



The Sir Currimbhoy Ebrahim Baronetcy (Repeal and Distribution of Trust Properties) Act, 1959

Act 9 of 1960

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Custodian, The Law Relating to Evacuee Property, Official, Trust Properties

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**THE SIR CURRIMBHOY EBRAHIM BARONETCY (REPEAL AND DISTRIBUTION
OF TRUST PROPERTIES) ACT, 1959.**

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BOMBAY ACT No. IX OF 1960.¹

[THE SIR CURRIMBHOY EBRAHIM BARONETCY (REPEAL AND DISTRIBUTION OF TRUST PROPERTIES) ACT, 1959.]

[2nd February 1960]

An Act to repeal the Sir Currimbhoy Ebrahim Baronetcy Act, 1913 ; to revoke the trusts, powers, provisions and declarations declared and expressed in that Act for the purpose of supporting the title and dignity of Baronet ; to dissolve the Corporation constituted Trustees for executing the powers and purposes of the said Act ; to vest all the property which is subject to the settlement created by the said Act and vesting in the aforesaid Corporation, in the Official Trustee for the purpose of the distribution thereof to persons rightfully entitled thereto in accordance with law ; and to make provision for matters connected with the purposes aforesaid.

IV of 1913. WHEREAS, by the Sir Currimbhoy Ebrahim Baronetcy Act, 1913 (in this Act referred to as "the Baronetcy Act") certain properties belonging to Sir Currimbhoy Ebrahim Baronet were settled in perpetuity on himself and the heirs male of his body so as to accompany and support the title and dignity of a Baronet conferred on him by His Majesty King George V to hold to him and the heirs male of his body lawfully begotten, and to be begotten ;

AND WHEREAS, by that Act the heir male of the body of the said Sir Currimbhoy Ebrahim to whom the said title and dignity of Baronet for the time being descends, together with the Accountant General of Bombay, the Collector of Bombay and the Chief Presidency Magistrate of Bombay, all for the time being, were created a Corporation with perpetual succession and a common seal under the style and title of "The Trustees of the Sir Currimbhoy Ebrahim Baronetcy", and constituted as such Corporation the Trustees for executing the trusts and purposes of the Baronetcy Act ;

AND WHEREAS, by Bom. XIV of 1953 the Baronetcy Act was amended to provide that the Secretary to the Government of Bombay in the Home Department, the Official Trustee, Bombay, and the Collector of Bombay, all for the time being, and the heir male of the body of the said Sir Currimbhoy Ebrahim to whom the said title and dignity of Baronet shall for the time being descend, were created a Corporation with perpetual succession and a common seal under the same style and title as aforesaid, and constituted Trustees for executing the trusts and purposes of the Baronetcy Act (in this Act referred to as "the Corporation") ;

AND WHEREAS, Sir Currimbhoy Ebrahim, the Third Baronet, left India sometime between 1947 and 1949 and migrated to Pakistan with his wife Amina, now the Dowager Lady Currimbhoy Ebrahim, and his only son Mahmud Currimbhoy (then a minor) ;

AND WHEREAS, the right, title and interest in certain properties of the said Sir Currimbhoy Ebrahim, Third Baronet (including his beneficial interest in the properties subject to settlement by the Baronetcy Act, and vesting in the Corporation) was declared to be evacuee property by law in the year 1949 ;

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1959, Part V, page 764.

AND WHEREAS, in 1952 the said Sir Currimbhoy Ebrahim, the Third Baronet, died in Pakistan leaving behind him his wife, the said Dowager Amina Lady Currimbhoy Ebrahim, and his only son Mahmud Currimbhoy ;

AND WHEREAS, the title and dignity of Baronet descended on the said Mahmud Currimbhoy who succeeded to the title as Sir Currimbhoy Ebrahim, the Fourth Baronet ;

AND WHEREAS, the said Sir Currimbhoy Ebrahim, the Fourth and present Baronet, has continued to remain in Pakistan ; in consequence whereof by the Government of India, Ministry of Rehabilitation, Notification No. ADM-240/130-A, dated 16th June 1952, issued in pursuance of sub-section (3) of section 7 of the Administration of Evacuee Property Act, 1950, the beneficial interest of the said Sir Currimbhoy Ebrahim, the Fourth and present Baronet, in the Sir Currimbhoy Ebrahim Baronetcy Trust were vested in the Deputy Custodian of Evacuee Property, Bombay and Bombay Suburban District ;

