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West Bengal Act LV of 1980¹

THE MURSHIDABAD ESTATE (MANAGEMENT OF PROPERTIES) AND MISCELLANEOUS PROVISIONS ACT, 1980.

AMENDED [West Ben. Act XI of 1996.
.. .. West Ben. Act XVIII of 2001.

[11th March, 1981.]

An Act to provide for the management of properties of the Murshidabad Estate and for matters connected therewith or incidental thereto.

WHEREAS the fulfilment of the purpose of the trust created by the Murshidabad Estate (Trust) Act, 1963 has become impossible as the expenditure on account of management and administration, under that Act, of the properties of the Murshidabad Estate (including the expenditure on account of recurring liabilities) exceeds the income from such properties and as such the said trust stands extinguished;

AND WHEREAS it is considered necessary and expedient to provide for the management of the properties of the Murshidabad Estate and for matters connected therewith or incidental thereto;

It is hereby enacted in the Thirty-first Year of the Republic of India, by the Legislature of West Bengal, as follows:—

1. (1) This Act may be called the Murshidabad Estate (Management of Properties) and Miscellaneous Provisions Act, 1980.

Short title and commencement.

(2) It shall come into force on such date as the State Government may by notification appoint.

2. In this Act, unless the context otherwise requires, —

Definitions.

- (a) "appointed day" means the day appointed under subsection (2) of section 1;
- (b) "daughter" means a legitimate daughter;
- (c) "Estate Manager" means the Estate Manager appointed as such by the State Government under section 5;
- (d) "late Nawab Bahadur" means the late Nawab Bahadur Wasif Ali Mirza;
- (e) "notification" means a notification published in the *Official Gazette*;

¹For Statement of Objects and Reasons, see the *Calecutta Gazette, Extraordinary*, Part IV, of the 28th August, 1980, pages 2609-2610; for proceedings of the West Bengal Legislative Assembly, see the proceedings of the meeting of that Assembly held on the 5th September, 1980.

(Section 3.)

- (aa) "premises" means any land or building or part of a building, and includes—
- (a) the garden, ground and out-house, if any, appertaining to such building or part of a building, and
 - (b) any fitting affixed to such building or part of a building for the more beneficial enjoyment thereof;
- (f) "prescribed" means prescribed by rules made under this Act;
- (g) "properties of the Murshidabad Estate" means the properties, movable and immovable, referred to in the Schedule annexed to the Murshidabad Estate (Trust) Act, 1963 as vested in the Official Trustee for West Bengal, and as held in trust by him or his successor immediately before the appointed day, under that Act, and includes the funds of the Murshidabad Estate and the income from the properties of the said Estate which may be in the possession, custody or control immediately before the appointed day.
- (h) "son" means a legitimate son;
- (i) "unauthorised occupation", in relation to any premises or other immovable properties, means the occupation by any person of the premises or other immovable properties without authority for such occupation, and includes the continuance in occupation by any person of the premises or other immovable properties after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises or other immovable properties has expired or has been determined for any reason whatsoever.

West Ben.
Act II of
1963.

Transfer
of the
properties
of the
Murshidabad
Estate to
the State
Government.

3. (1) On and from the appointed day, the properties of the Murshidabad Estate (hereinafter referred to as the Estate properties) shall, by virtue of this Act, stand transferred to, and vest in, the State Government.

(2) Upon the transfer of the Estate properties to, and vesting thereof in, the State Government under sub-section (1), the State Government may take, or cause to be taken, such steps as it considers necessary for securing the possession thereof.

¹ Clause (cc) was inserted by s. 2(a) of the Murshidabad Estate (Management of Properties) and Miscellaneous Provisions (Amendment) Act, 1996 (West Ben. Act XI of 1996).

² Clause (i) was inserted by s. 2(b), *ibid.*

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(Sections 4-6)

4. (1) For the purpose of managing and administering the Estate properties (including any income therefrom), the State Government may take such measures as it considers necessary or expedient and do all acts and incur all expenditure necessary or incidental thereto.

