

THE CENTRAL PROVINCES GOVERNMENT  
WARDS ACT, 1885.

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ACT NO. XVII OF 1885.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 9th October, 1885.)

An Act to make better provision for the Superintendence of Government Wards in the Central Provinces.

WHEREAS it is expedient to make better provision for the superintendence of Government wards in the Central Provinces; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Central Provinces Government Wards Act, 1885.

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

(3) It shall come into force at once.

Repeal.

2. Bengal Regulations LII of 1803 (*for establishing a Court of Wards in the Provinces ceded by the Nawáb Vizier to the Honourable the English East India Company*) and VI of 1822 (*to establish a Court of Wards for Benares, and to define and explain certain of the rules regarding the powers and jurisdiction of the several Courts of Wards*), and section 14 of Act XL of 1858 (*for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal*) shall, so far as they are in force in the whole or any part of the territories to which this Act extends, be repealed.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "Government ward" means any person of whose

(Sections 4-7.)

whose property, or of whose person and property, the Court of Wards may, for the time being, have the superintendence under this Act:

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V of 1874.

(2) "Landholder" means a málguzár as defined in the Central Provinces Land-revenue Act, 1881, and the zamíndár of any zamíndári specified in Part VI of the first schedule of the Scheduled Districts Act, 1874, and includes a muáfídár, jagírdár, ubáridár 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 Chief Commissioner, with the previous sanction of the Governor General in Council, has declared the members to be landholders for the purposes of this Act: and

(3) "Land" includes the rights of a landholder in respect of the land of which he is the málguzár or zamíndár or the muáfídár, jagírdár, ubáridár or other assignee of land-revenue, or in which he is interested.

4. The Deputy Commissioner shall be the Court of Wards for the limits of his district.

Deputy Commissioner to be Court of Wards.

5. Every landholder shall be under the jurisdiction of the Court of Wards.

Landholders to be under jurisdiction of Court of Wards.

6. The Court of Wards may, with the previous sanction of the Chief Commissioner, assume the superintendence of the property of any landholder owning land within the local limits of its jurisdiction who is disqualified to manage his own property.

Superintendence by Court of Wards of property of disqualified landholder.

7. (1) The following persons shall, for the purposes of the last foregoing section, be deemed to be disqualified to manage their own property, namely:—

Cases in which landholders to be deemed disqualified.

- (a) minors who have not guardians appointed for their property by will;
- (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 Chief Commissioner

to

(Sections 8-10.)

to be incapable of managing their own property—

- (i) owing to any physical defect or infirmity,
- (ii) owing to their having been convicted of a non-bailable offence, and being unfitted by vice or bad character,
- (iii) owing to their being females, or
- (iv) on their own application.

(2) Every declaration made by the Chief Commissioner under clause (c) of this section shall be final, and shall not be questioned in any Civil Court.

Superintendence by Court of Wards of person of disqualified landholder.

8. When the Court of Wards assumes the superintendence of the property of a minor who has not a guardian appointed for his person by will, 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 Chief Commissioner, 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.

Superintendence where disqualified landholder owns land within jurisdiction of two Courts of Wards.

9. Where a landholder owns land within the local limits of the jurisdiction of two or more Courts of Wards, such one only of the Courts as the Chief Commissioner may in this behalf determine shall assume the superintendence of the property, or of the person and property, of the landholder.

Superintendence of Court of Wards not challengeable on ground that ward is not a landholder or minor.

10. When the Court of Wards has, with the sanction of the Chief Commissioner, assumed the superintendence of the property of any person, or of his person and property, its authority shall not be contested in any Civil Court on the ground that he was not or is not a landholder or was not or is not a minor.

11. Subject

(Sections 11-14.)

11. Subject to the rules made under this Act, the Court of Wards may appoint, suspend and remove a manager of the property of any Government ward under its superintendence, and may delegate to the manager all or any of its functions in relation to any property under this Act.

Appointment, &c., of managers by Court of Wards.

12. (1) Every manager appointed by the Court of Wards shall—

Liabilities, &c., of managers and other servants of Court of Wards.

- (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; 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.

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13. 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, and may control and remove guardians whom it has appointed.

Power for Court of Wards to appoint guardians of certain Government wards. General powers of Court of Wards.

