

THE RAJASTHAN COURT OF WARDS ACT, 1951
(Act No. XXVIII of 1951)

[Made by His Highness the Rajpramukh on the 17th day of October, 1951]

An Act to consolidate and amend the law relating to the Court of Wards in Rajasthan.

WHEREAS it is expedient to consolidate and amend the law relating to the Court of Wards in Rajasthan:

It is hereby enacted as follows:-

CHAPTER I
PRELIMINARY

1. Title, extent and commencement.- (1) This Act may be called the Rajasthan Court of Wards Act, 1951.

(2) It extends to the whole of Rajasthan.

(3) It shall come into force at once.

2. Repeal.- (1) The laws and enactments specified in the First Schedule to this Act are hereby repealed.

(2) But all rules and appointments made, notifications and orders issued, authorities and powers conferred, farms and leases granted, rights acquired, liabilities incurred, and other things done under the laws and enactments hereby repealed shall so far as may be, be deemed to have been made, issued, conferred, granted, acquired, incurred and done under this Act.

(3) Any enactment or document referring to the laws and enactments hereby repealed shall, so far as may be, be construed to refer to this Act or the corresponding portion thereof.

3. Interpretation.- The General Clauses Act, 1897, of the Central Legislature shall mutatis mutandis apply, so far as may be, to this Act, as it applies to a Central Act.

4. Definitions.- In this Act, unless there be something repugnant in the subject or context-

(i) "estate" means any land or interest in land held by a person under a State grant, including any other properties held by such grantee;

(ii) "Government" means the Government of Rajasthan;

(iii) "minor" means a person who, under section 3 of the Indian Majority Act, 1875, has not attained his majority;

- (iv) "landholder" means a person holding an estate;
- (v) "prescribed" means prescribed by this Act or the rules made thereunder;
- (vi) "state grant" means a grant of land or an interest therein made by the Ruler or the Government of a covenanting State or recognised or declared by Government as having been so made;
- (vii) "ward" means a disqualified landholder whose person or estate or any part of whose estate is under the superintendence of the Court of Wards or a land holder in regard to whose estate a declaration has been made under section 10.

CHAPTER II THE COURT OF WARDS

5. Rajasthan Court of Wards.- The Board of Revenue for Rajasthan shall be, and is hereby constituted, the Court of Wards, for the whole of Rajasthan.

6. Control of the Government.- The authority vested in the Court of Wards shall be subject to the control of the Government.

7. Powers of the Court of Wards, how exercised.- (1) The Court of Wards may exercise all or any powers conferred on it by this Act, through the ¹[x x x] Collectors of the districts in which any part of the estate of its wards may be situated, or through any other person whom it may appoint for such purpose.

(2) The Court of Wards may, with the sanction of the Government, from time to time, delegate any of its powers to such ¹[x x x] Collectors or other persons as aforesaid, and may at any time with the like sanction revoke such delegation.

CHAPTER III ASSUMPTION OF SUPERINTENDENCE OF PERSON AND ESTATE

8. Landholders when to be deemed disqualified.- (1) Landholders shall be deemed to be disqualified to manage their own estate when they are-

- (a) minors;
- (b) persons adjudged by a competent Civil Court to be of unsound mind and incapable of managing their own estate;

¹ Omitted vide item No. 1 of the Schedule of the Rajasthan Act No. 8 of 1962 published in the Rajasthan Gazette, Part IV-A, Extraordinary, dated 23-4-1962.

- (c) persons declared by the Government to be incapable of managing or unfit to manage their own estate,-
- (i) owing to any physical or mental defect or infirmity unfitting them for the management of their own estate;
 - (ii) owing to their having been convicted of a non-bailable offence or being unfitted by vicious habits or bad character for the management of their own estate;
 - (iii) owing to their having entered upon a course of extravagance;
 - (iv) owing to their failure without sufficient reason to discharge the debts and liabilities due by them;
 - (v) owing to such mismanagement as has caused general discontent among the tenants:

Provided that no such declaration shall be made under sub-clause (iii) or (iv), unless the Government is satisfied that such extravagance or such failure to discharge the said debts and liabilities is likely to lead to the dissipation of the estate.

(2) No declaration under clause (c) of sub-section (1) shall be made until the landholder has been furnished with a detailed statement of the grounds on which it is proposed to disqualify him and has had an opportunity of showing cause why such declaration should not be made.

9. Inquiry into circumstances of a landholder by order of the Government.- (1) The Government may, direct the Collector, or such other person as it may appoint, to make an inquiry into the circumstances of any landholder and the extent of his indebtedness.