AND WHEREAS, in consequence of the aforementioned recitals, difficulties have arisen in the administration of the trusts declared by the Baronetcy Act ; and whereas for that and for other divers good reasons it is expedient to repeal the Sir Currimbhoy Ebrahim Baronetcy Act, 1913, to revoke the trusts, powers, provisions and declarations therein declared and expressed for the purpose of supporting the title and dignity of Baronet, to dissolve the Corporation constituted Trustees for executing the powers and purposes of the Baronetcy Act, to vest all the properties which are subject to the settlement created by that Act (including the Sinking Fund, Repairs Fund, and all moneys or investments representing the proceeds of any sale of such property), which now vest in the Corporation, in the Official Trustee to hold the same for the purpose of the distribution thereof to persons rightfully entitled thereto in accordance with law ; and to provide for matters connected with the purposes aforesaid ; It is hereby enacted in the Tenth Year of the Republic of India as follows :—

Short title
and commencement.

1. (1) This Act may be called the Sir Currimbhoy Ebrahim Baronetcy (Repeal and Distribution of Trust Properties) Act, 1959.

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

Definitions.

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

(a) "Custodian" means the Custodian of Evacuee Property of the State of Bombay appointed under the Administration of Evacuee Property Act, 1950 ;

(b) "the law relating to evacuee property" means the Administration of Evacuee Property Act, 1950, the Evacuee Interest (Separation) Act, 1951, the Displaced Persons (Compensation and Rehabilitation) Act, 1954, and any other law for the time being in force in relation to evacuees or evacuee property.

XXXI
of
1950.

XXXI
of
1950.
LXIV
of
1951.
XLIV
of
1954.

II of
1913.

(c) "Official Trustee" means the Official Trustee appointed by the State Government under the Official Trustees Act, 1913, and holding for the time being the office of Official Trustee, Bombay;

(d) "trust properties" means all the properties whether immovable or movable of whatsoever description (including the hereditaments and premises particularly described in the Schedule to this Act and all balances standing to the credit of the Sinking Fund and the Repairs Fund and any stocks funds or other securities in which any sums which are set aside for the formation of the said Funds are respectively invested, all interest thereon, and all capital moneys or investments representing the proceeds of the sale of any property or compensation for the compulsory acquisition thereof) which are subject to the settlement created by the Baronetcy Act and which immediately before the commencement of this Act are vested in the Corporation for executing the trusts, powers, provisions, declarations and purposes of the Baronetcy Act.

3. On and with effect from the commencement of this Act, the Baronetcy Act shall stand repealed; and in consequence, thereof,—

Repeal of
Act IV of
1913 and
revocation of
trusts.

(a) the trusts, powers, provisions, declarations and purposes by and in that Act declared and expressed shall be, and are hereby revoked and extinguished;

(b) the Corporation shall be and is hereby dissolved and shall cease to function, and the Trustees shall cease to hold office as such Trustees;

(c) the trust properties, in so far as they consist of immovable property shall by force and virtue of this Act vest in, and in so far as they consist of any moneys, investments, securities or other movable property shall stand transferred to, the Official Trustee, and be handed over to him (anything in Official Trustees Act, 1913 notwithstanding), and the Official Trustee shall hold and stand possessed of the same for the purposes, and with and subject to the powers and provisions, hereinafter expressed.

II of
1913.

4. (1) As soon as may be after the commencement of this Act, the Official Trustee shall take possession or charge of the trust properties and make an inventory thereof, and hold the trust properties upon trust to distribute the same amongst the persons rightfully entitled thereto according to law, and until such distribution to manage the said trust properties, in accordance with the provisions of this Act.

Power of
Official
Trustee to
make an
inventory of
trust
properties
and to hold
and manage
the same till
distribution
among
persons
rightfully
entitled
thereof.

(2) All costs, charges and expenses for and incidental to, the management of the trust properties (including any fees by way of percentage or otherwise which the State Government may direct, shall be paid to the Official Trustee for the performance of his functions under this Act) and for and incidental to any action taken by the Official Trustee under sub-section (1), shall be met out of the trust properties and the proceeds thereof.

5. For the purpose of ascertaining the claims of persons lawfully entitled to the trust properties or any part thereof, the Official Trustee shall publish in the *Official Gazette*, and also in such other manner as in his opinion is best calculated to bring to the attention of persons interested or likely to be interested in the trust properties, a general notice requiring persons claiming any interest in the trust properties to submit claims in respect of the trust properties within such period, being a period not less than six months and not exceeding one year from the date of the publication of the general notice in the *Official Gazette*, as may be specified in that notice.

