

THE ANDHRA PRADESH ESCHEATS AND BONA VACANTIA ACT, 1974

ACT No. 35 OF 1974

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THE ANDHRA PRADESH ESCHEATS AND BONA VACANTIA ACT, 1974

ACT No. 35 OF 1974

[7th September, 1974]

AN ACT TO PROVIDE FOR THE DETERMINATION, CUSTODY AND DISPOSAL, OF PROPERTY VESTED IN THE STATE OF ANDHRA PRADESH BY ESCHEAT OR LAPSE OR AS BONA VACANTIA FOR WANT OF A RIGHTFUL OWNER AND OF UNCLAIMED PROPERTY AND FOR MATTERS CONNECTED THEREWITH.

BE it enacted by the Legislature of the State of Andhra Pradesh in the Twenty-fifth year of the Republic of India as follows:-

CHAPTER 1
PRELIMINARY

1. Short title, extent and commencement - (1) This Act may be called the Andhra Pradesh Escheats and Bona Vacantia Act, 1974.

(2) It extends to the whole of the State of Andhra Pradesh.

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

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

(i) "bona vacantia" includes any property, situated in the State, of which there is no rightful owner, but does not include an escheat or any movable property found in a public place;

(ii) "competent authority" means the chief controlling authority specified in section 4;

(iii) "court" means any civil court of competent jurisdiction ;

(iv) "escheat" means any property the owner of which dies interstate and without leaving legal heir;

(v) "Government" means the State Government;

(vi) "local officer" means the officer appointed under section 5;

(vii) "notification" means a notification published in the Andhra Pradesh Gazette; and the word "notified" shall be construed accordingly;

(viii) "Prescribed" means prescribed by rules made by the Government under Act.

CHAPTER II
GENERAL

3. Ownership of property accruing by escheat or lapse or as bona vacantia - All property situated in the State, which is vested in the State by escheat or lapse or as bona vacantia for want of a rightful owner, shall belong to the Government and the Government shall be the owner of all such property.

4. General superintendence of escheats and bona vacantia - Subject to the general or special orders of the Government, the general superintendence of all escheats and bona vacantia shall be vested in the Board of Revenue or in such other officer or authority as may be empowered by the Government in this behalf, who shall be the chief controlling authority in all matters connected with the administration of escheats and bona vacantia under this Act.

5. Local officers - (1) The Government may, by notification, appoint the District Collector or such other officers as they may deem fit, to be the local

officers for each district, to exercise the powers and perform the functions assigned by or under this Act, subject to the general control and directions of the competent authority.

(2) The Government may, by notification, appoint such number of other officers as may be necessary for the purposes of this Act, to assist the local officer.

6. Powers of disposal of escheat or bona vacantia - (1) Save as otherwise provided in this Act, an escheat or a bona vacantia may be disposed of—

(a) by the Government irrespective of its value;

(b) by the competent authority, where its value does not exceed ten thousand rupees;

(c) by the local officer, where its value does not exceed two thousand rupees;

(2) The power to dispose of an escheat or bona vacantia under subsection (1) shall include the powers

(i) to decide whether the claim of Government should be asserted and the property taken into custody;

(ii) to make equitable disposition of property which devolves by escheat;

(iii) to take charge of the property to which the claim of the Government has been asserted and to arrange for its care and maintenance during the period when it is in their custody.

CHAPTER III DECLARATION OF PROPERTY AS AN ESCHEAT OR A BONA VACANTIA AND ITS DISPOSAL

7. Inquiry relating to escheat or bona vacantia by local officer - Whenever the local officer receives information from any source that any property of the nature of an escheat or a bona vacantia is situated or lying within his jurisdiction, he shall cause an inquiry to be made in respect thereof.

8. Local Officer to institute a suit for recovery of possession of escheat or bona vacantia when the person in possession resists - (1) Where, as a result of the inquiry under section 7, the local officer is satisfied that the property of the nature of an escheat or a bona vacantia is in the possession of a person who has no authority to claim it and if such person resists to surrender such possession on demand, the local officer may, after obtaining the sanction of the competent authority, institute a suit in a court for declaration of the Government's right to the property and for recovery of possession of such property.

(2) Where the court has declared that the property is an escheat or a bona vacantia, the local officer shall obtain the possession thereof through the court and manage it or dispose it of in such manner as may be prescribed.

9. Local officer to take into custody and to arrange for care and maintenance of property which is not in the possession of any person or its possession is surrendered - Where the property of the nature of an escheat or a bona vacantia is not in the possession of any person or where the person in possession surrenders such possession when demanded, the local officer shall take the property into his custody and arrange for its care and maintenance until the claim is settled under section 11.