14. Subject to the provisions of this Act and of the rules made under this Act, 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

(Sections 15-19.)

as the owner of the property, if not disqualified, 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.

Custody, education and residence of certain Government wards.

15. The Court of Wards may pass such orders as to it seems 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.

Allowance for Government ward and his family.

16. 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.

Duties of Court of Wards or manager.

17. 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.

Powers of Court of Wards as to property of Government wards.

18. 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 Chief Commissioner, 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.

Manager or Court of Wards to be next friend or guardian in suits by or against Government ward.

19. 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

(Sections 20-23.)

named as next friend or guardian for the suit, as the case may be.

20. If, in any suit brought by or against a Government ward, any Civil Court decrees any costs against the 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.

Payment of costs.

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

Processes against Government ward to be served on next friend or guardian.

22. No suit shall be brought on behalf of any Government ward unless it is authorized by some order of the Court of Wards :

Authority of Court of Wards required in case of suits brought on behalf of Government 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.

23. (1) A Government ward shall be incompetent to transfer or create any charge on, or interest in, his property or any part thereof, or to enter into any contract which may involve him in pecuniary liability.

Disabilities of a Government ward.

(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 he shall not incur, in connection therewith, 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.

24. No



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(Sections 24-27.)

Consent of Chief Commissioner necessary to adoptions by Government wards.

24. No adoption by any Government ward, and no written or verbal permission to adopt given by any Government ward, shall be valid without the consent of the Chief Commissioner obtained either previously or subsequently to the adoption, or to the giving of the permission, on application made to him through the Court of Wards.

Procedure when succession to Government ward's property is disputed.

25. Whenever, on the death of any Government ward, the succession to his property or any part thereof is disputed, the Court of Wards may either direct that the property or part thereof be made over to any person claiming the property, or may retain the superintendence of the property until one of the claimants has established his claim to the same in a competent Civil Court.

Withdrawal of superintendence of Court of Wards.

26. (1) The Court of Wards may, with the sanction of the Chief Commissioner, 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 7, he attains his majority;
- (b) in the case of a person disqualified under clause (b) of that section, he ceases to be of unsound mind and incapable of managing his affairs; and
- (c) in the case of a person disqualified under sub-clause (i) of clause (c) of that section, his physical defect or infirmity is removed or ceases.

(2) When any question arises 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 this section, the decision of the Chief Commissioner thereon shall be final and shall not be questioned in any Civil Court.

Appeals.

27. An appeal shall lie from every order of the Court of Wards under this Act to the Commissioner of  
of

(Sections 28-30.)

of the division, and from every order of the Commissioner to the Chief Commissioner.

28. All orders or proceedings of the Court of Wards and of the Commissioner of the division under this Act shall be subject to the supervision and control of the Chief Commissioner; and the Chief Commissioner may, if he thinks fit, revise, modify or reverse any such order or proceeding, whether an appeal is presented against any such order or proceeding or not.

Control of  
Chief Com-  
missioner.

29. The exercise of any discretion conferred on a Court of Wards, a Commissioner of a division or the Chief Commissioner by this Act shall not be called in question in any Civil Court.

Exercise of  
discretion  
not to be  
questioned  
in Civil  
Court.

30. (1) The Chief Commissioner may, from time to time, make rules consistent with this Act to—

Power for  
Chief Com-  
missioner to  
make rules.

- (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) limit the functions which the Court of Wards may delegate to a manager;
- (d) 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 Chief Commissioner or for that of the Commissioner of the division;
- (e) prescribe the accounts and other returns which, and the periods and form at and in which, they shall be rendered by managers to the Court of Wards and by the Court of Wards to the Commissioner of the division;
- (f) regulate the custody of securities and title-deeds belonging to the estate or property of a Government ward;

(g) regulate

- (g) regulate the procedure in inquiries by the Court of Wards and in appeals from orders of the Court of Wards or the Commissioner of the division respectively under this Act;
- (h) 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;
- (i) prescribe the mode in which powers delegated to managers are to be notified for the information of persons concerned; and
- (j) generally prescribe the manner in which the powers and duties of the Court of Wards under this Act shall be exercised and performed.

(2) All rules made under this section shall be published in the local official Gazette, and shall thereupon have the force of law.