For the purpose of compelling the attendance of witnesses and the production of documents in the course of such inquiry the Collector or other person appointed to make the inquiry may exercise all or any of the powers of a Civil Court under the Code of Civil Procedure, 1908.

(2) The Collector shall notify in the Rajasthan Gazette the date on which the inquiry will be held. A copy of the notification shall be served on the landholder. The Collector shall also publish the said notification in the manner prescribed for the publication of notifications of assumption of charge by the Court of Wards.

(3) From the date of the publication of the said notification in the Rajasthan Gazette the prohibitions contained in clause (a) of section 37 of this Act shall apply to the landholder so long as the inquiry is proceeding, and until the orders of the Government are passed thereon.

10. Application by landholder himself.- A landholder may apply to the Collector to have his estate placed under the superintendence of the Court of Wards, and the Court of wards may, on being satisfied that it is expedient to undertake the management of such estate, make a declaration to this effect.

11. Jurisdiction of Civil Court barred.- No declaration made by the Government under section 8 or by the Court of Wards under section 10 shall be questioned in any Civil Court.

12. Power to assume superintendence.- (1) The Court of Wards shall assume the superintendence of the estate of any landholder disqualified under clause (c) of sub-section (1) of section 8 or in regard to whose estate a declaration has been made under section 10.

(2) The Court of Wards may in its discretion assume or refrain from assuming the superintendence of-

(a) the estate or person and estate of any landholder disqualified under clause (a) or (b) of sub-section (1) of section 8,

(b) the person of any landholder disqualified under clause (c) of sub-section (1) of section 8.

(3) The Court of Wards may assume the superintendence of the person of any minor who has an immediate or reversionary interest in the estate-

(a) of any landholder disqualified under section 8; or

(b) of any landholder in regard to whose estate a declaration has been made under section 10.

13. Report to the Government when Court of Ward's right of superintendence is disputed.- If the right of the Court of Wards to assume or retain the superintendence of the person or estate of any disqualified landholder is disputed by such landholder or, if he be a minor, or of unsound mind, by some person on his behalf, the case shall be reported to the Government, whose orders thereon shall be final and shall not be questioned in any Civil Court.

14. Protection of person and property of successor on death of landholder.- (1) Whenever any Collector receives information that any landholder has died, and he has reason to believe that the successor of such landholder should be deemed to be disqualified under clause (a) or (b) or (c) (i) or (c) (ii) of sub-section (1) of section 8:-

(a) he may, subject to the direction and control of the Court of Wards, take possession of the estate of the successor and appoint a manager thereof, who shall exercise all the

powers conferred by this Act on a manager appointed by the Court of Wards or may take such steps and make such orders for the temporary custody and protection of the estate of the successor as he thinks proper; and

(b) if the successor be a minor, he may direct that the person, if any, having the custody of the minor shall produce him, or cause him to be produced, at such place and time, and before such person, as he appoints, and may take such order for the temporary custody and protection of the minor as he thinks proper.

(2) If the estate is not afterwards taken under charge by the Court of Wards, all expenses incurred by a Collector acting under this section shall be recoverable as arrears of land revenue from the landholder or the person or persons whom the Collector shall find to be in possession of such estate by any process by which arrears of land revenue may, for the time being, be recovered.

(3) Any action taken by a Collector under sub-section (1) shall at once be reported by him to the Court of Wards.

15. Notification of assumption of superintendence.- When the Court of Wards assume the superintendence of any person or estate, the order of assumption shall be notified in the Rajasthan Gazette, and shall specify the Collector or other person who is put in charge.

16. Whole estate of ward to be deemed to be under superintendence.- (1) The whole estate of a Ward including all his movable and immovable properties shall be deemed to be under the superintendence of the Court of Wards-

(a) from the date of assumption of superintendence, in the case of landholders disqualified under clause (a) or clause (b) of sub-section (1) of section 8; and

(b) from the date of the declaration made under clause (c) of sub-section (1) of section 8 or under section 10, as the case may be.

(2) The Collector or other person appointed in that behalf shall take possession and custody of the estate and manage it in accordance with rules made under section 64.

(3) Any property which the ward may inherit subsequent to the date of such assumption or declaration shall be deemed to be under the superintendence of the Court of Wards.

(4) The Court of Wards may in its discretion assume or refrain from assuming the superintendence of any property which the ward may acquire otherwise than by inheritance subsequent to the date of such assumption or declaration.

