

THE COURT OF WARDS ACT, 1879CONTENTS**PART I**

PRELIMINARY

SECTIONS

1. Short title
Extent
Commencement [*Repealed*]
2. [*Omitted*]
3. Interpretation
4. [*Omitted*]

PART IICONSTITUTION, JURISDICTION AND POWERS OF
THE COURT OF WARDS

5. Constitution and general duties of Court of Wards
6. Disqualified proprietors
7. Jurisdiction of Court over disqualified proprietors
8. Court when bound to give up charge
- 8A. Charge of Court in case of acquisition under E. B. Act XXVIII of 1951
9. Discretion of Court as to taking and keeping charge
- 9A. Effect of withdrawal from charge
10. Application by Civil Court to Court of Wards to take charge

SECTIONS

- 10A. Notice to creditors
- 10B. Creditors to furnish full particulars and documents
- 10C. Bar to certain proceedings
- 10CC. Special limitation for suits against wards
- 10D. Adjudication of claims
- 10E. *[Repealed]*
- 11. Procedure when any of the joint proprietors ceases to be disqualified or any person becomes entitled to property jointly with a disqualified proprietor
- 12. Withdrawal from charge by Court
- 13. Procedure when succession to property of ward disputed
- 13A. Power of Court to retain charge of property of disqualified proprietor until discharge of debt
- 14. General powers of Court
- 15. Exercise through others of powers conferred on Court. Delegation of powers
- 16. Establishments and expenses
- 17. *[Repealed]*
- 18. Power to manage property
- 18A. Delivery of possession of property and bar to interference by Civil Courts
- 19. When Court may order property to be formed into separate estate
- 20. Appointment of managers and guardians

SECTIONS

21. Custody, education and residence of wards
22. Allowance for ward and his family

PART III

PROTECTION FROM SALE OF CERTAIN ESTATES

23. Clause 1.— Estate under charge of Court exempt from sale
Clause 2.— Recovery of arrears of revenue, etc., due at the time when property ceases to be under charge of Court
Clause 3.— Administration of property by trustees on withdrawal from charge by the Court of Wards
- 23A. Conditions under which estate may be sold for arrear of revenue accrued under Court
24. Restriction on sale for arrears of revenue of estate belonging to minor.
Power of Collector to attach such estate
25. Section 24 not to apply unless notice given
26. Application of proceeds of estate farmed under section 24

PART IV

ASCERTAINMENT OF DISQUALIFICATION

27. Procedure for ascertaining and declaring disqualification
28. Power to enforce provisions of Act without report
29. Powers of Collector as to preservation of property on death of a proprietor whose heirs should be declared disqualified. Recovery of expenses if property, is not taken under charge of Court.
30. Production of minor proprietor, and order for his temporary custody

SECTIONS

31. Application to Civil Court in case of lunatics
32. Application to Civil Court to make inquiry regarding disqualification on ground of physical defect or infirmity
33. *[Omitted]*
34. Powers and duties of Courts when inquiry is instituted under section 32
- 34A. Recovery of expenses incurred by Collector under sections 31 to 33

PART V

PROCEDURE AFTER ASCERTAINMENT OF DISQUALIFICATION

35. Order declaring person or property to be under charge of Court
36. Collector to take possession of movable property
37. Additional powers of Collector

PART VI

MANAGEMENT AND GUARDIANSHIP

38. Collector when to be deemed manager
39. Powers of manager
40. General duties of manager
41. Specific duties of manager
42. General duties of guardian.
43. Specific duties of guardian
44. Exclusion of certain interested persons from guardianship
45. Who to be guardian of female ward

SECTIONS

- 46. Recovery of sums due to the Court
- 47. Court may order guardian or manager to make over property
- 48. Application of moneys received by the manager
- 49. Disposal of surplus moneys
- 50. Power to invest surplus

PART VII

SUITS

- 51. Manager or Collector to be next friend or guardian in suits by or against ward
- 52. Power of Court of Wards to nominate another person to be next friend or guardian for suit
- 53. Payment of costs
- 54. Service of process against wards
- 55. Suits not to be brought on behalf of wards unless authorised by the Court of Wards
- 55A. Indemnity
- 56. [*Repealed*]

PART VIII

PENALTIES

- 57. For disobeying certain orders of Collector
- 58. For disobeying orders under section 47
- 58A. Penalty on farmer neglecting to furnish accounts, etc.
- 59. For disobeying order of Court

SECTIONS

59A. Persons employed by Court to be "public servants"

PART IX

MISCELLANEOUS

60. Disabilities of wards

60A. Exemption of wards' property from execution proceedings in certain cases

60B. Certain persons to be deemed to be wards

61. Adoption by ward invalid without consent of Government

62. *[Repealed]*

63. Recovery of interest on arrears of rent

64. Record of reasons when penalty imposed under section 57 or 58

64A. Publication of notices

65. Procedure when Court's jurisdiction ceases

65A. Recovery of expenses after release of property

66. Judicial powers of Collector in making inquiries

67. Appeals

68. Control by Court

69. *[Omitted]*

70. Power to Court to make rules

THE COURT OF WARDS ACT, 1879

ACT NO. IX OF 1879

[30th July, 1879]

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 ¹[Bangladesh].

It is enacted as follows:—

PART I

PRELIMINARY

1. This Act may be called the Court of Wards Act, 1879: Short title

It extends to the whole of ¹[Bangladesh]. Extent

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

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

"Civil Court" includes the ²[High Court Division] in the exercise of its ³[* * *] extraordinary original civil jurisdiction or its civil appellate or revisional jurisdiction; "Civil Court"

* Throughout this Act, except otherwise provided, the word "Government" was substituted, for the words "Provincial Government" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

¹ The word "Bangladesh" was substituted, for the words "East Pakistan" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The words "High Court Division" were substituted, for the words "High Court of East Pakistan" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

³ The words "ordinary and" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

“Collector and Deputy commissioners”	“Collector” includes a Deputy Commissioner and any officer in-charge of the revenue-jurisdiction of a district;
“The Court”	<p>“the Court” means the Court of Wards;</p> <p>or, when the Court of Wards has delegated any of its powers to a ¹[* * *]²[Commissioner or Collector] or any other person, it means, in respect of such powers, the ¹[* * *]²[Commissioner or Collector] or person to whom they are delegated:</p>
“Estate”	“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 <i>Mitakshara or Mithila</i> law:
“Minor”	“minor” means a person who has not completed his age of ³ [eighteen years]:
“Section”	“section” means a section of this Act:
“Ward”	“ward” means any person who is under the charge of the Court of Wards, or whose property is under such charge.

