

THE RAJASTHAN ESCHEATS REGULATION ACT, 1956

(Act No.23 Of 1956)

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THE RAJASTHAN ESCHEATS REGULATION ACT, 1956

(Act No.23 Of 1956)

(Received the assent of His Highness the Rajpramukh on the 10th day of July.1956).

As amended subsequently by Raj. Act 27 and 40 of 1957.

An Act to regulate the making of inquiries in the matter of properties vesting in the state of Rajasthan Qua ultima heres under Article 296 of the Constitution of India by escheats or as bona vacantia and provide for the custody and disposal thereof.

Be it enacted by the Rajasthan State Legislature in the seventh Year of the Republic of India as Follow:-

1. Short title, extent and commencement.-(1) This Act may be called the Rajasthan Escheat Regulation Act.1956.

¹ [(2) extends to the whole of the State of Rajasthan.]

(3)It shall come into force at once.

2. Definitions:- In this Act., unless the subject or context otherwise requires:-

(1) "Collector" and "Tehsildar" mean the officer appointed as such under any law for the time being in force and include respectively an additional Collector, and additional Tehsildar;

1. Subs. By Raj. Act 27 of 1957.

This Act extend to the whole of the State of Rajasthan including the Abu, Ajmer and Sunel areas with different effect from 1-9-1957 i.e. the date of the enforcement of the Rajasthan Act 27 of 1957.

Also see Raj. Act 40 of 1957.

(2) "Court" means the court of the District Judge having Jurisdiction over the place where the property to which this Act applies is situated and. When such property is situated within the jurisdiction of more than one such Court, means the high Court.

(3) "Prescribed" means prescribed by rules made under this Act.

(4) "Property to which this Act applies" means any property vesting in the State *qua ultima heres* under Article 296 of the Constitution of India by escheats or as bona vacantia;

(5)¹[x x x]

3. General Superintendence of escheats.-The general superintendence of all property to which this Act applies is vested in the collector who will inform himself fully through the Assistant Collectors and Tehsildars subordinate to him of all such property and act in the matter subject to the directions of the Board and the orders of the State Government.

4. Report by Tehsildar:- (1) Upon receipt of information as to the existence within Tehsil of any property to which this Act applies. Whether or not in the possession of any person, the Tehsildar shall-

- (a) Ascertain whether or not there is any person entitled to such property.
- (b) Prepare an inventory thereof showing the prescribed particular.
- (c) Take over possession of it in the prescribed manner, and
- (d) Make a report of the collector:

Provided that if such property is in the present possession of any person, such possession shall not be disturbed.

(2) Any property of which possession is taken under sub-section (1) and which is subject to speedy and natural decay or consists of live-stock or is otherwise of perishable nature may be forthwith sold by public auction by the Tehsildar and the fact of such sale together with the amount of the proceeds thereof shall be reported to the Collector.

5. Register of properties.- The Collector shall cause to be kept and maintained a register in which shall be entered all the particulars of such item of every property to which this Act applies and also, in the case of any such property having been sold under sub-section (2) of section 4, the amount of sale proceeds thereof.

6. Inquiry by Collector.- (1) Upon receipt of a report under section 4, the Collector shall immediately-

- a) Make such order as he thinks proper respecting the possession, maintenance, management, safe custody and taking care of each item of every property specified in the report, and
- b) Issue a proclamation specifying the prescribed particulars and calling upon all persons having any interest therein or right thereto to prefer their claims in

- c) respect thereof to the Collector within thirty days from the service thereof in accordance with sub-section (2).

Explanation.-In the case of any such property consisting of land or other immovable property, the word “management” shall include the making of necessary arrangements for the cultivation and letting the same.

- (2) The proclamation issued under clause (b), of sub-section (1) be served.-
- i. By exhibiting a copy thereof at some conspicuous spot on or adjacent to the place where the last known owner of such property, if any, resided last or where the property was found and also, in the case of such property being immovable, on such property,
 - ii. By having the contents thereof proclaimed at the aforesaid place by beat of drum.
 - iii. By affixing a copy thereof on the notice board of the office of the Collector issuing it, and
 - iv. By publishing a copy thereof in the ¹[Official Gazette] and, where the last owner of such property, if any, was, at the time of his death, residing in some place outside the State also in some local daily newspaper having free circulation in the region.

(3) Any income accruing from any such property shall be kept in deposit till the final disposal of all claims in respect thereof.

(4) If any property to which this Act applies consists of several items lying within different districts, the board shall decide as to the Collector of one of such districts who shall proceed under this section in respect of the entire property.

(5) It shall be the duty of the Collector to obtain full information from the public records and by personal inquiries respecting any property to which this Act applies, being in all cases careful not to infringe any private rights or to occasion unnecessary trouble or vexation to individuals.