CHAPTER IV
ASCERTAINMENT OF DEBTS

17. Notice to claimants and presentation of claims.- (1) On the publication of a notification under section 15, the Collector specified in the order of assumption, or any other Collector whom the Court of Wards may appoint in this behalf, shall publish in the Rajasthan Gazette a notice calling upon all persons having claims, including decrees for money whether secured by mortgage or not, against the ward or his estate to notify the same in writing to such Collector, within six months from the date of publication of the notice:

Provided that, if the claimant be at the date of notice, a minor or insane or an idiot, the said period of six months shall begin to run in accordance with the rules contained in section 6 of the Indian Limitation Act, 1908:

Provided further that if the claimant be at the date of the said notice absent from India, the said period shall begin to run from the date of his return to India.

(2) The notice shall also be published at such places and in such other manner as the Court of Wards, may be general or special order, direct.

(3) Every claimant shall together with his statement of claim present full particulars thereof:

Provided that in the case of a decree, it shall be sufficient to file a certified copy of the same together with particulars showing the extent to which the decree has been satisfied.

(4) Every document (including entries in books of account) on which the claimant founds his claim, or on which he relies in support thereof, shall be produced before the Collector with the statement of claim:

Provided that the provisions of section 4 of the Banker's Books Evidence Act, 1891, shall apply to proceedings under this Chapter.

(5) Every such document shall be accompanied by a true copy of the same. The Collector shall mark the original document for the purpose of identification, and after examining and comparing the copy with it, shall retain the copy and return the original to the claimant.

(6) Nothing in this and the following sections of this Chapter shall apply to any claim in respect of a transaction subsequent to the date of notification under section 15.

18. Effect of failure to notify claims.- Subject to the provisions of section 20, every claim of the nature specified in section 17 against the ward or his estate other than debts due to

and liabilities incurred in favour of the Government, which is not notified under section 17, shall be deemed for all purposes and on all occasions, whether during continuance of the superintendence of the Court of Wards or afterwards, to have been duly discharged:

Provided that, if the claimant can show sufficient cause for failure to comply with the provisions of section 17, the Collector shall receive his claim, and the claim so received shall be deemed to have been notified under section 17:

Provided also that the provisions of this section shall not be deemed to extinguish any such claim in any case in which the Court of Wards after assuming the superintendence of such estate releases the same from its superintendence without discharging the liabilities thereof, in the manner provided in this chapter:

Provided further, that nothing in this section shall apply to a mortgagee in possession of immovable property of the ward.

19. Powers of Collector in regard to claim.- (1) The Collector shall decide which of the claims notified or deemed to have been notified under sections 17 and 18 are to be allowed and which are to be disallowed, in whole or in part, and, on his decision being confirmed by the Court of Wards, shall give written notice of the same to the claimants.

(2) When a claim which has been received under the first proviso to section 18 is allowed, the Collector may disallow payment in part of the interest which has accrued since the publication of the notice under section 17.

(3) Where a claim allowed under sub-section (1), not being a claim merged in a decree, is due or payable, the Collector may, if such claim can not be at once discharged, fix the rate of interest to be paid thereon from the date of his decision to the date of payment and discharge of such claim:

Provided that, if such claim is not discharged by the Court of wards within two years from the date of the decision of the Collector allowing it, any order made under this sub-section reducing the contractual rate of interest shall be deemed to be inoperative.

(4) The Collector may fix the rate of interest to be paid on the claim from the date of such decision to the fixed date aforesaid or to a date two years from the date of the decision, whichever may be the longer period:

Provided that, if such claim is not discharged by the Court of Wards on or before the date up to which the interest has been fixed by such order, the order reducing the contractual rate of interest shall be deemed to be inoperative.

(5) In no case shall the rate of interest fixed under sub-section (3) or sub-section (4), be less than six per centum per annum.

(6) The action of the Collector under sub-sections (2), (3) and (4) of this section, shall be subject to the confirmation of the Court of Wards and shall not be open to question in any Civil Court.

20. Prosecution of claims in Civil Court.- Nothing in sections 18 and 19 shall be construed to prevent any person from instituting or continuing in any competent Court any suit or proceeding in respect of any claim which has been disallowed in whole or in part by the Collector under section 18 or by the Court of Wards under section 19 (1):

Provided that, where the claimant has failed to notify his claim under section 17, no suit or proceeding in respect of such claim shall be maintainable unless the claimant shows good and sufficient cause for such failure.

21. Execution of decrees to be stayed till certificate filed.- (1) On the publication of a notice u/s. 17, no fresh proceeding in execution of any decree against the ward, or his estate shall be instituted in, nor shall any attachment or other process in any such proceeding then pending be issued by, any Court until the decree holder files-

- (a) a certificate to the effect that the claim has been notified or is deemed to have been notified in accordance with section 17, or
- (b) a copy of a final order or decree of the Civil Court allowing the claim in any suit or proceeding referred to in section 20.