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

PART II
CONSTITUTION, JURISDICTION AND POWERS OF
THE COURT OF WARDS

Constitution and general duties of Court of Wards	5. The ⁴ [Board of Land Administration] shall be the Court of Wards for the territories to which this Act extends.
---	--

¹ The words "Commissioner or" were omitted by Article 4 and Schedule of the Bangladesh Laws (Repealing and Amending) Order, 1973 (President's Order No. 12 of 1973).

² The words "Commissioner or Collector" were substituted, for the word "Collector" by section 2 and Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976).

³ The words "eighteen years" were substituted, for the words "twenty-one years" by section 2 of the Court of Wards (Amendment) Act, 2006 (Act No. II of 2006).

⁴ The words "Board of Land Administration" were substituted, for the word "Government" by section 4 and Schedule of the Bangladesh Laws (Amendment) Ordinance, 1982 (Ordinance No. XLI of 1982).

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.

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

- (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.

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: Jurisdiction of Court over disqualified proprietors

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

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. Court when bound to give up charge

Charge of Court in case of acquisition under E. B. Act No. XXVIII of 1951

¹**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 ²[* * *] 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 ²[* * *] State Acquisition and Tenancy Act, 1950.]

Discretion of Court as to taking and keeping charge

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 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

³**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.]

¹ Section 8A was inserted by section 2 of the East Bengal Court of Wards (Amendment) Act, 1952 (Act No. X of 1952).

² The words "East Bengal" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

³ Section 9A was inserted by section 2(1) of the Bengal Court of Wards (Amendment) Act, 1935 (Act No. I of 1935).

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;

Application by Civil Court to Court of Wards to take charge

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.

¹[**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:

Notice to creditors

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,

¹ Sections 10A, 10B, 10C, 10CC and 10D were substituted, for sections 10A, 10B, 10C, 10CC and 10D by section 3(1) of the Bengal Court of Wards (Amendment) Act, 1935 (Act No. VI of 1936).

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.

(2) The Court shall, after marking, for the purpose of identification, every original document so produced, and verifying the correctness of the copy, retain the copy and return the original to the creditor.

(3) If any document, which to the knowledge of the creditor is in his possession, power or control, is not produced by him as required by sub-section (1), the document shall not be admissible in evidence against the ward, whether during the continuance of the management or afterwards, in any suit brought by the creditor or by any person claiming under him in respect of such claim, unless good cause be shown, to the satisfaction of the Civil Court entertaining the suit for the non-production of the document as required by sub-section (1).

Bar to certain
proceedings

10C. (1) [*Omitted by the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973), section 3 and 2nd Schedule.*]

(2) Except as provided in section 23A, no property in charge of the Court of Wards shall be sold by any revenue authority under any law so long as the Court remains in charge thereof.

10CC. In calculating the period of limitation applicable to a suit against a ward, a period of four years shall be added to the period of limitation allowed by law.

Special
limitation
for suit against
wards

10D. (1) On receipt of all claims submitted in compliance with the provisions of sections 10A and 10B, the Court shall proceed to investigate such claims, and shall decide which of them are to be wholly or partly admitted or wholly or partly rejected, as the case may be, and shall communicate its decision in writing to each claimant concerned.

Adjudication of
claims

(2) When the Court has admitted any claim under sub-section (1), it may make to the creditor a proposal in writing for the reduction of the claim, or of the rate of interest to be paid in future, or of both; and, if such proposal, or any modification of it, is accepted by the creditor and his acceptance is finally recorded and attested by the Court, it shall be conclusively binding upon the creditor and upon the ward.

(3) Subject to the provisions of sub-section (2), nothing in this section shall be construed to bar the institution of a suit in a Civil Court for the recovery of a claim against a ward or his property which has been submitted to the Court of Wards:

Provided that no decision of the Court of Wards under this section shall be proved in any such suit as against the defendant.

(4) In calculating the period of limitation applicable to suits for the recovery of a claim which has been submitted to the Court of Wards the period from the date of submission of the claim up to the date of the communication of the Court's decision thereon to the creditor shall be excluded.]

10E. [*Repealed by section 7 of the Bengal Court of Wards (Amendment) Act, 1935 (Bengal Act No. VI of 1936).*]

11. The Court of Wards may retain charge of the whole of the property of any joint proprietors disqualified under section 6 of which the Court has taken charge under section 7, or of any property of which the Court has taken charge under section 10, notwithstanding the fact that a joint proprietor, or some joint proprietors, of such property has or have ceased to be subject to the jurisdiction of the Court or that any person has become entitled to such property or any part thereof jointly with any disqualified proprietor:

Procedure when
any of the joint
proprietors
ceases to be
disqualified or
any person
becomes
entitled to
property
jointly with a
disqualified
proprietor

Provided that if the share of such proprietor or person is duly partitioned the Court shall, subject to the provisions of section 13A, release such partitioned share:

Provided further that if the disqualified joint proprietor be the manager of a *Mitakshara* joint family the Court shall, on his ceasing to be so disqualified and on application being made by him in this behalf, release the property.

Withdrawal
from charge by
Court

12. The Court of Wards may at any time withdraw from the charge of any person and property taken under section 10¹[* * *] or under any other enactment for the time being in force:

Provided that it shall give notice of its intention to withdraw to the Civil Court concerned, and that such notice shall be given not less than two months before the Court of Wards shall so withdraw.

Procedure when
succession to
property of
ward disputed

13. Whenever, on the death of any ward, the succession to his property or any part thereof is in dispute, the Court may either direct that such property or part thereof be made over to any person claiming such property, or may retain charge of the same until the right to possession of the claimant has been determined under Act VII of 1876 or under the Assam Land and Revenue Regulation, 1886, as the case may be, or until the dispute has been determined by a competent Civil Court.