(6) Every claim preferred within the same time specified in sub-section (1) shall be enquired into in the prescribed manner and if the Collector is satisfied as a result of such inquiry that the claimant is entitled to any such property and has the right to receive and hold the same in any capacity whatsoever, such property, together with the income, if any accrued therefrom and kept in deposit under sub-section (3) shall be delivered to him on payment of the expenses, if any incurred in the maintenance, management, safe custody and taking care thereof:

Provided that any claim preferred after the expiry of the time specified in sub-section (1) may be accepted and enquired into if the Inspector is satisfied that the claimant had sufficient reasons for not preferring the claim within such time:

Provided also that if any such property has been sold under sub-section (2) of section 4 the claimant shall be entitled to get the sale proceeds thereof on payment of such expenses and the costs, if any, of the sale.

(7) The collector may, if any inquiry under this section involves a complicated question of law as to title or status which has not been previously adjudicated upon by a Civil Court of competent jurisdiction, and shall, if there are two or more claimants in respect of the same property, require any or all of the claimants to apply for a succession certificate in respect of such property or to institute a suit for a declaration of title thereto within such period not exceeding six months in the aggregate as the Collector may from time to time fix, and if such application or suit has been made or instituted, the Collector shall stay the proceedings before him and the disposal of the property shall be subject to the result thereof.

(8) The Collector may for reasons to be recorded in writing, make over any inquiry and claims under this section to any Assistant Collector subordinate to him. Such officer shall after taking the necessary steps in accordance with this section record his findings and submit the same to the collector.

(9) If the Collector is satisfied after enquiry in accordance with this section that-

- a) The property in question is not of the nature to which this Act applies, he shall order the proceedings to be closed and the property to be allowed to remain with the person in whose possession it might then be, or if possession thereof has been taken under section 4, of section 6, to be restored to the person from whom possession was so taken, or
- b) The last owner of the property in question died in the state and without leaving any known heir, that the claim preferred under sub-section (6) is not *prima facie* maintainable, that there is no such person entitled to claim such property and that it is a bona fide case of property vesting in the state as *ultima heres* under Article 296 of the Constitution of India,
By escheats or as *bona vacantia*, for want of rightful owner, he shall apply to the court for a vesting order in respect of the property and for the custody thereof in the meanwhile:

Provided that no application for restoration of such possession or for a vesting order shall be made until the time prescribed for preferring an appeal under section 7 has expired or until the appeal, if any, preferred has been disposed of.

7. Appeal.-Any informer aggrieved by the final order of the Collector under sub-section (9) of section 6 may appeal to the Board within sixty days of passing thereof.

C O M M E N T R Y

1. Duty and rights of an informer.- An informer or complainant sets the Government machinery in motion in public interest. It is none of his duty to file an appeal when the Collector holds that the property is not escheat. He is not an aggrieved person in such a situation. The interest of the state is directly affected in every appeal. *Raghunath v. Ramjilal*, 1992 RRD 569.

2. General.-[1] Where the Collector passes an order under section 6(9) of this Act, it is a final order. The person aggrieved by such an order can prefer an appeal under section 7 of this Act, where the Collector/Additional Collector passes an interim order under section 6(9) an appeal is not maintainable. *Paradevi v. State of Rajasthan*,**1975 KS 245=1975 RRD 519.**

[2] Appeal provided u/s 7 only against final order of Collector. General superintendence of properties vests in collector and board can also give directions to Collector-Addl. Collector could direct The. u/s 3 not to disturb possession of non-petitioner.

Appeal is a creature of statute. An appeal can lie if the law provides for it. Under section 7 of the Escheat Regulation Act appeal is provided only against a final order of the Collector passed under section 6(9) of the said Act and not against any others. The present order appeal is admittedly not an order under section 6(9). Therefore this appeal is clearly incompetent. Now we have to consider whether the order of the learned Additional Collector can be interfered with under section 3 of the said Act. Section 3 provided that the general superintendent of all property to which this Act applies is vested in the Collector who should inform himself fully through the Assistant Collector and Tehsildars subordinate to him of all such property and act in the matter, subject to the directions of the Board and the orders of the State Government. This clearly shows that the general superintendence of the Properties to which this Act applies vests in the Collector and the board can also give direction to the Collector. However, these directions can be given for the carrying out of the provisions of the Escheats Regulation Act when it is felt by the Board that those provisions are not being carried out by the Collector or that a general guidance is required to be given. *Yadram v. Kabul Singh*, **1974 RRD 511.**

[3] Collector passed final order on dt. 4-5-1971 declaring the disputed property to be escheat and submitting application under section 1 of the Act to D.J. appellant filed appeal on 30-11-1973 contending that he got knowledge of the death of the deceased on 20-9-73 and submitting application for copies on 29-9-73 and obtained copies on 1-10-73 thus filed appeal on 30-10-73. Held appeal was barred by limitations as he ought to have filed appeal latest by 21-10-73 or each days delay have to be explained. There is no sufficient reason to wait for full 30 days appeal held barred by limitation.

