

The Court of Wards Act, 1879

(ACT NO. IX OF 1879)

¹♣ An Act to amend the law relating to the Court of Wards.

WHEREAS it is expedient to amend the law relating to the Court of Wards in [Bangladesh].

It is enacted as follows:-

PART I

PRELIMINARY

- Short title** 1. This Act may be called the Court of Wards Act, 1879:
- Extent** It extends to the whole of ²[Bangladesh].
- [Omitted]** 2. [Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).]
- Interpretation** 3. In this Act, unless there be something repugnant in the subject or context,-
- "Civil Court" includes the ³[High Court Division] in the exercise of its ⁴[* * *] extraordinary original civil jurisdiction or its civil appellate or revisional jurisdiction;
- "Collector" includes a Deputy Commissioner and any officer in-charge of the revenue-jurisdiction of a district;
- "the Court" means the Court of Wards;
- or, when the Court of Wards has delegated any of its powers to a ⁵[* * *] ⁶[Commissioner or Collector] or any other person, it means, in respect of such powers, the ⁷[* * *] ⁸[Commissioner or Collector] or person to whom they are delegated:

"estate" means all lands which are borne on the revenue-roll of a Collector as liable for the payment of one and the same demand of land-revenue and includes a share in or of an estate other than an undivided share held in coparcenary as the property of a Hindu joint family governed by the Mitakshara or Mithila law:

"minor" means a person who has not completed his age of ⁹[eighteen years]:

"section" means a section of this Act:

"ward" means any person who is under the charge of the Court of Wards, or whose property is under such charge.

[Omitted]

4. [Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).]

PART II

CONSTITUTION, JURISDICTION AND POWERS OF THE COURT OF WARDS

Constitution and general duties of Court of Wards

5. The ¹⁰[Board of Land Administration] shall be the Court of Wards for the territories to which this Act extends. It shall deal with every person and every property of which it may take or retain charge under this Act, or which may be placed under its charge by order of a competent Court, in accordance with the provisions of this Act.

Disqualified proprietors

6. Proprietors of estates shall be held disqualified to manage their own property when they are-

(a) females declared by the Court incompetent to manage their own property;

(b) persons declared by the Court to be minors;

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

(d) persons adjudged by a competent Civil Court to be otherwise rendered incapable by physical defects or infirmities of managing their own property;

(e) persons as to whom the Court has declared that they are disqualified, and that it is expedient in the public interest that their estates should be managed by the Court.

Jurisdiction of Court over disqualified proprietors

7. Whenever the sole proprietor of an estate, or all the joint proprietors of an estate are disqualified as provided in the last preceding section, the Court shall have power to take charge of all the property of every such proprietor or joint proprietor within its jurisdiction, and of the person of any such proprietor or joint proprietor who is resident within its jurisdiction; and also of the person and property of any minor member of the family of any such proprietor or joint proprietor who has an immediate or reversionary interest in the property of such proprietor or joint proprietor:

Provided that the Court shall not be empowered to take charge of the person of a proprietor disqualified under clause (e) of section 6.

Court when bound to give up charge

8. Whenever the circumstances of any ward become such that the Court could not take charge of him or of his property if he were not under its charge already, the Court shall be bound to release from its charge such person and his property.

Charge of Court in case of acquisition under E. B. Act XXVIII of 1951

¹¹[8A. If the rent-receiving interests of a ward in any estate under the charge of the Court are acquired under the provisions of the ¹²[* * *] State Acquisition and Tenancy Act, 1950, then, notwithstanding anything contained elsewhere in this Act, the remaining properties of such ward including khas lands under the charge of the Court shall continue to remain under its charge and shall be managed in accordance with the provisions of this Act, as if such ward were a disqualified proprietor of an estate.

Explanation - In this section "khas land" has the same meaning as in clause (15) of section 2 of the ¹³[* * *] State Acquisition and Tenancy Act, 1950.]

Discretion of Court as to taking

9. The Court may in its discretion, in any case in which it is empowered by this Act to take charge of the person and property of any disqualified

**and
keeping
charge**

proprietor,-

- (a) take charge of such property without taking charge of such person;
- (b) refrain from taking charge of any such person or property;
- (c) at any time withdraw from such charge, if taken;
- (d) at any time resume such charge, after having withdrawn from it.

**Effect of
withdrawal
from charge**

¹⁴[9A. When the Court of Wards withdraws from the charge of such property it shall publish, in the manner provided in section 64A, a notice of the termination of the charge and thereupon subject to the provisions of clause 3 of section 23-

- (a) such charge shall terminate with effect from the date fixed in accordance with the provisions of section 65;
- (b) the owner of the said property shall be restored to the possession thereof from the said date subject to any order made by a Civil Court and to any contracts entered into by the Court of Wards for the preservation or benefit of such property.]

**Application
by Civil
Court to
Court of
Wards to
take charge**

10. Whenever a Civil Court is satisfied that an order should be made under section 7 of the Guardians and Wards Act, 1890, appointing a guardian of the person or property of a minor, or both;

Whenever a Civil Court removes, under section 39 of the same Act, the guardian of minor,

or whenever a person has been adjudged, under the Lunacy Act, 1912, to be of unsound mind and incapable of managing his affairs,

if the property of such minor or disqualified proprietor consists, in whole or in part, of land or any interest in land, the Civil Court may apply to the Court of Wards to take charge of the person and property of such minor or disqualified proprietor; and it shall be at the discretion of the Court of Wards to take charge of such person or property, or to refuse to do so.

Nothing contained in sections 73 to 81 (both inclusive) of the Lunacy Act, 1912, shall be held to apply to persons or properties under the charge of the Court of Wards.

**Notice to
creditors.**

15[10A.(1) Wherever the Court of Wards assumes charge of any person or property under section 7 or section 10, it shall publish, in the manner provided in section 64A, a notice calling upon all creditors having claims against the ward of his immovable property to submit the same in writing to the Court, at a place to be named in the notice, within six months from the date of the publication of the notice aforesaid:

Provided that if a suit or proceeding in respect of a claim is pending in any Civil Court at the date of the publication of such notice, intimation of that facts shall be given by the creditor concerned to the Court of Wards within the period aforesaid and notice of the decision of the Civil Court in respect of such claim shall also be given to the Court of Wards within three months after the final disposal of such suit or proceeding.

(2) Every such claim (other than a claim on the part of the Government) not submitted to the Court in compliance with the provisions of sub-section (1), shall, notwithstanding any law,

contract, decree or award to the contrary, cease to carry interest from the date of the expiry of the period for submission of the claim or in any case where a suit or proceeding in respect of a claim is pending in any Civil Court, the period of three months after the final disposal of such suit or proceeding referred to in the said sub-section:

Provided that, if the Court is satisfied that the creditor was prevented by any sufficient cause from complying with the provisions of sub-section (1), it may consider and allow, either wholly or in part, his claim for interest at any time after the date of the expiry of the period aforesaid.

**Creditors to
furnish full
particulars
and
documents**

10B.(1) Every creditor submitting his claim in compliance with the provisions of sub-section (1) of section 10A shall furnish, along with his written statement of claim, full particulars thereof; and shall, within such time as the Court may appoint, produce all documents which are in his possession, power or control, including entries in books of account, on which he relies to support his claims, together with a true copy of every such document.