Power of Court
to retain charge
of property of
disqualified
proprietor until
discharge of
debt

²[**13A.** If, when any disqualified proprietor dies, or ceases to be disqualified within the meaning of this Act, there remain undercharged any debts or liabilities which were incurred by, or are due from, such proprietor, or which are a charge upon his property or any part thereof or any liabilities which were incurred by the Court for the benefit of the property of such proprietor,

¹ The words, figures, comma and letters "and from the charge of any person or property which either before or after the commencement of the Collector by a Civil Court under section 12, section 14 or section 21 of Act XL of 1858 or under section 11 of Act XXXV of 1858" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² Section 13A was substituted, for section 13A by section 10(2) of Bengal Court of Wards (Amendment) Act, 1935 (Act No. VI of 1936).

then, notwithstanding anything contained in the fore-going sections, the Court may either withdraw from the charge of such property or retain such charge until such debts and liabilities, as the Court considers necessary to be discharged, together with all interest due thereon, have been discharged:

Provided that, after the death of a proprietor, the Court shall not retain charge on account of any debt or liability which has been declared by a competent Civil Court not to be binding on his representative.]

14. Subject to the provisions of this Act, the Court-

General powers of Court

- (a) may, through its manager, do all such things requisite for the proper care and management of any 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 Civil Court, as the proprietor of any such property, if not disqualified, might do for its care and management, and
- (b) may, in respect of the person of any ward, do all such things as might be lawfully done by the legal guardian of such ward.

15. The Court may exercise all or any powers conferred on it by this Act ¹[through the Commissioners of the Divisions and the Collectors] of the districts in which any part of the property of the disqualified proprietor may be situated, or through any other person whom it may appoint for such purpose.

Exercise through others of powers conferred on Court

The Court may, from time to time delegate any of its powers ²[to such Commissioners or Collectors] or other person as aforesaid, and may at any time, revoke such delegation.

Delegation of powers

16. The Court may from time to time order such establishments to be entertained and expenses to be incurred as it shall consider requisite for the care and management of the persons and properties under its charge, for superintendence,

Establishments and expenses

¹ The words "through the Commissioners of the Divisions and the Collectors" were substituted, for the words "through the Collectors" by Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976).

² The words "to such Commissioners or Collectors" were substituted, for the words "to such Collectors" by Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976).

for the audit of accounts, and generally for all purposes of this Act; and may order that such expenses, inclusive of all salaries, gratuities and payments on account of the leave-allowances of such establishments, be charged against any one or more properties for the purposes of which such establishments are, or have been, entertained or such expenses have been incurred.

17. [*Repealed by the Government Management of Private Estates Act, 1892 (Act No. X of 1892).*]

Power to
manage
property

18. The Court may sanction the giving of leases or farms of the whole or part of any property under its charge, and may direct the mortgage, sale or transfer by way of gift the whole or part of such property, and may direct the doing of all such other acts as it may judge to be most for the benefit of the property and the advantage of the ward.

Delivery of
possession of
property and bar
to interference
by Civil Courts

¹[**18A.** (1) When the Court directs the mortgage, sale or transfer by way of gift the whole or part of any property under its charge, it may require any person including any ward in occupation of such property, to deliver vacant possession of such property to the Court within such time as may be specified in the order.

(2) If any person who has been required under sub-section (1) to deliver the vacant possession of any property to the Court refuses or fails to deliver vacant possession of such property in his occupation within the time fixed by the Court, then, notwithstanding anything contained in any other law for the time being in force, it shall be lawful for the Court to enter upon such property and to recover possession of the same by evicting the person in occupation of such property.

(3) For the purpose of recovering *khas* possession of any property under sub-section (2), the District Magistrate may use or cause to be used such force as may be necessary for the purpose of evicting any such person at the request of the Court.

(4) No Civil Court shall entertain any suit or legal proceedings concerning any matter relating to the recovery of *khas* possession of any property under this section or pass in any such suit or proceeding an order granting temporary or interim injunction restraining the Court from taking possession of any such property.]

¹ Section 18A was inserted by section 4 of East Pakistan Court of Wards (Amendment) Ordinance, 1958 (Ordinance No. LXVII of 1958).

19. If the Court thinks it expedient to direct the sale or mortgage of any part of an estate of which the ward is the sole proprietor, it may order the Collector to partition off such part into a separate estate; and the demand of land-revenue and of the cesses for which the original estate was liable shall be assessed upon and divided between the two separate estates so formed, respectively, in such manner as the Court, with the sanction of the Government, may direct.

When Court may order property to be formed into separate estate

20. The Court may appoint one or more managers for the property of any ward, and one or more guardians for the care of the person of any ward, under the charge of the Court, and may control and remove any manager or guardian so appointed.

Appointment of managers and guardians

On any disqualified proprietor becoming a ward, the Court may, at its discretion, confirm or refuse to recognise any appointment of a person to be guardian of such disqualified proprietor which may have been made by a will.

21. The Court may make such orders as to it may seem fit in respect of the custody, education and residence of a minor ward, and such minor members of the ward's family as are under its charge, and in respect of the custody and residence of any ward, not being a minor, whose person is under the charge of the Court.

Custody, education and residence of wards

22. The Court shall allow, for the support and Education of each ward and for the support of his family such monthly sum as it thinks fit (if any) with regard to the rank and circumstances of the parties and the financial condition of the property of the ward under its charge.

Allowance for ward and his family

PART III

PROTECTION FROM SALE OF CERTAIN ESTATES

23. *Clause 1.*—Except as hereinafter provided by section 23A, every estate, and, subject to the provisions of section 14 of Act XI of 1859, every share or part of an estate for which a separate account has been opened under section 10 or section 11 of the said Act, or under section 70 of Act VII of 1876, and also subject to the provisions of the proviso (2) to section 70 of the Assam Land and Revenue Regulation, 1886, every share or part of an estate for which a separate account has been opened under section 65 of the said Regulation, shall be exempt from sale for arrears of Government revenue which have accrued whilst such

Estate under charge of Court exempt from sale

estate, share or part has been under the charge of the Court:

Provided that all such arrears of revenue shall be the first charge upon the sale-proceeds of any estate, share or part which may be sold for any other cause than for such arrears of revenue.

