

ACT No. I OF 1881.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 1st January, 1881.)

An Act for the determination of claims to Táj Mahal's pension.

WHEREAS, by a treaty dated the 24th Shabán 1244, Hijri, corresponding with the first day of March, 1829, and made between His Majesty the King of Oudh and the Government of the Hon'ble the East India Company, it was (amongst other things) agreed that a certain pension therein specified should be paid by the English Government to one Nawáb Táj Mahal therein named, and that if she should die leaving an heir or heirs the English Government might at its election continue as before such pension to her heirs, or make over to them the principal sum proportionate to such pension according to the rate thereinbefore mentioned ;

and whereas the said Táj Mahal is now dead and doubts exist as to who are her heirs, and it is therefore expedient to provide for the appointment of a person to represent her estate for the purpose of receiving such pension ;

and whereas the Secretary of State for India in Council is desirous of making over to the persons entitled to receive the said pension the principal sum proportionate thereto as provided in the said treaty, and it is expedient to empower the said Secretary of State in Council to capitalize the said pension pending the appointment

appointment of a person as aforesaid; It is hereby enacted as follows:—

Short title.
Commence-
ment.

1. This Act may be called "Táj Mahal's Pension Act, 1881"; and it shall come into force at once.

Certificate to
be obtained
by applica-
tion to the
District
Court.

2. Any person considering himself entitled to the said pension, or any portion thereof, may apply in writing to the Court of the District Judge of Lucknow (hereinafter called the District Court) for a certificate authorizing him to receive the same.

Form of
application.

The application shall be in such form and shall contain such particulars as the Governor General in Council may from time to time, by rules to be published in the *Gazette of India*, direct.

Publication
of application
and notice
to persons
desiring to
oppose it.

3. The District Court shall fix a day for hearing the application, and shall cause to be stuck up in the court-house, and otherwise published or made known at the expense of the applicant, in such manner as it thinks fit, a copy of the application, with a notice stating the time and place at which it will be heard, and calling upon all persons claiming to have a better right than the applicant to the grant of the certificate to come in and oppose the application.

Procedure at
hearing when
no opposition.

4. On the day so fixed, or any subsequent day to which the Court may adjourn the hearing, the Court shall, if no person claiming to have a better right than the applicant to the grant of the certificate is present, hear the application; and if, after recording the evidence produced by the applicant in support of his claim, and making such further enquiry (if any) as it thinks necessary, the Court is of opinion that the applicant has established his claim, it shall make an order for granting him a certificate.

In the event of the applicant not having, in the opinion of the Court, established his claim, it shall make an order dismissing his application.

Procedure in
case of oppo-
sition.

5. In any case in which any person claiming to have a better right than the applicant to the grant of the certificate is present, the Court shall, after hearing
the

the application and recording the evidence produced by the applicant in support of his claim, hear such person and record the evidence produced by him in support of his claim, and shall then, after making such further enquiry (if any) as it thinks necessary, determine which of the parties (if either) has established his claim to the certificate, and shall make an order for granting the same accordingly.

In the event of neither party having, in the opinion of the Court, established his claim, the Court shall make an order dismissing both the application and the counter-claim.

6. When any order dismissing an application under section four, or any order under section five, is made, an appeal by any party to the proceedings, who deems himself aggrieved by such order, shall lie to the High Court, which may make an order dismissing such appeal or granting a certificate, or otherwise reversing or varying the order of the District Court, as it thinks fit. Appeal to the High Court.

7. The period of limitation for an appeal under section six shall be sixty days from the date of the order appealed against. Period of limitation for appeal.

In computing such period, and in all respects not herein specified, the limitation of such appeals shall be governed by the provisions of the Indian Limitation Act, 1877.

8. A certificate granted under this Act shall specify the payments which the person to whom it is granted is entitled to receive, and shall contain such other particulars as the Governor General in Council may from time to time prescribe in this behalf. Form of certificate.

