, it is enacted that if a suit for enhancement of rent be brought before any officer empowered under section eight of that Act to hear the same, such suit shall be heard and determined by such officer, notwithstanding that no notice of enhancement shall have been served under section thirteen of the said Act X of 1859 on the party from whom such enhanced rent is claimed : and that in such case the statement of claim should set forth the grounds on which such enhancement of rent is claimed :

And whereas, by Act XXII of 1872, it was enacted that all Deputy Collectors and all other persons theretofore or thereafter invested with all or some of the powers of Deputy Collectors for the purposes of Acts X of 1859 and XIV of 1863, should be deemed to have been or to be (as the case might be) Deputy Collectors in charge of sub-divisions of districts within the meaning of the same Acts, or Assistants to Collectors invested with the powers of Deputy Collectors in such charge : and it was also enacted that all suits preferred and applications made to, and orders made and acts done by, such Deputy Collectors and other persons in the exercise of such powers should be deemed to have been and to be as duly preferred, made and done as if the said Deputy Collectors and other persons had been Deputy Collectors in charge of sub-divisions of districts within the meaning of the same Acts :

And

And whereas, by force of the said Acts, all Deputy Collectors in the North-Western Provinces have, ever since Act X of 1859 came into force, been of like authority with Deputy Collectors in charge of subdivisions, and, as such, have had jurisdiction to hear all suits of the nature mentioned in section twenty-three of that Act and in Act XIV of 1863, and all Collectors have had and have exercised very largely the power of referring to Deputy Collectors subordinate to them cases brought in the first instance before themselves :

And whereas, since the passing of Act XXII of 1872, it has been held that a Deputy Collector not invested with powers under section eight of Act XIV of 1863, has not any jurisdiction to hear suits of the nature mentioned in section twenty-three of Act X of 1859 :

And whereas it has also recently been held that the said Act XXII of 1872 has no operation in cases in which a decision has been delivered contrary to the true meaning of the said Acts X of 1859 and XIV of 1863, as declared in Act XXII of 1872, but prior to the passing of Act XXII of 1872 :

And whereas, ever since the passing of Act XIV of 1863, officers invested with the powers of Collectors under section eight of that Act have been in the habit of exercising the said power conferred on Collectors by section one hundred and fifty of Act X of 1859, and of referring to Deputy Collectors employed as aforesaid suits of the nature mentioned in section eight of Act XIV of 1863 for the purpose of having such suits heard and decided by such Deputy Collectors, and great numbers of suits have been so heard and decided :

And whereas it has recently been held that officers engaged in making or revising settlements, and invested with the powers of Collectors under section eight of Act XIV of 1863, have not the power of referring suits to Deputy Collectors; and also that, if a suit for enhancement of rent be brought before such an officer, he is bound by section ten of Act XIV of 1863 to hear and determine it in person :

And

And whereas, by the effect of such holdings, great numbers of decisions in suits of the nature mentioned in section eight of Act XIV of 1863 have become open to question, and for the quieting of titles, and the avoidance of litigation, it is necessary that the validity of such decisions should be affirmed, and that the meaning of the said Acts should be declared :

And whereas it is apprehended that other objections may be made to the authority of officers who, either in the first instance or on appeal, have decided suits of the nature mentioned in Act XIV of 1863, and it is expedient that such decisions should not be impeached for want of authority in such officers :

And whereas it is believed that many decisions passed by officers engaged in making or revising settlements have, since the dates of the holdings aforesaid, been declared or treated by certain Appellate Courts as void for want of authority in such officers; and it is expedient that the parties concerned should not, by reason of such declaration or treatment, find it necessary or expedient to appeal from the decisions of such Courts ;

It is hereby enacted as follows :—

Powers of Deputy Collectors under Regulation IX of 1833.

1. All officers who, since the twenty-first day of April 1863, have been employed in making or revising settlements, and who have legally been invested with, or have in fact exercised, the powers of Collector, Assistant Collector or Deputy Collector, have been, and are, invested with the powers described in section eight of Act XIV of 1863, during the term of such employment.

Power of Collectors to refer cases to Deputy Collectors.

2. By section one hundred and fifty of Act X of 1859, it was intended, and has always been the law, that Collectors should refer to Deputy Collectors such of the cases brought before themselves as they think fit.

Act XIV of 1863, section 8, explained.

3. By section eight of Act XIV of 1863, it was intended that when the officers therein mentioned have been invested with the powers therein mentioned, they should have, and it has always been the law that they have had, the whole, and not a portion only, of

of such powers, and in particular the power of reference conferred on Collectors by Act X of 1859, section one hundred and fifty.

4. The meaning of section ten of Act XIV of 1863 was, and has always been, that in the suits therein mentioned the want of such notice as therein mentioned shall not be a bar to the progress of the suit, and not that the suits therein mentioned must be heard and decided by the same officer from the beginning to the end.

Act XIV of 1863, section 10 explained.

5. All suits heard and decided by any officers in pursuance of the said Acts and of the intentions of the said Local Government as herein explained, have been heard and decided by proper authority, and the decisions given in such suits are valid decisions subject only to such appeals as are by law provided.

Suits heard by officers pursuant to the said Acts, to be deemed properly heard.

6. No decision made, whether in the first instance or on appeal, by any Collector, Assistant Collector, Deputy Collector or other officer purporting to act under the provisions of Act X of 1859 or Act XIV of 1863 in any suit of the nature mentioned in section twenty-three of Act X of 1859 or in Act XIV of 1863 shall be impugned or deprived of effect by reason of the objection that such officer did not possess the jurisdiction legally necessary for passing such decision; but all such decisions shall be dealt with by every Appellate Court as if they had been made by a tribunal possessing the authority to entertain and decide the suit.

Decisions of officers acting under said Acts in certain suits validated.

7. Every suit instituted, or question arising, under Act X of 1859 or Act XIV of 1863, which comes before any Court of Justice, shall be decided in accordance with this Act and in accordance with Act XXII of 1872, at whatever time such suit may have been commenced, or such question may have arisen, and at whatever time any decision may have been delivered affecting such suit or question.

Suits to be decided in accordance with this Act and Act XXII of 1872.

8. Every decree or order of an Appellate Court made on or after the first day of January 1871, which has declared or treated any judicial order or proceeding of an officer employed in making or revising a settlement to be void for want of authority in such

Validation of orders and proceedings of Settlement Officers declared void on appeal.

officer,

officer, is hereby declared to be itself void, and all such orders and proceedings of such officers shall be deemed to be as valid as if no such decree or order declaring them to be void for want of authority had been passed in appeal :

Provided that whenever the merits of the case constituted any portion of the grounds of appeal, and the appellant, who has succeeded on the ground of want of authority in the Court of first instance, desires to prosecute his appeal on the merits, and applies to the Appellate Court for that purpose within ninety days after the passing of this Act, the Appellate Court shall resume the hearing of the appeal and proceed to determine it on the merits :

Provided also that the provisions of this section shall not apply to any case in which the holder of a decree treated as invalid for want of authority as aforesaid has, before the passing of this Act, obtained a decree in a competent Court in another suit upon the same cause of action.

Presumption
in favour of
judicial and
official acts.

9. In construing the said Acts, and in deciding on the validity of judicial proceedings thereunder, all Judges and Courts of Justice shall have regard to the practice which has actually prevailed, and shall also, in the absence of evidence or express law to the contrary, presume that what purports to have been done by public authority has been rightly done.

Local extent.
Commence-
ment.

10. This Act extends only to the territories under the government of the Lieutenant-Governor of the North-Western Provinces, and shall come into force at once.