Recovery of
arrears of
revenue, etc.,
due at the time
when property
ceases to be
under charge of
Court

Clause 2.— If at the time when any property ceases to be under the charge of the Court of Wards, any liabilities enumerated in this clause are outstanding in respect of any part of property, the Collector may attach the whole or any part of such property whether consisting of estates, or shares or parts of estates, or tenures or holdings and collect the rents, cesses and other demands due and all arrears thereof, managing the property so attached either directly or through a manager or by farming as he may think fit:

Provided that such attachment shall not remain in force for a period exceeding five years.

The Collector shall from the proceeds of such property discharge the liabilities of the whole property in the following order of priority:-

- (1) cost of management,
- (2) arrears of Government revenue and interest,
- (3) current revenue,
- (4) cesses due to Government,
- (5) arrears of rent and cess due to the superior landlords and interest thereon,
- (6) other sums due to Government, including the principal of and interest on any loans advanced by any Government, and
- (7) current rent.

After satisfaction of the above liabilities the Collector shall, subject to any order of the Civil Court in this behalf, release the property to the proprietor, and pay to him or his duly

constituted agent any surplus that remains in the hands of the Collector, and shall furnish such proprietor with an account of the receipts and expenditure expending over the time when the property was under attachment.

Clause 3 (1).— When the Court of Wards decides to withdraw from the charge of any property on the ground that in its opinion, the property is insufficient to pay the liabilities of the proprietor, secured and unsecured, within a reasonable period, it shall give the proprietor and his creditors such opportunities as it thinks reasonable to come to an agreement regarding the release of the property from the charge of which it is about to withdraw and if any such agreement is reached, the Court of Wards, if it is of opinion that the agreement is valid, shall release the property to the proprietor.

Administration
of property by
trustees on
withdrawal
from charge by
the Court of
Wards

If the property is not so released, the Court of Wards may, upon notice to the proprietor, call a meeting of his creditors to elect not less than two trustee to administer the property. At such meeting the creditors shall have votes in proportion to the debts owing to them respectively. The opinion of creditors to whom three-fourths of the debts of the proprietor are owing shall prevail. The procedure relating to the holding of such meeting shall be laid down by the Court of Wards.

If the creditors fail to elect the trustees or if the trustees elected refuse to act within a time to be fixed by the Court of Wards, the Court of Wards may appoint the trustees. The trustees so elected or appointed shall be deemed to be appointed by the Civil Court.

(2) Upon the trustees, so elected or appointed, as the case may be, expressing their willingness to act as trustees the property shall, subject to the right of the Collector to attachment, collection and discharge of the liabilities mentioned in section 23, vest in them, in trust to administer it under the directions of such Civil Court as may be prescribed by rules for discharging the other liabilities of the proprietor and making over the residue, if any, to him. The Collector shall pay to the trustees, instead of to the proprietor or his agent, any surplus that remains in his hands. Notice of the withdrawal of the Court of Wards and the vesting of the property in the trustees shall be published in the manner provided in section 64A.

(3) Upon the vesting of the property in the trustees the charge of the Court of Wards shall be deemed to be withdrawn but the proprietor shall not become liable to arrest or imprisonment in execution of any decree or order for such liabilities.

(4) Any adjudication of claims by the Court of Wards or compromise under section 10D shall be binding in the same manner and to the same extent as if the Court of Wards had not withdrawn from charge of the property and as if the Civil Court had made such adjudication or recorded such compromise.

(5) The Civil Court shall have all the powers given by law, including the law of insolvency, for the administration of the said property and the trusts mentioned above and shall also have power to remove trustees and appoint new trustees.

(6) The proprietor or the creditors will be at liberty to apply to the Civil Court from time to time, as there may be occasion, for such removal or appointment, for the framing of a scheme of administration, or for the termination of the trust and discharge of the trustees.

(7) The form of notice, the manner of service thereof, the manner of signifying the willingness of trustees to act, the procedure for the election of trustees and the Civil Court under whose directions the trustees shall administer the property may be prescribed by rules to be framed by the Government.

Conditions under which estate may be sold for arrear of revenue accrued under Court

¹[**23A.** Notwithstanding anything in clause 5, section 8, Regulation I of 1793, or in section 23 of this Act, contained, any estate, share or part of an estate on which an arrear of revenue has accrued while under the charge of the Court, may at any time be sold under the provisions of the law for the time being in force for the recovery of arrears of Government revenue, if the Court has certified in writing that the interests of the ward require that such estate, share or part be sold, and has stated in such writing the reasons upon which it has arrived at such conclusion.]

Restriction on sale for arrears of revenue of estate belonging to minor

24. No estate the sole property of a minor or of two or more minors, and descended to him or them by the regular course of inheritance, or by virtue of the will of, or some settlement made by, some deceased owner thereof, shall be sold

¹ Section 23A was inserted by East Pakistan Court of Wards (Amendment) Ordinance, 1958 (Ordinance No. LXVII of 1958).

for arrears of revenue accruing subsequently to his or their succession to the same, until such minor or one of such minors has completed his age of ¹[eighteen years]; but all arrears of revenue shall be the first charge upon the proceeds of such estate if the estate is sold for any other cause during such minority.

The Collector may, on an arrear so accruing on any such estate, attach the estate and collect the rents and all arrears of rent due, managing the estate either directly or through a manager or by farming it, as he may think fit, for a period not exceeding ten years, nor extending beyond the time when such minor or one of such minors completes his age of ¹[eighteen years].

Power of collector to attach such estate

25. The exemption from sale for arrears of revenue given by section 24 shall only apply to cases in which a written notice of the fact that the estate is the sole property of one or more minors, and entitled to such exemption, has been served on the Collector before the sale.

Section 24 not to apply unless notice given

26. When an estate has been farmed under the provisions of section 24, the proceeds of such farm shall be paid to the Collector; and the Collector, after deducting the amount of the claims of the Government for revenue and other public demands, and the charges of management, shall either pay the proceeds to the person authorised to receive them for the proprietor, or shall dispose of them in any of the modes mentioned in section 49 or in section 50.