How appellant came directly to the Board of revenue without putting his objection in lower competent courts is not explained. *Smt.Draupadi v. RameshwarDayal***1977 RRD 670.**

8. Proceedings by court.-(1) Upon the presentations of an application, the court shall issue a proclamation in the prescribed form calling upon any person claiming to be entitled to the property set out therein to attend and prefer his claim.

(2) Such proclamations shall be served in the manner laid down in sub-section (2) of section 6 and also by affixing a copy thereof on the notice board of the court issuing it.

(3) The court may, pending the disposal of the application, appoint an administrator for the possession, safe custody, due care, maintenance and management of the property forming the subject matter of the application.

(4) Such administrator shall, previous to his entering upon office, give security in a sum to be fixed by the Court for the faithful discharge of his trust and shall be entitled to such remuneration as the Court may fix.

(5) In the event of the administrator falling to give such security and of there being no other person willing to accept the appointed and give the required security, the Court shall appoint the Collector to be the administrator with power to continue or alter the arrangements, if any, made under clause (a) of sub-section (1) of section 6 and without being required to give any security.

9. Claims and vesting order.-(1) If in response to the proclamation issued under section 10, any person prefer a claim and satisfies the court of his right to the possession of the property, in question or any part of it, the Court shall direct the Collector or the administrator, as the case may be, to deliver the property to such person after deducting or on payment of the expenses, if any, incurred in the maintenance, management, safe custody and taking thereof. The collector or the administrator shall act according to such direction and the provisions of sub-section (6) of the section 6 shall apply.

(2) If no persons prefers a claim and establish his right the Court shall after the expiry of twelve months from the date of the service of proclamation issued under section 10, pass an order declaring the property in question to have vested in the state on the date of the death of the last owner thereof and send a copy of such order to the collector.

C O M M E N T A R Y

Scope of proclamation u/s 8.-If no claims are submitted and the claimant slept over for 12 months after service of notice and proclamations the collector passed final order in absence of claim. Plea that no notice or opportunity was given can not be accepted. No revision or appeal shall lie to board against final order *D.J.Umed v. State of Rajasthan, 1979 RRD=581*.

10. Action to be taken by collector.-(1) Upon receipt of the order passed under sub-section (2) of section 9, the Collector shall pass orders for the sale of property by public auction, if it has not already been sold under sub-section (2) of section 4:

Provided that if no such property or any part thereof consists of any work or artistic or historical importance, the importance thereof by sale or otherwise shall be subject to and in accordance with the orders of the State Government to which a report in that behalf shall be made.

(2) When an order for sale has been passed under sub-section (2) such shall be held and conducted in the manner laid down for the sale of like property for the recovery of arrears of revenue. (3) From the proceeds of such sale shall be recovered the cost thereof, if any, and expenses till then incurred in the maintenance, management, safe custody and taking care of the property sold and the surplus shall be kept in deposit for a further period of one year from the date of sale. (4) If during such further period no claim is preferred and established such deposit shall lapse to and vest in the State and be credited to the Consolidated fund of the State.

11. Enforcing surrender of possession.-If the Collector or any other officer acting under his direction is opposed, register or impeded in obtaining possession in accordance with the provision of this Act over any property to which this Act applies, such Collector shall, If a Magistrate, enforce the surrender of such property and, if not a Magistrate, he shall send a requisition to a Magistrate who shall enforce such surrender.

12. Power to make rules.- The State Government may make rules generally for the purpose of carrying out the provisions of this Act, and in particulars for all matters, which, by this Act, may, or are required to be prescribed.

C O M M E N T A R Y

Statutory instruments including rules (and notifications, orders and regulations) do not come into operation on the date of which they are first made but on the day on which they are made available are known to public or to persons, whom it is sought to affect. *Sheoji v. Moti*, **1982 RRD 471**.

13. Delegation.-(1) The State Government may, by notification in the ¹[Official Gazette], delegate to the board all or any its powers, except the power to make rules. (2) The Board may, with the approval of the State Government, from time to time issue direction for the guidance of the Collector and subordinate revenue officers in carrying out the provisions of this Act,

14. Savings.-Nothing in this Act shall in any way- (i)Apply to or affect any proceeding taken in respect of any unclaimed property under the Code of Criminal Procedure, 1898, or under the Police Act, of the Central Legislature as adapted to ²[the State of Rajasthan], or (ii) Be constructed to preclude any person who may conceive that he has just grounds of complaint on account of any orders which may be passed by the Collector or the Board or State Government or the Court under this Act from proceeding in the regular course of law for the recovery of any property to which such order relate or for compensation for any loss or injury supposed to have been unduly sustained by him.