General
effect of
transfer.

(2) Any payment made to the State Government in the discharge of any obligation in relation to any of the Estate properties shall be a full and valid discharge to the person making the payment from all liabilities in respect thereof.

(3) Any payment made otherwise than in accordance with sub-section (2) shall not be deemed to discharge the person paying it from his obligation to make the payment and shall not affect the right of the State Government to enforce such obligation against that person.

(4) Any suit or proceeding pending before the appointed day in relation to any of the Estate properties may be continued by or against the State Government, as the case may be, and not otherwise.

(5) All valid contracts subsisting immediately before the appointed day in relation to any of the Estate properties shall be of as full force and effect against or in favour of the State Government and shall be enforceable as fully and effectively against or by the State Government as if the State Government had always been named therein and had been a party thereto.

(6) Save as otherwise provided in this Act, any suit or other legal proceeding, except a suit or other legal proceeding against an order of eviction from any premises or other immovable properties under section 9, for the enforcement of any right or remedy in respect of any of the Estate properties may be instituted in any court by or against the State Government, as the case may be, and not otherwise.

5. (1) As soon as may be after the appointed day, the State Government shall by notification appoint such person as it thinks fit to be Estate Manager on such terms and conditions as the State Government may determine.

Appointment
of Estate
Manager.

(2) The Estate Manager shall exercise the powers conferred, and perform the duties imposed, on him by or under this Act.

6. The Estate properties which stand transferred to and vest in the State Government under sub-section (1) of section 3 shall, subject to the provisions of this Act and the rules made thereunder, be managed and administered on behalf of the State Government by the Estate Manager.

Management
and
administration
of Estate
properties.

¹Sub-section (6) was substituted for the original sub-section by s. 3 of the Murshidabad Estate (Management of Properties) and Miscellaneous Provisions (Amendment) Act, 1986 (West Ben. Act XI of 1986).

(Sections 7, 8.)

Provision for
employees.

7. With effect from such date as the State Government may specify in this behalf, the services of all persons employed under the proviso to clause (8) of section 4 of the Murshidabad Estate (Trust) Act, 1963 shall stand determined:

Provided that the Estate Manager may, with the previous approval of the State Government, re-employ any such person in connection with the management and administration of the Estate properties on such terms and conditions as the State Government may determine.

West Ben.
Act II of
1963.

Issue of
notice to
show cause
against order
of eviction
of
unauthorised
occupants of
any premises
included in
Estate
properties.

8. (1) If the Estate Manager is of opinion that any persons are in unauthorised occupation of ¹[any premises or other immovable properties included in the Estate properties (hereinafter referred to as the premises or other immovable properties)] and that they should be evicted, the Estate Manager shall issue in the manner hereinafter provided a notice in writing calling upon all persons concerned to show cause why an order of eviction should not be made.

(2) The notice shall—

- (a) specify the grounds on which the order of eviction is proposed to be made; and
- (b) require all persons concerned, that is to say, all persons who are, or may be, in occupation of, or claim interest in, ²[the premises or other immovable properties,] to show cause, if any, against the proposed order on or before such date as is specified in the notice, being a date not earlier than ten days from the date of issue thereof.

(3) The Estate Manager shall cause the notice to be served by having it affixed on the outer door or some other conspicuous part of ³[the premises or other immovable properties,] and in such other manner as may be prescribed, whereupon the notice shall be deemed to have been duly given to all persons concerned.

(4) Where the Estate Manager knows or has reasons to believe that any persons are ⁴[in unauthorised occupation of the premises or other immovable properties,] then, without prejudice to the provisions of subsection (3), he shall cause a copy of the notice to be served on every such person by post or by delivering or tendering it to that person or in such other manner as may be prescribed.