Application of proceeds of estate farmed under section 24

**PART IV
ASCERTAINMENT OF DISQUALIFICATION**

27. Whenever any Collector has reason to believe that any person residing in his district, or being the proprietor of an estate borne on the revenue-roll of his district, should be declared or adjudged to be a disqualified proprietor under section 6, he shall make such inquiry as he may deem necessary; and, if satisfied that such person should be so declared or adjudged, shall make a report of the same to the Court;

Procedure for ascertaining and declaring disqualification

and the Court shall, on receipt of such report, make such order consistent with this Act, as may seem to it expedient.

¹ The words "eighteen years" were substituted, for the words "twenty-one years" by section 2 of the Court of Wards (Amendment) Act, 2006 (Act No. II of 2006).

Power to enforce provisions of Act without report

28. Nothing in section 27 shall prevent the Court or the Government from putting the provisions of this Act in force without any report from the Collector.

Powers of Collector as to preservation of property on death of a proprietor whose heirs should be declared disqualified

29. Whenever any Collector receives information that the sole proprietor of an estate which is borne on the revenue roll of his district has died, or that the sole proprietor of any estate has died within his district,

and such Collector has reason to believe that the heirs of such proprietor should be declared or adjudged to be disqualified under section 6, he may take such steps and make such orders for the safety and preservation of the movable property of such heirs, and of all deeds, or documents or papers relating to the property of such heirs, as to him may seem fit.

Such Collector may call upon any other Collector in whose jurisdiction any such movable property, or any such deeds, documents or papers may be, to take charge of the same; and thereupon such other Collector shall have the same powers with respect to such property, deeds, documents and papers within his district as are conferred by this section on the first mentioned Collector.

Recovery of expenses if property is not taken under charge of Court

If the property is not afterwards taken under the charge of the Court, all expenses incurred by a Collector acting under this section shall be recoverable as arrears of revenue from the owner of such property or the person or persons whom the collector shall find to be in possession of such property, and shall constitute a demand under Bengal Act No. VII of 1868, or any similar law for the time being in force.

Production of minor proprietor and order for his temporary custody

30. A Collector acting under the last preceding section may direct that any person who has the custody of a minor heir of any such deceased proprietor shall produce such minor before such Collector or before any other Collector on a day fixed; and the Collector before whom the minor is so produced may make such order for the temporary custody and protection of such minor as to him may seem fit.

If the minor is a female, she shall not be brought into the presence of the Collector, but the Collector may take such steps for her identification as he may think fit.

31. If a sole proprietor of an estate is reported by a Collector to be of unsound mind and incapable of managing his affairs, the Court may order the Collector making such report, or such other Collector as the Court may appoint, to apply, in pursuance of the provisions of the Lunacy Act, 1912, to the Civil Court of the district within the jurisdiction of which such proprietor may reside.

Application to Civil Court in case of lunatics

32. If a sole proprietor of an estate is reported by a Collector to be incapable of managing his property on the ground of some physical defect or infirmity other than unsoundness of mind, the Court may order the Collector making such report, or such other Collector as the Court may appoint, to apply to the principal Civil Court of the district within which such person may be residing; and, upon such Collector so applying, such Civil Court shall inquire into and determine the question as to the alleged incapacity.

Application to Civil Court to make inquiry regarding disqualification on ground of physical defect or infirmity

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

34. When any inquiry is instituted by a Civil Court under section 32, ¹[* * *] such Court shall, for the purposes of making such inquiry, have the powers conferred, and proceed in the manner prescribed, by the Lunacy Act, 1912, with respect to the inquiries directed to be made by the said Act.

Powers and duties of Courts when inquiry is instituted under section 32

The Civil Court shall transmit to the Court of Wards a copy of the order made on each such inquiry; and the Court of Wards shall thereupon in case the proprietor has been found by the Civil Court to be incapable as aforesaid, make such order, consistent with this Act, as it shall think fit.

The Civil Court shall have, with reference to proprietors who have been adjudged to be incapable as aforesaid, the same powers as are conferred on a Civil Court by section 82 of the Lunacy Act, 1912 with reference to persons adjudged to be of unsound mind and incapable of managing their affairs.

¹ The words and figure "or section 33" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

Recovery of expenses incurred by Collector under sections 31 to 33

¹[**34A.** All expenses incurred by a Collector in taking action under section 31, section 32 in respect of any person shall, if the property of such person is not taken under the charge of the Court, be recoverable from such person or from the person whom the Collector finds to be in possession of such property, as if it were an arrear of land revenue, or under the procedure provided by the ²[* * *] Public Demands Recovery Act, 1913, for the recovery of public demands.]

PART V

PROCEDURE AFTER ASCERTAINMENT OF DISQUALIFICATION

Order declaring person or property to be under charge of Court

35. Whenever the Court has determined to take the person or property of a disqualified proprietor under its charge, whether in accordance with an order of the Civil Court or otherwise, the Court shall make an order declaring the fact and directing that possession be taken of such person and property or of such property on behalf of the Court; and the Court shall be held to be in charge of such property from the time when possession shall have been so taken.

Collector to take possession of movable property

36. As soon as conveniently may be after an order is made under the provisions of section 35, the Collector of every district within which any part of the ward's property may be situated, or some person authorised in writing by him in that behalf, shall take possession of all accounts, papers and movable property of the ward, and place under proper custody such portion thereof as he may think necessary.

Any such Collector, or some person authorised as aforesaid may, in case he has reason to believe that any such account, paper or property is in any room, box or receptacle within any house in the actual possession of the ward, break open the same for the purpose of searching for such account, paper or property.

Additional powers of collector

37. Any such Collector may also order all persons in the employ of the ward, or all persons who were in the employ of the deceased proprietor from whom the ward has derived his property, to attend before him;

¹ Section 34A was substituted, for section 34A by section 13(2) of the Bengal Court of Wards (Amendment) Act, 1935 (Act No. VI of 1936).