10. Disposal by local officer of property in certain cases - (1) The local officer shall prepare on the site and in the presence of not less than five respectable persons of the locality, an inventory of the property taken into his

custody under section 9 and forthwith send a report in the prescribed form to the competent authority, together with a copy of the inventory.

(2) Where such property is an immovable property, the leasehold right thereof shall be sold by public auction by such revenue authority and after following such procedure as may be prescribed and the sale proceeds shall be held in deposit, after deducting there-from the expenses of the sale.

(3) (a) Where the property taken into custody under section 9, or any part thereof is perishable or involves considerable expenditure for its protection or for any other reason the immediate sale thereof is considered expedient by the local officer, he may for reasons to be recorded in writing, order the disposal of the property or part thereof by public auction in the manner prescribed, the sale proceeds being held in deposit, after deducting there-from the expenses of the sale.

(b) Where the property taken into custody under section 9 is movable property of the value not exceeding fifty rupees, the local officer shall cause it to be sold by public auction in the manner prescribed, and credit the sale proceeds thereof to the Government.

11. Procedure for declaring property to be escheat or bona vacantia - (1) As soon as may be after the property is taken into his custody under section 9, the local officer shall publish a notice in such manner as may be prescribed, calling upon the persons who may have any claim to such property to prefer their claims to such property in the prescribed form within three months from the date of publication of the notice.

(2) If no claim is preferred within the said period of three months, the local officer shall declare the property in respect of which the notice is published sub-section (1) to be an escheat or a bona vacantia, as the case may be, and dispose it of in such manner as may be prescribed.

(3) (a) If any person prefers a claim within the said period of three months, the local officer shall refer the claim to the court for its decision as to whether or not the person making the claim is entitled to the property; and the court shall, after giving a notice to the local officer and to the claimant, decide the reference, as if it were a suit;

(b) Where the court decides that the property taken into custody under section 9 or any part thereof rightfully belongs to the claimant, the local officer shall deliver the same to him; and where the court decides that it does not belong to the claimant, the court shall declare the property to be an escheat or a bona vacantia, as the case may be.

12. Publication of declaration - As soon as a declaration is made by the local officer under sub-section (2) of section 11 or by the court under clause (b) of sub-section (3) of that section, the local officer shall publish a notification thereof in the Andhra Pradesh Gazette and in a local newspaper of the district where the property is situated or lies, and shall also cause an announcement of the declaration to be made by beat of drum in the village in which the property is situated or lies.

13. Immovable property escheated to Government not to be sold until twelve years after such escheat - Notwithstanding anything in this Act, no immovable property which is declared escheat or bona vacantia shall ordinarily be alienated by sale or grant until it has been in the possession of the Government for twelve years.

CHAPTER IV MOVABLE PROPERTY FOUND IN A PUBLIC PLACE

14. Disposal of movable property found in a public place - (1) Any movable property which is found in a public place, and the owner of which is not

known, shall be the property of the finder as against every one except the true owner.

(2) If the finder so desires he may handover, any movable property so found, to the officer in charge of the nearest police station who shall retain the same in his custody and shall at once furnish a report regarding such property together with an inventory thereof to the Chief Metropolitan Magistrate in the metropolitan area of Hyderabad and elsewhere, to the Judicial Magistrate of the first class having jurisdiction.

(3) On receipt of a report under sub-section (2), the Magistrate concerned shall make such order as he thinks fit respecting the disposal of such property or the delivery of such property to the person entitled to the possession thereof as if it were a property taken over by the Police under section 51 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

Explanation:- For purposes of this section, the term 'movable property' does not include the 'treasure' as defined in clause (b) of section 3 of the Indian Treasure Trove Act, 1878 (Central Act 6 of 1878).

CHAPTER V MISCELLANEOUS

15. Delegation of powers - Notwithstanding anything in this Act, the Government may delegate their power to dispose of property under section 6 to the competent authority or to any officer not below the rank of a Collector.

16. Power to make rules - (1) The Government may, by notification, make rules for carrying out all or any of the purposes of this Act.

(2) Every rule made under this section shall, immediately after it is made, be laid before each House of the State Legislature if it is in session and if it is not in session, in the session immediately following, for a total period of fourteen days, which may be comprised in one session or in two successive sessions, and if, before the expiration of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which such modification or annulment is notified have effect only in such modified form or have no effect, as the case may be; so however that any modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

17. Repeal and saving - (1) The provisions of the Andhra Pradesh (Andhra Area) Endowments and Escheat Regulation, 1817 (Regulation 7 of 1817), in so far as they relate to escheats and the Andhra Pradesh (Telangana Area) Unclaimed Property Act, 1333 F. (Act 1 of 1333 F.) are hereby repealed.

(2) Upon such repeal, the provisions of sections 8 and 18 of the Andhra Pradesh General Clauses Act, 1891 (Act 1 of 1891) shall apply.