¹The words and brackets within the square brackets were substituted for the words and brackets "any premises included in the Estate properties (hereinafter referred to as the premises)" by s. 4(a) of the Murshidabad Estate (Management of Properties) and Miscellaneous Provisions (Amendment) Act, 1996 (West Ben. Act XI of 1996).

²The words within the square brackets were substituted for the words "the premises," by s. 4(b), *ibid.*

³The words within the square brackets were substituted for the words "the premises," by s. 4(c), *ibid.*

⁴The words within the square brackets were substituted for the words "in occupation of the premises," by s. 4(d), *ibid.*

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(Sections 9, 9A, 9B.)

9. (1) If, after considering the cause, if any, shown by any person in pursuance of a notice under section 8 and any evidence he may produce in support of the same and after giving him a reasonable opportunity of being heard, the Estate Manager is satisfied that the premises or other immovable properties are in unauthorised occupation, the Estate Manager may, on a date to be fixed for the purpose, make an order of eviction, for reasons to be recorded therein, directing that the premises or other immovable properties shall be vacated, and the possession thereof shall be delivered to the Estate Manager or any other officer duly authorised by the Estate Manager in this behalf, by all persons who may be in occupation thereof or any part thereof, within such period as may be specified in the order, and furnish a copy of the order, if applied for, to all such persons, free of cost, and also cause a copy of the order to be affixed on the outer door or some other conspicuous part of the premises or other immovable properties.

Eviction of
unauthorised
occupants.

(2) If any person refuses or fails to comply with the order of eviction made under sub-section (1) within the period specified in the order or within fifteen days of its publication under sub-section (1), whichever is later, the Estate Manager or any other officer duly authorised by the Estate Manager in this behalf may evict that person from, and take possession of, the premises or other immovable properties and may, for that purpose, use such force as may be necessary.

(3) The cost of taking possession of the premises or other immovable properties under sub-section (2) shall be payable by the person from whom possession of the premises or other immovable properties has been taken within such period as the Estate Manager may by order direct.

9A. (1) Where any persons have been evicted from any premises or other immovable properties under section 9, the Estate Manager may, after giving fourteen days' notice to the persons from whom possession of the premises or other immovable properties has been taken, remove or cause to be removed or dispose of by public auction any property remaining on such premises.

Disposal of
property.

(2) Where any property is sold under sub-section (1), the sale proceeds shall, after deducting the expenses of the sale and the amount, if any, due to the Estate Manager on account of arrears of rent or damages or costs, be paid to such person or persons as may appear to the Estate Manager to be entitled to the same.

9B. (1) An appeal shall lie from every order of the Estate Manager made under section 9 to an appellate officer who shall be the district judge of the district in which the premises or other immovable properties are situate or such other judicial officer in that district of not less than ten years' standing as the district judge may designate in this behalf.

Appeal.

¹Section 9 was substituted for the original section by s. 5 of the Murshidabad Estate (Management of Properties) and Miscellaneous Provisions (Amendment) Act, 1996 (West Ben. Act XI of 1996).

(Sections 10-12.)

(2) An appeal under sub-section (1) shall be preferred within fifteen days from the date of publication of the order under that sub-section;

Provided that the appellate officer may entertain the appeal after the expiry of the said period of fifteen days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(3) Where an appeal is preferred from an order of the Estate Manager, the appellate officer may stay the enforcement of that order for such period and on such conditions as he deems fit.

(4) Every appeal under this section shall be disposed of by the appellate officer as expeditiously as possible.

(5) The costs of any appeal under this section shall be in the discretion of the appellate officer.

(6) For the purposes of this section, the City of [Kolkata] as defined in clause (3) of section 2 of the City Civil Court Act, 1953, shall be deemed to be a district and the Chief Judge or the principal judge of the City Civil Court therein shall be deemed to be the district judge of the district.

West Ben.
Act XXI of
1953.

Alternative
accommoda-
tion for the
surviving
sons and
daughter of
the late
Nawab
Bahadur.