² The word "Bengal" was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

and may order any person to deliver up any accounts, papers or movable property belonging to the ward, or any accounts or papers relating to the wards property, which the Collector has reason to believe are in such person's possession,

and may order all holders of tenures and under-tenures on such property to produce their titles to such tenures and under-tenures.

**PART VI
MANAGEMENT AND GUARDIANSHIP**

38. If no manager of the property of a ward is appointed by the Court, the Collector of the district in which the greater part of such property is situated, or any other Collector whom the Court may appoint in that behalf, shall be competent to do, under the orders of the Court, anything that might be lawfully done by the manager of such property.

Collector when to be deemed manager

39. Every manager appointed by the Court shall have power to manage all property which may be committed to his charge, to collect the rents of the land entrusted to him, as well as all other money due to the ward, and to grant receipts therefor;

Powers of manager

and may, under the orders of the Court, grant or renew such leases and farms as may be necessary for the good management of the property.

40. Every manager shall manage the property committed to him diligently and faithfully for the benefit of the proprietor, and shall, in every respect, act to the best of his judgment for the ward's interest as if the property were his own.

General duties of manager

41. Every manager appointed by the Court shall-

Specific duties of manager

- (a) have the care of so much of the property of the ward as the Court may direct;
- (b) give such security (if any) as the Court thinks fit, to the Collector, duly to account for all such property and for what he shall receive in respect of such property;

- (c) continue liable to account to the Court, after he has ceased to be manager, for his receipts and disbursements during the period of his management;
- (d) pass his accounts at such periods and in such forms as the Court may direct;
- (e) pay the balance due from him thereon;
- (f) apply for the sanction of the Court to any act which may involve the property in expense not previously sanctioned by such Court;
- (g) sign all papers, deeds, documents and writings which may be executed by him by virtue of his office;
- (h) be entitled to such allowance, to be paid out of the property, as the Court may think fit, for his care and pains in the execution of his duties;
- (i) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

General duties
of guardian

42. A guardian appointed to the care of a ward shall be charged with the custody of the ward, and must look to his maintenance, health, and, if he be a minor, to his education.

Specific duties
of guardian

43. Every guardian appointed by the Court shall-

- (a) give such security (if any) as the Court thinks fit, to the Collector for the due performance of his duty;
- (b) pass his accounts at such periods and in such form as the Court may direct;
- (c) pay the balance due from him thereon;
- (d) continue liable to account to the Court, after he has ceased to be guardian, for his receipts and disbursements during the period of his guardianship;
- (e) apply for the sanction of the Court to any act which may involve expense not previously sanctioned by the Court;
- (f) be entitled to such allowance, to be paid out of the property of the ward, as the Court may think fit, for his care and pains in the execution of the duties.

44. No person who would be the next legal heir of a ward or would otherwise be immediately interested in outliving a ward, shall be appointed to be his guardian;

Exclusion of certain interested persons from guardianship

but nothing in this section shall apply to the mother of a ward or to a testamentary guardian.

45. If the ward is a female, a female of the same religion shall, except in the case of a testamentary guardian, be appointed guardian, preference being given to female relatives if any such be eligible.

Who to be guardian of female ward

But no guardian shall ordinarily be appointed or continued for a female ward if she has an adult husband.

46. Every sum due to the Court from a manager or guardian or from the sureties of a manager or guardian, or from any officer or servant employed under the Court, or from the sureties of any such officer or servant, shall be recoverable as a demand under Act VII of 1868 or any similar law for the time being in force.

Recovery of sums due to the Court

47. The Court may order any past or present manager or guardian, or past or present officer subordinate to a manager or guardian, to deliver up his accounts or any property which may be in his possession within such time as may be fixed by the Court.

Court may order guardian or manager to make over property

48. All moneys received by the manager shall be applied to the purposes hereinafter mentioned, in accordance with such instructions as the Court may, from time to time, give in that behalf.

Application of moneys received by the manager

¹[Unless the Board of Land Administration] shall specially otherwise direct, priority shall be given to the purposes included in class I over those included in class II, to the purposes included in class II over those included in class III and to the purposes included in class III over those included in class IV.

¹ The words "Unless the Board of Land Administration" were substituted, for the words "Unless the Government" by section 4 and Schedule of the Laws (Amendment) Ordinance, 1982 (Ordinance No. XLI of 1982).

Class I

- (1) The payment of all charges necessary for the management and supervision of the property of the ward,
- (2) the payment of the charges referred to in section 22, and
- (3) the discharge of the instalments of Government revenue and of all cesses and other public demands from time to time due in respect of such property or any part of such property.

Class II

- (1) The payment of all rents, cesses and other demands due to any superior landlords in respect of any land held on behalf of the ward, and
- (2) the payment of interest at not more than four and half *per centum* per annum on all debts incurred by the Court in behalf of the ward or on all debts incurred by the ward which the Court has admitted in the following order of priority:—

- (a) debts incurred by the Court in order to consolidate or pay off previous debts incurred at a higher rate of interest,
- (b) debts secured by immovable property of the ward,
- (c) debts which the Court has reduced under subsection (2) of section 10D, and
- (d) other debts which the Court has admitted.

Class III

- (1) The maintenance in an efficient condition of the estates buildings and other immovable property belonging to the ward, and
- (2) the payment, on such scale as the Court may authorise, of such religious, charitable and other allowances not exceeding the amounts paid out of the proceeds of the property before it came under the charge of the Court, and such allowances and donations be fitting the position of the ward's family and such expenses for the education of the members of the ward's family as the Court may authorised to be paid.

Class IV

(1) The payment of the difference between interest at four and a half *per centum* per annum and interest at the rate contracted for all debts of the ward admitted by the Court in the order specified in clauses (b), (c) and (d) of item (2) in class-II,

(2) liquidation of the principal amount of the debts in reasonable installments, and

(3) improvement of the land property of the ward and the benefit of the ward and his property generally.