(2) Any person holding a decree against the ward or his estate, shall be entitled to receive from the Collector free of cost; a certificate to the effect specified in sub-section (1) (a), and such certificate shall be conclusive proof, as defined by section 4 of the Indian Evidence Act, 1872, of the truth of facts to be stated therein.

(3) In computing the period of limitation prescribed by the Indian Limitation Act, 1908, or section 48 of the Code of Civil Procedure, for any application for the execution of a decree, proceedings in which have been stayed or temporarily barred under sub-section (1), the time from the date of notice or of the decree, if it was passed subsequently to the publication of notice,

to the date when the Collectors' decision under section 19 is confirmed by the Court of wards, shall be excluded.

22. Documents not produced to be inadmissible in evidence in certain cases.- If any document in the possession or under the control of in person is not produced by him as required by section 17, such document shall not be admissible in evidence against the ward, whether during the continuance of the superintendence or afterwards, in any suit brought by that person or any person claiming under him, to enforce the claim or liability founded upon or supported by it, unless good cause be shown to the satisfaction of the Court, for the non-production thereof before the Collector.

23. Stay of process of execution in a Civil Court against estate of ward.- If a Civil Court has directed any process of execution to issue against any property of a ward, the Court of Wards may, at any time within one year after it assumes charge of his estate, apply to the Civil Court to stay proceedings in the matter of such process, and the Civil Court may, on such terms regarding interest or compensation for delay, as appear to it to be just and reasonable, stay such proceedings for such period as it may deem fit.

24. Power to invest persons with powers under this Chapter.- The Government may invest any person with the powers of a Collector under this Chapter.

CHAPTER V GUARDIANSHIP AND MANAGEMENT

25. Allowance for ward and his family.- The Court of Wards may from time to time, determine, what sums shall be allowed in respect of the expenses of any ward and of his family and dependants.

26. Residence and education of wards.- If the superintendence of the person of any ward or minor member of a wards, family has been assumed, the Court of wards, may pass such order, as it thinks fit, in respect of his residence, and also in the case of a minor in respect of his education, provided that where the said minor is a female, nothing herein contained shall authorise the Court of Wards to remove her from the custody of her parents, grand parents or husband.

27. Appointment, removal and control of guardian.- (1) The Court of Wards may, appoint guardians for the care of the persons of such wards as, are minors or of unsound mind or suffering from any physical or mental defect or infirmity, and may, control and remove such

guardians and no appointment of a guardian, for any ward, shall be valid unless and until it has been confirmed by the Court of Wards.

(2) In appointing a guardian under this section the Court of Wards shall be guided by the provisions of section 17 of the Guardians and Wards Act, 1890.

28. Duties of guardian.- A guardian so appointed shall be charged with the custody of the ward and shall make suitable provision for his maintenance, health, and, if he be a minor, his education, and such other matters, as the personal law to which the ward is subject, requires, and shall-

- (a) give such security as the Court of Wards thinks fit for the due performance of his duty,
- (b) submit such accounts as the Court of Wards may direct,
- (c) pay the balances due from him thereon,
- (d) apply for the sanction of the Court of Wards to any act, which may involve expense, not previously sanctioned by the Court of Wards,
- (e) receive such allowance, to be paid out of the estate of the ward, as the Court of Wards thinks fit,
- (f) continue liable to account to the Court of Wards, after he had ceased to be guardian, for his receipts and disbursements during the period of his guardianship.

29. Appointment, control and removal of manager.- The Court of Wards may appoint a manager for any estate under its superintendence and may control and remove such manager.

Such manager shall receive such pay and allowances to be paid out of the estate, as the Court of Wards thinks fit.

30. Powers of manager.- A manager appointed by the Court of Wards, shall have power to collect the rents of the land placed under his charge, as well as, all other moneys due to the ward whose estate he manages, and to grant receipts therefor,-

and he may grant agricultural leases for a term not exceeding seven years, and do all such lawful acts, as he may be generally or specially authorised by the Court of Wards to do for the good management of the estate.

31. Duties of managers.- Every manager appointed by the Court of Wards shall manage the property placed under his charge diligently and faithfully and he shall-

- (a) give such security if, any, as the Court of Wards thinks fit duly to account for what he may receive in respect of the rents and profits of the estate under his charge,
- (b) keep accounts in such form and submit them at such times, as the Court of Wards may direct,
- (c) deal with all moneys received by him in such manner as the Court of Wards may direct,
- (d) apply for the sanction of the Court of Wards to any act which may involve the estate in expense not previously sanctioned by the Court of Wards,
- (e) be responsible for any loss occasioned to the estate of the ward by his negligence or wilful default,
- (f) continue liable to account to the Court of Wards, after he had ceased to be manager, for his receipts and disbursements during the period of his managership.