10. Notwithstanding anything contained in this Act, alternative accommodation for *bona fide* residential purposes shall be provided to such surviving sons and daughter of the late Nawab Bahadur as are beneficiaries under the Murshidabad Estate (Trust) Act, 1963 and are to be evicted under section 9:

Provided that such surviving son or daughter does not own any *propra* house in West Bengal at the date of commencement of this Act.

West Ben.
Act II of
1963.

Power of the
Estate
Manager to
dispose of
immovable
property.

11. The Estate Manager may, with the previous approval of the State Government, dispose of by sale or public auction any immovable property forming part of the Estate properties for the purpose of repayment of debts and discharge of liabilities, if any, being the first charge on the Estate properties under any enactment in force for the time being, and invest the balance of the proceeds thereof, if any, after such repayment and discharge, in such manner as the State Government may direct.

Application
of income
from Estate
properties.

12. From the income from the Estate properties, the Estate Manager shall meet the expenses of the management and administration of the Estate properties and the performance of the prescribed religious ceremonies and discharge the current liabilities and, from the balance, if any, remaining out of the income as aforesaid, he shall pay to such surviving sons and daughter of the late Nawab Bahadur as are beneficiaries under the Murshidabad Estate (Trust) Act, 1963 monthly allowances at such rate and in such manner as may be prescribed:

Provided that no such allowances shall be paid where the annual income of such surviving son or daughter exceeds ten thousand rupees.

¹The word within the square brackets was substituted for the word "Calcutta" by s. 5 of the West Bengal Capital City (Change of Name) Act, 2001 (West Ben. Act XVIII of 2001), w.e.f. the 1st January, 2001.

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{Sections 13, 14, 14A, 15, 16.}

24 of 1958.	<p>13. (1) Notwithstanding anything contained elsewhere in this Act, the Director of Archaeology, Government of West Bengal, shall be responsible for the management of, and for the preservation of art objects, books, manuscripts, records, oil paintings and any other like objects kept in, the Hazar Duari Palace and Imambarah (which have been declared by the Central Government under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 to be of national importance) till the said Hazar Duari Palace and Imambarah are taken over by the Central Government under that Act.</p> <p>(2) The expenses for the preservation of art objects, books, manuscripts, records, oil paintings and any other like objects kept in the Hazar Duari Palace and Imambarah shall be borne by the State Government till the Hazar Duari Palace and Imambarah are taken over by the Central Government.</p>	Management of Hazar Duari Palace and Imambarah.
	<p>14. No suit, prosecution or other legal proceeding shall lie against the State Government or the Director of Archaeology, Government of West Bengal or the Estate Manager or any other officer for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.</p>	Protection of action taken in good faith.
	<p>14A. No Civil Court shall have jurisdiction to deal with or to decide any question which is required to be dealt with or to be decided under the provisions of this Act.</p>	Bar of jurisdiction of Civil Courts.
	<p>15. (1) The State Government may by notification make rules for carrying out the purposes of this Act.</p> <p>(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which may be, or are required to be, prescribed.</p>	Power to make rules.
West Ben. Act II of 1963.	<p>16. (1) The Murshidabad Estate (Trust) Act, 1963 is hereby repealed.</p>	Repeal.
15 of 1891.	<p>(2) For the removal of doubts, it is hereby declared that such repeal shall not revive or effect or imply in any way the revival of—</p>	
23 of 1933.	<p>(1) the Murshidabad Act, 1891, or</p>	
Ben. Act XV of 1946.	<p>(2) the Murshidabad Estate Administration Act, 1933, or</p>	
	<p>(3) the Murshidabad Act, 1946, or</p>	
West Ben. Act XX of 1959.	<p>(4) the Murshidabad Estate Administration (Amendment) Act, 1959,</p>	
	<p>repealed under the Murshidabad Estate (Trust) Act, 1963.</p>	

¹Section 14A was inserted by s. 7 of the Murshidabad Estate (Management of Properties)