

ACT No. VIII OF 1903.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 20th March, 1903.)

An Act to extend to all High Courts the power to grant Probates of Wills and Letters of Administration having effect throughout British India, and to confer upon District Judges the power to grant such probates in certain cases.

WHEREAS it is expedient to extend to all High Courts the power to grant probates of wills and letters of administration having effect throughout British India, and to confer upon District Judges the power to grant such probates in certain cases; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Probate and Administration Act, 1903.

The Indian Succession Act, 1865.

Amendment
of sections
187, 242,
242A, 244,
246 and 250,
Act X, 1865.

2. In the Indian Succession Act, 1865, the following amendments shall be made, namely:— X of 1865.

(1) In section 187, for the words "within the Province" the words "in British India," and for the words "under the one hundred and eightieth section" the words "with the will, or with a copy of an authenticated copy of the will, annexed," shall respectively be substituted.

(2) To section 242 the following proviso shall be added, namely:—

"Provided that probates and letters of administration granted—

(a) by a High Court, or

(b) by

- (b) by a District Judge, where the deceased at the time of his death had his fixed place of abode situate within the jurisdiction of such Judge, and such Judge certifies that the value of the property and estate affected beyond the limits of the Province does not exceed ten thousand rupees,

shall, unless otherwise directed by the grant, have like effect throughout the whole of British India."

(3) After the said proviso the following section shall be inserted, namely:—

"242A. (1) Where probate or letters of administration has or have been granted by a High Court or District Judge with the effect referred to in the proviso to section 242, the High Court or District Judge shall send a certificate thereof to the following Courts, namely:—

Transmission to High Courts of certificate of grants under proviso to section 242.

- (a) when the grant has been made by a High Court, to each of the other High Courts,
- (b) when the grant has been made by a District Judge, to the High Court to which such District Judge is subordinate and to each of the other High Courts.

(2) Every certificate referred to in sub-section (1) shall be to the following effect, namely:—

'I, A. B., Registrar [or as the case may be] of the High Court of Judicature at [or as the case may be], hereby certify that on the day of , the High Court of Judicature at [or as the case may be] granted probate of the will [or letters of administration of the estate] of C. D., late of , deceased, to E. F. of and G. H. of and that such probate [or letters] has [or have], effect over all the property of the deceased throughout the whole of British India ;'

and such certificate shall be filed by the High Court receiving the same.

(3) Where any portion of the assets has been stated

stated by the petitioner, as hereinafter provided in sections 244 and 246, to be situate within the jurisdiction of a District Judge in another Province, the Court required to send the certificate referred to in sub-section (1) shall send a copy thereof to such District Judge, and such copy shall be filed by the District Judge receiving the same."

(4) To sections 244 and 246, respectively, the following paragraph shall be added, namely :—

" Where the application is to the District Judge and any portion of the assets likely to come to the petitioner's hands is situate in another Province, the petition shall further state the amount of such assets in each Province and the District Judges within whose jurisdiction such assets are situate."

(5) After section 246 the following section shall be inserted, namely :—

Addition to statement in petition, etc., probate or letters of administration in certain cases.

"246A. (1) Every person applying to any of the Courts mentioned in the proviso to section 242 for probate of a will or letters of administration of an estate intended to have effect throughout British India, shall state in his petition, in addition to the matters respectively required by section 244 and section 246 of this Act, that to the best of his belief no application has been made to any other Court for a probate of the same will or for letters of administration of the same estate, intended to have such effect as last aforesaid,

or, where any such application has been made, the Court to which it was made, the person or persons by whom it was made and the proceedings (if any) had thereon.

(2) The Court to which any such application is made under the proviso to section 242, may, if it thinks fit, reject the same."

(6) To section 250 the following paragraph shall be added, namely :—

" Where any portion of the assets has been stated by the petitioner to be situate within the jurisdiction
of

of a District Judge in another Province, the District Judge issuing the same shall cause a copy of the citation to be sent to such other District Judge, who shall publish the same in the same manner as if it were a citation issued by himself and shall certify such publication to the District Judge who issued the citation."

(7) After section 277 the following section shall be inserted, namely:—

"277A. In all cases where a grant has been made of probate or letters of administration intended to have effect throughout the whole of British India, the executor or administrator shall include in the inventory of the effects of the deceased all his moveable or immoveable property situate in British India, and the value of such property situate in each Province shall be separately stated in such inventory, and the probate or letters of administration shall be chargeable with a fee corresponding to the entire amount or value of the property affected thereby wheresoever situate within British India."

Inventory to include property in any part of British India in certain cases.

The Probate and Administration Act, 1881.

V of 1881.

3. In the Probate and Administration Act, 1881, the following amendments shall be made, namely:—

(1) In section 59, for the proviso the following proviso shall be substituted, namely:—

"Provided that probates and letters of administration granted—

(a) by a High Court, or

(b) by a District Judge, where the deceased at the time of his death had his fixed place of abode situate within the jurisdiction of such Judge, and such Judge certifies that the value of the property affected beyond the limits of the Province does not exceed ten thousand rupees,

shall, unless otherwise directed by the grant, have like effect throughout the whole of British India."

(2) For

Amendment of sections 59, 60, 62, 64 and 69, Act V, 1881.

(2) For section 60 the following section shall be substituted, namely :—

Transmission to High Courts of certificates of grants under proviso to section 59.

“ 60. (1) Where probate or letters of administration has or have been granted by a Court with the effect referred to in the proviso to section 59, the High Court or District Judge shall send a certificate thereof to the following Courts, namely :—

- (a) when the grant has been made by a High Court, to each of the other High Courts,
- (b) when the grant has been made by a District Judge, to the High Court to which such District Judge is subordinate and to each of the other High Courts.

(2) Every certificate referred to in sub-section (1) shall be to the following effect, namely :—

‘ I, A. B., Registrar [or as the case may be] of the High Court of Judicature at [or as the case may be], hereby certify that on the day of the High Court of Judicature at [or as the case may be] granted probate of the will [or letters of administration of the estate] of C. D., late of , deceased, to E. F. of and G. H. of , and that such probate [or letters] has [or have] effect over all the property of the deceased throughout the whole of British India ;’

and such certificate shall be filed by the High Court receiving the same.

(3) Where any portion of the assets has been stated by the petitioner, as hereinafter provided in sections 62 and 64, to be situate within the jurisdiction of a District Judge in another Province, the Court required to send the certificate referred to in sub-section (1) shall send a copy thereof to such District Judge, and such copy shall be filed by the District Judge receiving the same.”

(3) To sections 62 and 64, respectively, the following paragraph shall be added, namely :—

“ When the application is to the District Judge and any portion of the assets likely to come to the petitioner’s

petitioner's hands is situate in another Province, the petition shall further state the amount of such assets in each Province and the District Judges within whose jurisdiction such assets are situate."

(4) To section 69 the following paragraph shall be added, namely :—

"Where any portion of the assets has been stated by the petitioner to be situate within the jurisdiction of a District Judge in another Province, the District Judge issuing the same shall cause a copy of the citation to be sent to such other District Judge, who shall publish the same in the same manner as if it were a citation issued by himself and shall certify such publication to the District Judge who issued the citation."

Repeals.

XIII of 1875 4. The Probate and Administration Act, 1875, Repeals.
sections 2, 3, 4 and 5, and the Probate and Adminis-
II of 187. tration Act, 1877, are hereby repealed.