9. Every certificate granted under section four, or section six, Effect of certificate.

and every certificate granted under section five, when the period of limitation fixed by section seven has expired without an appeal having been preferred against the order granting such certificate,

shall,

shall, while it remains in force, be conclusive evidence against the said Secretary of State in Council of the right of the person to whom it has been granted to receive the payments specified therein, and shall, unless or until it is rescinded and the authority rescinding it has given to the said Secretary of State in Council notice of such rescission, empower such person to give to the said Secretary of State in Council a full discharge for any such payment.

No obligation to pay except on production of certificate.

10. The said Secretary of State in Council shall not be bound to pay the said pension or any portion thereof to any person claiming the same, except on the production by such person of a certificate, granted in the manner herein provided, authorizing him to receive the same.

Right of third parties against holder of certificate saved.

11. Nothing herein contained shall be deemed to affect the right of any person to recover by suit from the holder of a certificate granted under this Act, the amount of any payment made to him in virtue of such certificate.

Court may take security from grantee of certificate.

12. The Court ordering any certificate to be granted under this Act may, if it thinks fit, direct that before such certificate is granted, such security (if any) as it thinks necessary shall be taken from the person to whom such certificate is to be granted, for his rendering an account of the payments to be received by him in virtue of such certificate to any person who may be entitled to recover from him in manner referred to in section eleven, the whole or any part of such payments.

Court may grant fresh certificate to person who has recovered by suit amount paid to holder of old certificate.

13. The District Court may, on the application of any person who has recovered by suit from the holder of a certificate granted under this Act, the amount of any payment made to him in virtue of such certificate, grant a certificate to such person in supersession, wholly or in part, as the case may be, of the former certificate.

No appeal shall lie from any order under this section.

On

On the grant of a fresh certificate under this section the former certificate shall be deemed to be rescinded wholly or in part, as the case may be.

Effect of
fresh
certificate.

14. In all proceedings under this Act the District Court and the High Court shall, as far as may be and except as herein otherwise provided, exercise the powers and follow the procedure conferred on, and prescribed for, a Court of first instance and a Court of appeal, respectively, by the Code of Civil Procedure: Provided that nothing contained in Chapter XLV of the said Code shall apply to any order made in any such proceeding.

Proceedings
to be
regulated by
Code of Civil
Procedure.

15. The provisions of section thirteen of the said Code shall apply to all cases under section five of this Act in which the question of heirship to the said Táj Mahal, having been directly and substantially in issue in a suit in a Court of competent jurisdiction between the claimants, or between parties under whom they or any of them claim, litigating under the same title, has been heard and finally determined by such Court.

Matters
decided in
civil suits to
be treated as
res judicata.

16. All payments heretofore made by or on behalf of the said Secretary of State in Council under the said treaty shall be deemed to have been made in accordance with law: Provided that nothing in this section shall affect the right of any person to recover by suit the amount of any such payment from the person to whom the same has been made.

Indemnity as
to payments
already made.

17. The said Secretary of State in Council may, pending the grant of a certificate as hereinbefore provided, invest in securities of the Government of India the principal sum proportionate to the pension of the said Táj Mahal according to the rate mentioned in the said treaty, and may invest the income from time to time resulting from such securities in like securities.

Government
empowered to
capitalize
the amount
of the
pension.

And, thereupon, all further claim to such pension and income shall cease, and the persons obtaining a certificate in manner hereinbefore provided shall be entitled,

On capital-
ization
all claim to
pension
barred.

entitled, in lieu of such pension and income, to the securities aforesaid, together with the uninvested income (if any) which from the date of making such investment has resulted from such securities.

Arrears of
pension
accruing
before
capitalization
to be
invested.

18. The said Secretary of State in Council shall, without unnecessary delay, invest, in securities of the Government of India, all arrears of such pension due at the time of the passing of this Act, and all such arrears falling due thereafter, and before the investment of the principal sum aforesaid. When any such arrears have been so invested, all further claim in respect thereof shall cease, and the persons obtaining a certificate in manner hereinbefore provided shall, in lieu of such arrears, be entitled to the securities in which they have been invested and the income resulting therefrom.