15. ³[x x x]

1. Subs. by Raj. Act No. 27 of 1957.
2. Subs. by Raj. Act No. 27 of 1957.
3. Omitted by Raj. Act No. 27 of 1957.

THE RAJASTHAN ESCHEATS RULES, 1957
C O N T E N T S

1. Short title and commencement.
2. Interpretations.
 - (i) The Act
 - (ii) Section
3. Inventory of property.
4. Mode of taking possession.
5. Particulars of proclamation u/section 6.
6. Enquiry under sub-section (6) of section 6.
7. Form of proclamation under section 6.

THE RAJASTHAN ESCHEATS RULES, 1957

[Notification No. F:8 (40) Rev./A/53 dated 8-3-57, pub. In Raj. Gaz. Part IV-C, dated 28-3-57.]

In exercise of the powers conferred by section 12 of the Rajasthan Escheats Regulation Act, 1956, (Rajasthan Act No. 23 of 1956) the State Government is hereby pleased to make the following rules namely:-

1. Short title, extent and commencement.-

- (1) These rules may be called the Rajasthan Escheats Rules, 1957.
- (2) They shall extend to the pre-Reorganisation State of Rajasthan.
- (3) They shall come into force at once.

2. Interpretations.- In these rules, unless there is anything repugnant in the subject or context –

- (i) “The act” means the Rajasthan Escheates Regulation Act, 1956 (Raj. Act No. 23 of 1956).
- (ii) “section“ means a section of the Act.

3. Inventory of property.- If the property to which the act applies-

- (a) is agricultural property, the inventory shall show the name of the village, the survey number, area and name of field, if any, soil classification and boundaries;
- (b) is immovable property other than agricultural land, the inventory shall contain a description of such property sufficient to identify the same; in particular the name of the village, town or city, the name of the ward, mohalla, road or street and a description of the locality, number of house, if any, and boundaries;

(c) is movable property, the inventory shall give a reasonable accurate and full descriptions of the property together with the nature and estimated of each articles and the name of the place where the property is.

- 4. Mode of taking possession.-** In the case of the property of the description mentioned in clause (a) and (b) of rule 3, the Tehsildar shall proclaim the fact of taking possession by beat of drum in the village, town or city concerned; and in the case of the property of the description mentioned in clause (c) of the same rule, he shall take physical possession of the property.
- 5. Particulars of proclamation under section 6.-**The proclamation under clause (b) of sub section. (1) of sec. 6 shall-
- (a) give a description of the property sufficient to identify the same; and in case such property can be identified by boundaries or numbers in a record of settlement or survey, a specification of boundaries and numbers; in the case of movable property, its estimated value; and where the property has been sold in accordance with sub-section (2) of section 4. The amount of sale proceeds thereof.
 - (b) State the manner and the terms and conditions subject to which the property is being possessed, maintained, managed, kept and taken care of; and
 - (c) Call upon all persons having interest therein or right thereto to prefer their claims in respect thereof to the Collector in writing within 30 days from the service of the proclamation.
- 6. Enquiry under sub-section (6) of section 6.-** In enquiring into a claim preferred under sub-section (6), of section 6, the Collector shall take into consideration the information obtained by him under sub-section (5) of that section and any other titles, deeds and documents, if any, and he shall also record oral evidence, if any, produced by the claimant.
- 7. Form of proclamation under section 8.-**The proclamation under section 8 shall be in the form appended to these rules.
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**Form of proclamation under section 8 of
The Rajasthan Escheats Regulation Act, 1956.**
(See rule 7)

IN THE COURT OF THE DISTRICT JUDGE OF _____

Case No. _____ of 20 _____

Escheat proceeding in respect of the property of A.B.S/o C.D.

caste _____ r/o _____

E.F.S/o G.H.cast _____ r/o _____ Applicant.

WHEREAS the Collector of _____ has applied to this court under clause (b) of sub-section (9) of section 6 of the Rajasthan Escheats Regulation Act, 1956 (23 of 1956) for a vesting order in respect of the property hereinafter described and for the custody thereof in the meanwhile; this proclamation is issued under section 8 of the said Act calling upon any person claiming to be entitled to the property set out hereinafter to attend and prefer his claim and furnish evidence in respect thereof to satisfy the court of his right to the possession of the property in question or any part of it. Take notice that if no claim preferred and right established to the satisfaction of the court, then after the expiry of 12 months from the date of the service of this proclamation, the court shall pass an order declaring the property in question to have vested in the State on the date of the death of the last owner thereof.

Given under my hand and the seal of the court this day _____
year _____

(Signature)

District Judge _____

Description of property.