32. Termination of appointment of guardian or manager.- The appointment of any guardian or manager appointed under section 27 or section 29, shall terminate on the Court of Wards ceasing to exercise superintendence of the person or estate for whom or which such guardian or manager has been appointed.

33. Guardian, etc. to be deemed to be public servants.- Every guardian, manager or other servant of the Court of Wards, shall be deemed to be a public servant for the purposes of Chapter IX of the Indian Penal Code and, in the definition of "legal remuneration" contained in section 161 of that Code, the "Government" shall, for the purposes of this section, be deemed to include the Court of Wards.

34. How manager's and other servants to be proceeded against for loss or defalcation.- Every guardian, manager or other servant of the Court of Wards entrusted with the receipt, custody or control of moneys or securities for money on behalf of the Court of Wards or with the management of any estate under its superintendence, may be proceeded against for any loss or defalcation in his accounts as if the amount thereof were an arrear of land revenue.

35. Collector when to discharge the duties of guardian or manager.- If no guardian of the person or the estate of a ward is appointed by the Court of Wards, the Collector specified in the order of assumption under section 15, or any other Collector whom the Court of Wards may appoint in this behalf, shall be competent to do, under the orders of the Court of Wards, any thing that might be lawfully done by a guardian or a manager.

36. Application of moneys received by manager.- All moneys received by the manager, shall be applied to the purposes hereinafter mentioned in accordance with such instructions, as the Court of Wards may from time to time, give in that behalf; priority shall be given to the purposes included under class I over those included in class II, and, unless the Court of Wards shall specifically otherwise direct, priority shall be given to the purposes included in class II over those included in class III.

Class I.

The payment of all charges necessary for the maintenance and education of the ward and his family, and for the management and supervision of the estate of the ward; and
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 estate or any part of such estate.

Class II.

The liquidation of debts payable by the ward;
the payment of all expenses which may be necessary to protect the interests of the ward in the Civil Courts or otherwise;
the maintenance in an efficient condition of the buildings, and other immovable property, and the suitable upkeep of the furniture, equipage, livestock and other movable property belonging to the ward; and
the payment of such charges for the religious observances of the ward and his family, and of such religious, charitable, and other allowances, and of such donations befitting the position of the ward's family as the Court of Wards may authorise to be paid.

Class III.

The prevention and relief of distress among the ward's tenantry;
the improvement of the land and property of the ward, and the benefit of the ward and his estate generally; and
the purchase of other landed or house property, and investments at interest on the security of-
promissory notes, debentures, stocks and other securities of the Central Government;
stock or debentures of, or shares in, railway or other companies, the interest whereon has been guaranteed by the Central Government;

debentures or other securities for money paid by or on behalf of any municipal body or any port trust under the authority of any Act of a Legislature established in India;

such other securities, stocks or shares guaranteed by the Central Government or the State Government, as to the Court of Wards shall seem fit;

mortgages on immovable property; or

promissory notes for period not exceeding one year executed on behalf of other landholders under the superintendence of the Court of Wards.

37. Disabilities of wards.- A ward shall not be competent-

(a) to transfer or create any charge on, or interest in, any part of his estate which is under the superintendence of the Court of Wards, or to enter into any contract which may involve him in pecuniary liability;

but nothing in this clause shall be deemed to effect the capacity of a ward to enter into a contract of marriage: provided that he shall not incur in connection therewith any pecuniary liability except such as, having regard to the personal law to which he is subject, and to his rank and circumstances, the Court of Wards, may, in writing declare to be reasonable;

(b) to adopt without the consent in writing of the Court of Wards;

(c) to dispose of his property by will without the consent in writing of the Court of Wards given either previously or subsequently to the making of the will but during the life-time of the testator.

38. Powers of Court of Wards as to estate under its superintendence.- (1) The Court of Wards may mortgage or sell the whole or any part of any estate under its superintendence, and may give leases or farms of the whole or any part of such estate for such terms, as it thinks fit and may make such remissions of rent or other dues and may generally pass such orders and do such acts not inconsistent with the provisions of this Act or any other law in force for the time being, as it may judge to be for the advantage of the ward or for the benefit of the estate:

Provided that no estate placed under the superintendence of the Court of Wards under section 10 shall be sold in whole or in part without the consent of the landholder except on the ground that the debts and liabilities with the estate is charged, are such as to render their liquidation within a reasonable time impracticable, and that the release of the estate under section 45 is inexpedient owing to contracts or engagements entered into or liabilities undertaken during the superintendence of the Court of Wards.