49. If the ward is a female of sound mind, who has completed her age of twenty-one years, or a male who has completed his age of twenty-one years, whose property is under the charge of the Court under clause (e) of section 6, any surplus which remains after providing, so far as the Court may think fit, for the objects mentioned in section 48, shall be paid to such ward:

Disposal of surplus moneys

Provided that, before paying any portion of such surplus to such ward, the Court may deduct therefrom and retain at its disposal any sums which it may consider necessary to retain-

- (1) as a working balance for the management of the property and expenses incidental thereto;
- (2) in order to make provision for any special charges which are expected to become payable on account of the property, and which probably cannot be met from the expected surplus of the followings years.

50. If the ward is not a female or male as aforesaid, and if any surplus remains after providing, so far as the Court may think fit, for the objects mentioned in section 48, the same shall be applied in the purchase of other landed property, or invested at interest on the security of-

Power to invest surplus

promissory notes, debentures, stock and other securities of the ¹[Government];

stock or debentures of or shares in railway or other companies, the interest whereon has been guaranteed by the ¹[Government].

¹ The word "Government" was substituted, for the words "Central Government or any Provincial Government" or "Central Government" respectively by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

debentures or other securities for money paid by or on behalf of any municipal body under the authority of any ¹[* * *] Act; or

such other securities, stocks or shares, guaranteed by the ²[Government] as to the Court shall seem fit; or mortgages on immovable property.

PART VII

SUITS

Manager or Collector to be next friend or guardian in suits by or against ward

51. In every suit brought by or against any ward he shall be therein described as a ward of Court; and the manager of such ward's property, or, if there is no manager, the Collector of the district in which the greater part of such property is situated, or any other Collector whom the Court of Wards may appoint in that behalf, shall be named as next friend or guardian for the suit, and shall in such suit represent such ward; and no other person shall be ordered to sue or be sued as next friend or be named as guardian for the suit by any Civil Court in which such suit may be pending.

Power of Court of Wards to nominate another person to be next friend or guardian for suit

52. The Court of Wards may, by an order, nominate or substitute any other person to be next friend or guardian for any such suit; and, upon receiving a copy of any such order of substitution, the Civil Court in which such suit is pending shall substitute the name of the next friend or guardian for suit so appointed for the name of the manager or Collector.

Payment of costs

53. If in any such suit any Civil Court shall decree any costs against the next friend or guardian for the suit of the wards, the Court of Wards shall cause such costs to be paid out of any property of the ward which for the time being may be in its hands.

Service of process against wards

54. Every process which may be issued out of any Civil Court against any ward shall be served, through the Collector, upon the next friend or guardian for the suit as aforesaid of such ward.

¹ The words "Central or Provincial" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The word "Government" was substituted, for the words "Central Government or the Provincial Government" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

55. No suit shall be brought on behalf of any ward by a manager, unless the same be authorised by some order of the Court:

Suits not to be brought on behalf of wards unless authorised by the Court of Wards

Provided that a manager may authorise a plaint to be filed in order to prevent a suit from being barred by the law of limitation; but such suit shall not be after-wards proceeded with except under the sanction of the Court:

Provided also that suits for arrears of rent may be brought on behalf of any ward if authorised by an order of the manager of the landed property on which such rents are due.

¹[**55A.** No decree or order shall be made by a Civil Court against any person for anything done, honestly and with due diligence under this Act.]

Indemnity

56. [*Repealed by Bengal Court of Wards (Amendment) Act, 1941 (Act No. IX of 1941), section 3.*]

PART VIII PENALTIES

57. Any person who refuses to comply with an order of a Collector under sections 29, 30, 36 or 37 shall be liable, by order of the Collector, to a fine not exceeding five hundred taka.

For disobeying certain orders of Collector

58. Any person who refuses to comply with an order made under section 47 may be punished, by order of the Court, with simple imprisonment and attachment of his property until the order is complied with:

For disobeying orders under section 47

Provided that the Collector may release any person who has been so imprisoned, on his furnishing sufficient security for his attendance and for the delivery of the accounts or property required within such time as the Collector shall think fit. The Collector may, at any time, rescind such order or release, and direct that effect shall be given to the previous order of imprisonment.

²[**58A.** Any farmer, holding or having held lands under the Court, who, upon notice served upon him to that effect at any time during the currency of the lease or within six months after the expiry of the lease under which such land were held or after he has relinquished such lands, omits or refuses to furnish accounts or

Penalty on farmer neglecting to furnish accounts, etc.

¹ Section 55A was inserted by section 16 of the Bengal Court of Wards (Amendment) Act, 1935 (Act No. VI of 1936).

² Section 58A was inserted by section 9 of the Bengal Court of Wards (Amendment) Act, 1881 (Act No. III of 1881).

produce documents or papers required under such notice, and shall not show sufficient cause for such omission or refusal shall be liable to such fine as the Collector may think fit to impose, not exceeding one hundred taka for such omission; and the Collector may impose such further daily fine as he may think proper, not exceeding twenty taka for each day during which such farmer shall omit to furnish the accounts, documents or papers required after a date to be fixed by the Collector in a notice warning the farmer that such further daily fine will be imposed.

Such notice shall be served by tendering to the person to whom it may be directed a copy thereof, attested by the Collector, or by delivering such copy at the usual place of abode of such person or to some adult male member of his family; or, in case it cannot be so served, by posting some copy upon such conspicuous part of the usual or last-known place of abode of such person; and, in case such notice cannot be served in any of the ways herein before mentioned, it shall be served in such a way as the Collector issuing the notice may direct;

and the date fixed by such notice shall not be less than fifteen days after service thereof.

The Collector may proceed from time to time to levy any amount which has become due in respect of any fine imposed under this section, notwithstanding that an appeal against the order imposing such fine may be pending:

Provided that, whenever the amount levied under such order shall have exceeded five hundred taka, the Collector shall report the case specially to the ¹[Commissioner of the Division] and no further levy in respect of such fine shall be made otherwise than by the authority of the ²[said Commissioner].]

¹ The words "Commissioner of the Division" were substituted, for the word "Court" by section 2 and Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976).

² The words "said commissioner" were substituted, for the word "Court" by section 2 and Schedule of the Bangladesh Laws (Amending) Ordinance 1976 (Ordinance No. IX of 1976).

59. Any person who disobeys any lawful order of the Court shall be liable, on conviction before a Magistrate, to a fine not exceeding five hundred taka and, if he is a manager or guardian appointed by the Court, to a fine not exceeding one thousand taka.