- (2) A certificate granted to the purchaser by the Court of Wards to the effect,-
- (a) that the consent of the landholder to the sale has been obtained, or
 - (b) that the sale has been made in circumstances which under the proviso to sub-section (1) of this section render such consent unnecessary;

shall be conclusive proof as defined by section 4 of the Indian Evidence Act, 1872 of the truth of those facts.

39. Arrears of rent recoverable as arrears of land revenue.- Notwithstanding anything to the contrary contained in any law for the time being in force, arrears of rent, rates and cesses due in respect of an estate under the charge of the Court of Wards (whether such rent, rates and cesses became due before or after the Court of Wards took charge) may, under the order of the Collector of the district in which such estate is situated, be recovered as arrears of land revenue by any process by which arrears of land revenue may for the time being be recovered.

40. Grant of certificate of arrears due.- (1) When a Collector decides to proceed under the last preceding section, he shall, on being satisfied that the arrear is due and that payment thereof has been demanded, grant a certificate stating the amount due and the person by whom it is payable, and such certificate save as otherwise provided by this Act, shall be conclusive proof of the matters therein stated.

(2) The certificate shall be for the amount of all arrears and interest due and recoverable and there shall be payable in respect thereof, a court fee of the same amount as is payable under the Court Fees Act in force for the time being in respect of a plaint for the same amount, and the amount of such court fee may be included in the amount for which the certificate is given.

41. Procedure if defaulter denies liability.- (1) If the person named in the certificate denies his liability for the amount named therein or any part thereof he may, within thirty days from receiving notice thereof, or if, no notice is given, within thirty days after any process for realising the amount or enforcing the certificate has been executed, present a petition to the Collector stating the grounds of his denial.

(2) The Collector may-

- (i) reject such petition summarily; or
- (ii) after such inquiry as he thinks fit, amend or cancel the certificates or suspend its execution for such time, as he may think fit; or

(iii) remit the certificate and petition to any Revenue Court having jurisdiction to be dealt with as a suit between the manager and the petitioner, and the certificate shall thereupon be treated as a plaint duly presented.

42. When defaulter may bring a civil suit to contest liability.- (1) Any person who has presented a petition under the last section,-

(a) if that petition has been rejected under clause (i) of sub-section (2) of that section, or
(b) if the certificate has not been cancelled or amended to his satisfaction under clause (ii), or

(c) if the petition and certificate have not been remitted to be dealt with under clause (iii), may, if he denies his liability to pay the amount entered in the certificate or any part thereof and pays the same under protest made in writing at the time of payment, institute a civil suit for the recovery of the amount or the part thereof so paid.

(2) In such suit, the plaintiff may, notwithstanding anything in section 40, give evidence with respect to any matter stated in the certificate.

43. Establishments and expenses.- The Court of Wards, 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 estates under its superintendence, and generally for all the purposes of this Act, and may order that such expenses be charged against the estate of the ward generally or against any one or more properties for the purposes of which such establishments are, or have been entertained or such expenses have been incurred.

44. Audit of accounts.- The accounts of estates under the superintendence of the Court of Wards, shall be audited by such persons and in such manner, as may be prescribed.

CHAPTER VI

RELEASE OF PERSON AND ESTATE FROM SUPERINTENDENCE

45. Power to release from superintendence.- The Court of Wards may at any time, release any person or estate from its superintendence:

Provided, first that the Court of Wards shall not without the previous sanction of the Government, so release any estate, the landholder of which has been disqualified under clause (c) of sub-section (1) of section 8:

Provided, secondly, that the Court of Wards shall not, without such sanction, so release any estate when steps have been taken for the liquidation of the debts and liabilities with which the property is charged and the liquidation thereof has not been completed:

Provided, thirdly, that the Court of Wards shall not without such sanction, after the expiration of one year from the date of the notification under section 15, release any estate on the ground that the debts and liabilities with which it is charged are such as to render their liquidation within a reasonable time impracticable: and

Provided, fourthly, that the Court of Wards shall not release the estate of a person disqualified under clause (b) of sub-section (1) of section 8 until the expiration of three months after notice has been given to the Civil Court having jurisdiction.

46. Option to release or retain superintendence in certain cases.- (1) When a ward dies, or when a ward disqualified under clause (a) or clause (b) of sub-section (1) of section 8 ceases to be disqualified before the liquidation is completed of the debts and liabilities with which the estate is charged, the Court of Wards, may either release such estate or may retain it under its superintendence, until such debts and liabilities have been discharged.

(2) If the Court of Wards retains the superintendence, the person who has succeeded to the estate or the person who has ceased to be disqualified, shall not be competent to transfer or create any charge on or interest in, any part of such estate while it remains under the superintendence of the Court of Wards nor shall any debts or liabilities previously incurred by any person who has so succeeded, be chargeable on such estate, until the debts and liabilities due by the Court of Wards have been discharged.

47. Retention of superintendence when there are more landholders than one.- (1) If in the case of any estate under the superintendence of the Court of Wards, there are more landholders than one and if any one of such landholders has ceased to be a ward, the Court of Wards, if it considers the course to be expedient in the interests of the landholders who remain wards, may retain the whole estate under its superintendence.

(2) If the Court of Wards under sub-section (1) of this section retains superintendence of the share of any landholder who has ceased to be a ward, such landholder shall not be competent to transfer or create any charge on or interest in any part of such share while it remains under the Court of Wards:

Provided that nothing in this section shall be deemed to prevent such landholder from making a testamentary disposition if such disposition is permissible under the law for the time being in force:

Provided, further, that nothing in this section shall be deemed to prevent such landholder from applying for partition of his share, and on the partition taking effect, the Court of Wards shall release the share of the estate allotted to such landholder on partition:

Provided, further, that from the date of such application and until such partition takes place, the Court of Wards shall pay to such landholder, the surplus income accruing from his share of the joint estate.

48. Appointment of guardian on release of minor.- (1) When the Court of Wards decides to release from its superintendence, the person and estate of any minor, it may, before such release by an order in writing, appoint any person to be the guardian of the person or estate or both of such minor.

(2) Such appointment shall take effect from the date of such release.

(3) In appointing a guardian under this section, the Court of Wards shall be guided by the provisions of section 17 of the Guardians and Wards Act, 1890.

(4) Every such appointment shall be notified to the district Judge within whose jurisdiction, the estate or any portion thereof is situated.

(5) Every such guardian shall be deemed to have been appointed by such District Judge and to be subject to his jurisdiction as if so appointed and shall have and be subject to the same rights, duties and liabilities as if he has been appointed under the Guardians and Wards Act, 1890.

49. Disposal of estate after death of ward when succession doubtful.- When on the death of a ward the succession to his estate or any part thereof is disputed, the Court of Wards may either direct that such estate or part be made over to any person claiming the same, or may retain its superintendence until a claimant has established his title to the same in a competent Court, and in such latter case may institute a suit for interpleader against the several claimants.

50. Powers to be exercised in respect of estate, the superintendence of which is retained.- (1) When the Court of Wards retains superintendence of any estate under the provisions of section 46, section 47 or section 49, it may exercise all or any of the powers conferred by this Act in respect of such estate and may do all such things requisite for the proper

care and management of the estate as the landholder thereof if not disqualified might do for its care and management, and may pay such allowances to relatives and dependants of a deceased ward as may seem to it reasonable; all acts done by the Court of Wards in exercise of the powers conferred by this sub-section, shall be binding on the person who succeeds to such estate.

(2) All suits relating to the said estate, shall be brought or defended in the name of the Collector incharge of such estate or of such other person, as the Court of Wards may appoint in this behalf.

51. Delivery of documents and accounts on release of estate.- When the Court of Wards releases the estate of any landholder from its superintendence, it shall deliver to the landholder all documents of title and all papers and accounts (other than Government records) relating to such estate.

52. Notification of release from superintendence.- When the Court of Wards releases any person or estate from its superintendence, the fact of such release shall be notified in the Rajasthan Gazette.

53. Effect of release without discharge of liabilities.- When the Court of Wards after assuming the superintendence of the estate of a ward releases the same without discharging the liabilities thereof in the manner provided in Chapter IV the time from the publication of notice under section 17 to the date of such release, shall be excluded in computing the period of limitation applicable to suits or applications for the recovery of all claims outstanding against the ward at the date of such notice.

CHAPTER VII SUITS

54. Exercise of discretion not to be questioned in Civil Court, certain officers protected from suits.- (1) The exercise of any discretion conferred on the Government or the Court of Wards by this Act, shall not be questioned in any Civil Court.

(2) No suit shall be brought against any officer of the Government or any guardian, manager or servant appointed by and discharging his duties under the Court of Wards, for anything done by him in good faith under this Act.

55. Notice of civil suit.- No suit relating to the person or estate of any ward shall be instituted in any Civil Court until the expiration of two months after notice in writing has been delivered to or left at the office of the Collector or other person in charge of estate, stating the

name and place of abode of the intending plaintiff, the cause of action, and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left.

56. Suit in Civil Court to be in the name of Collector or of such other person, as the Court of Wards may appoint.- No ward shall sue or be sued, nor shall any proceedings be taken in the Civil Court otherwise than by and in the name of the Collector incharge of his estate or such other person, as the Court of Wards may appoint in this behalf.