For disobeying order of Court

¹[**59A.** Every person employed by the Court under this Act shall, for the purposes of the ²[Penal Code], be deemed to be a public servant.]

Persons employed by Court to be "public servants"

PART IX MISCELLANEOUS

60. No ward shall be competent to create, without the sanction of the Court, any charge upon, or interest in, his property or any part thereof, or to assign over or charge any allowance to be received by him from the Court.

Disabilities of wards

³[**60A.** No property which is or has been under the charge of the Court shall be liable at any time, except with the leave of the Court, to be taken in execution of a decree made in respect of any contract entered into by the ward without the leave of the Court while his property was under such charge.]

Exemption of wards' property from execution proceedings in certain cases

¹[**60B.** For the purposes of section 10C, Part VII and sections 60 and 60A, a person whose property is under the charge of the Court of Wards under section 11 by reason of the fact that such person has become entitled to the property jointly with a disqualified proprietor, or charge of whose property has been retained under section 13A, shall be deemed to be a ward, but only so far as regards such property.]

Certain persons to be deemed to wards

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

Adoption by ward invalid without consent of Government

¹ Sections 59A and 60B were inserted by section 7 of the Bengal Court of Wards (Amendment) Act, 1906 (Act I of 1906).

² The words "Penal Code" were substituted, for the words "Pakistan Penal Code" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

³ Section 60A was inserted by section 13 of the Court of Wards (Amendment) Act, 1892 (Act No. IV of 1892).

62. [*Repealed by the Bengal Court of Wards (Amendment) Act, 1906 (Bengal Act No. I of 1906).*]

Recovery of interest on arrears of rent

63. Any amount of interest which has accrued due, on arrears of rent or other demand recoverable as rent payable to the manager of an estate which is in charge of the Court, may be recovered in any manner and by any process according to which such arrears may be recovered under any law for the time being in force; and any Court or officer who is competent to make and order or certificate in execution of which such arrears or other demand are recoverable may direct that any costs incurred by the manager in obtaining such order or certificate, and in executing the same, shall be recovered in the same manner and by the process as if the amount thereof had been included in the said order or certificate.

Record of reasons when penalty imposed under section 57 or 58

64. When any penalty is imposed by any order under section 57 or section 58, the Collector or Court passing such order shall make a formal record of the same, with the reasons or grounds thereof.

Publication of notices

¹[**64A.** Any notice required to be published by the provisions of section 9A or of sub-section (1) of section 10A or clause 3 of section 23 and any order required to be published under section 65, shall be published-

- (a) in the official Gazette;
- (b) in at least three issues each of one English and one Vernacular newspaper published in Dacca;
- (c) in two issues of a newspaper (if any) published in the district or Division in which the ward ordinarily resides, or has last resided; and
- (d) by posting such notice on the notice-boards in the offices of the Collector and of the Judge of the district in which the place named in the notice is situate.]

Procedure when Court's jurisdiction ceases

65. Whenever the Court has determined to release the property of a ward from its charge, it shall make an order that the jurisdiction of the Court over such property shall cease on a date not more than sixty and not less than fifteen days from the date of such order; and copies of such order shall be published in the manner provided in section 64A.

¹ Section 64A was inserted by section 18 of the Bengal Court of Wards (Amendment) Act, 1935 (Act No. VI of 1936).

¹[65A. Any expense incurred by the Court on account of any property under its charge may, after the release of such property, be recovered as a public demand under the ²[* * *] Public Demands Recovery Act, 1913, from any person into whose possession such property or any part thereof may have passed immediately after the release by the Court of such property:

Recovery of expenses after release of property

Provided that the sum so recovered from any such person shall not be greater than the value of any such property which so passed into the possession of such person.]

66. A Collector making any inquiry under this Act may exercise any power conferred by the Code of Civil Procedure, 1908 on a Civil Court for the trial of suits.

Judicial powers of Collector in making inquiries

³[67. An appeal shall lie from every order of a Collector under this Act to the Commissioner of the Division, and from every order of a Commissioner under this Act to the ⁴[Court and and the Order of the Court shall be final]].

Appeals

68. All orders or proceedings ⁵[of the Commissioner and] of the Collector under this Act shall be subject to the supervision and control of the Court ; and the Court may, if it thinks fit, revise, modify or reverse any such order or proceeding, whether an appeal is presented against such order or proceeding or otherwise.

Control by Court

69. [Omitted by the Bangladesh Laws (Repealing and Amending) Order, 1973 (President's Order No. 12 of 1973), Schedule.]

¹ Section 65A was inserted by section 11 of the Bengal Court of Wards (Amendment) Act, 1881 (Act No. III of 1881).

² The word "Bengal" was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

³ Section 67 was substituted, for the former section 67 by section 2 and Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976).

⁴ The words "Court and the Order of the Court shall be final" were substituted, for the word "Court" by Schedule of the Laws (Amendment) Ordinance, 1982 (Ordinance No. XLI of 1982).

⁵ The words "of the Commissioner and" were inserted by Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976).

Power to make
rules

70. The Court may make rules, consistent with this Act,-

- ¹[(a) defining the powers of Commissioners and Collectors respectively when the property of a ward is situated in two or more districts or in two or more divisions;]
- (b) prescribing what reports shall be made from time to time by Collectors ²[and Commissioners] on the condition of the ward and his property;
- (c) prescribing the periods at which and the mode in which accounts shall be submitted by managers and guardians respectively, and the mode in which such accounts shall be audited;
- (d) regulating the custody of securities and title deeds belonging to the estate or property of a ward;
- (e) regulating the procedure in appeals from orders of Collectors ³[and Commissioners respectively] under this Act;
- (f) prescribing the procedure to be observed when a property ceases to be under the charge of the Court; and
- (g) generally for the better fulfilment of the purposes of this Act.

The Court may from time to time alter, add to or repeal such rules.

¹ Clause (a) was substituted, for the former clause (a) by section 2 and Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976).

² The words "and Commissioners" were inserted by section 2 and Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976).

³ The words "and Commissioners respectively" were inserted by section 2 and Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976).