57. Appointment of representatives in Civil Court.- When in any suit or proceeding two or more wards, being parties, have conflicting interests, the Court of Wards shall appoint for each such ward a representative, and the said representative shall thereupon conduct or defend the case on behalf of the Ward whom he represents, subject to the general control of the Court of Wards.

58. Statement of case for opinion by Civil Court.- (1) Where any question arises as between two or more wards of such nature that an adjudication upon it by a Civil Court is expedient, it shall be lawful for the Court of Wards to appoint a representative on behalf of each ward. The representative so appointed shall prepare a statement containing the point or points for determination and shall on behalf of the said ward, file the statement in a Civil Court having jurisdiction in the form of a case for the opinion of the said Court.

(2) The Civil Court shall then proceed to hear and dispose of the case in the manner prescribed by the Code of Civil Procedure, 1908 for the hearing and disposal of suits.

(3) The case shall be conducted on behalf of the wards by their representatives appointed under sub-section (1) of this section subject to the general control of the Court of Wards.

59. Procedure for arbitration in cases between wards.- (1) When it appears to the Court of Wards, that any question or dispute arising between two or more wards is a fit subject for reference to arbitration, it may appoint a representative on behalf of each such ward and require the said representative to submit the question or dispute to the arbitration, of such person or persons, as it may approve.

(2) A reference to arbitration made in accordance with sub-section (1), shall take effect in the same manner, and have the same consequences, as a reference made by persons who are not wards of Court.

60. Suits etc. in Revenue Courts.- (1) No ward shall sue or be sued nor shall any proceedings be taken in a Revenue Court except by or in the name of the manager appointed by the Court of Wards or the Collector incharge of the ward's estate.

(2) Such manager may subject to the control of such collector, or where there is no such manager, such Collector may institute, defend, compromise, or otherwise deal with suits, applications, or other proceedings in Revenue Courts relating to the estate entrusted to him.

61. Saving of direct liability of Court of Wards for legal expenses.- When a suit is brought in the Civil Court against the Court of Wards acting on behalf of a ward in respect of any estate under the superintendence of the Court of Wards and the title of the ward to the said estate is lost by reason of a decree in the said suit all expenses incurred by the Court of Wards in the course of such litigation shall, so far as they are not payable by the opposite party, be recoverable in the first, instance from any other property belonging to the said ward and in default thereof from the estate on account of which the said litigation was undertaken.

CHAPTER VIII MISCELLANEOUS

62. Deeds and other instruments.- (1) All deeds, contracts, or other instruments executed by the Court of Wards in the exercise of its powers under this Act, may be executed in its own name or on behalf of the ward, as the circumstances of the case may require.

(2) Covenants entered into by the Court of Wards shall be binding on the Court of Wards only so long as the ward or property affected by such Covenants remains under its superintendence and only to the extent of such property; such covenants shall be binding on the ward or on the person entitled to such property after the wards or the property or both shall have ceased to be under the superintendence of the Court of Wards.

(3) When the transferor and the transferee are both wards, the Court of Wards shall have power to enter into covenants on behalf of both the transferor and the transferee, respectively.

(4) This section shall apply to all deeds, contracts and other instruments as aforesaid, whether executed before or after the commencement of this Act.

63. Recovery of expenses.- Any expense incurred by the Court of Wards on account of any estate under its superintendence may after the release of such estate, be recovered as an arrear of land revenue due on such estate.

64. Power of Court of Wards to make rules.- The Court of Wards with the previous approval of the Government may make rules consistent with this act,-

- (a) regulating the management of estates under the superintendence of the Court of Wards;
- (b) regulating the audit of accounts of estates under the superintendence of the Court of Wards and the charges to be paid for such audit; and
- (c) generally for the guidance of all persons in all proceedings under this Act and for carrying out the provisions of this Act.

THE FIRST SCHEDULE

(See section 2)

LAWS AND ENACTMENTS REPEALED

1. The Jaipur Court of Wards Act, 1925.
2. The Bikaner Court of Wards Act, 1928.
3. The (Jodhpur) Court of Wards Act. 1923.
4. The Bundi Court of Wards Act.
5. The (Kushalgarh) Court of Wards Act.
6. The (Dungarpur) Law relating to the Court of Wards.
7. The Kishangarh Court of Wards Act, 1943.
8. The (Bharatpur) Court of Wards Act.
9. The Pratapgarh Court of Wards Rules.
10. The Sirohi Court of Wards Act, 1950.
11. The Tonk Court of Wards Act.
12. Laws of other Covenanting States relating to the Court of Wards.