Notice to
submit
claims.

Submission
of claims.

6. (1) Any person claiming an interest in the trust properties may, within the period specified in the notice aforesaid, or such extended period (subject to the provisions of section 5) which the Official Trustee may for good and sufficient reason allow, submit to the Official Trustee a statement of his claim in writing duly affirmed before a magistrate.

(2) A statement of claim under sub-section (1) shall include the following particulars, that is to say—

- (a) the right or title under which the interest in the trust properties is claimed,
- (b) the nature and extent of the interest of the claimant in the trust properties, and the estimated value (in rupees) therein,
- (c) where the claim is made by a co-sharer or partner, the extent of the share of the claimant and the estimated value (in rupees) of such share,
- (d) the order of priority or preference in which the claimant desires his interest to be determined *vis-a-vis* the other claimants,
- (e) any other particulars which the Official Trustee may require.

(3) The claimant shall, along with the submission of claim under sub-section (1) file true copies of all documents in his possession or power on which the claim is based, and a list of any other documents (whether in his possession or power or not) on which he intends to rely as evidence in support of his claim; and the claimant shall, whenever required so to do by the Official Trustee, produce all the documents of which true copies have been filed and also documents in his possession or power which have been entered in the list, and give any further information or particulars in respect of his claim.

Distribution
of trust
properties
by Official
Trustee.

7. (1) On receipt of the statements of claim under section 6, the Official Trustee shall, if he is satisfied that the claims are justified and are uncontested, distribute the trust properties in accordance with such claims.

(2) If after such enquiry as he thinks fit, the Official Trustee is of the opinion that the claims filed before him are not justified, or are contested either in whole or in part, he may apply to the High Court for orders and directions as regards the distribution of the trust properties amongst the several claimants as a trustee under any deed or instrument acting in the administration of the trust.

(3) Where the Official Trustee applies for orders and directions of the High Court under sub-section (2), he shall distribute the trust properties amongst the persons rightfully entitled thereto in accordance with the final decree or order that may be passed in that behalf.

(4) If any person entitled to the trust properties, or any part thereof, has been or is declared an evacuee within the meaning of the Administration of Evacuee Property Act, 1950, and if any right, title and interest of such person in the trust of properties has been or is declared to be evacuee property under that Act, then the Official Trustee shall, subject to any order or direction which the High Court may make or give, transfer and vest in the Custodian the trust properties, or so much thereof as is found to be evacuee property, and the provisions of the law relating to evacuee property shall as far as may be apply to such right, title and interest in the trust properties as they apply to any other evacuee property under that law. XXXI
of
1950.

8. (1) Subject to the provisions of this Act, the Official Trustee shall, so long as he holds the trust properties or any part thereof for the purposes of this Act, be entitled for the proper management of the said properties and their distribution according to law, to do all such things (including the making of any application for directions of the Court, and the prosecuting or defending of all suits and proceedings which have been instituted by or against the Corporation before the commencement of this Act, and which may at such commencement be pending, for the purpose of the prosecuting or defending whereof he shall be deemed to be substituted for the Corporation as a party thereto) which any trustee under a deed or instrument is entitled in the course of the administration of a trust to do ;

Powers of
Official
Trustee
until
distribution
of trust
properties.

Provided that, the Official Trustee shall not sell or exchange any of the premises particularly described in the Schedule to this Act or any other hereditaments for the time being vested in him by force and virtue of this Act or any of them, without the previous sanction of the High Court.

(2) Out of the income of the trust properties, the Official Trustee shall so long as he holds the trust properties pay all rates, taxes, assessment, dues and duties in respect of the hereditaments and premises particularly described in the Schedule to this Act or in respect of any additional hereditaments and premises, and all buildings and erections standing thereon and defray all costs of ordinary and extraordinary structural repairs required for the purpose of maintaining such buildings in a habitable condition, and of insuring the same against fire and all other outgoings of every nature whatsoever.

9. The Official Trustee may invest any moneys which are vested in him, or which become vested in him hereafter, for the management and distribution of the said trust properties, in any such promissory notes, debentures, stocks, funds, or other securities of, or the principal and interest of which is guaranteed by, the Central Government or the State Government, and shall be at liberty as often as the same shall be necessary or thought proper by him to alter, vary and change such promissory notes, debentures, stocks, funds and securities for others of the same or like nature.

Power of
Official
Trustee
to invest
moneys
vested in
him.

10. Save as provided in this Act, nothing herein shall affect any right or any interest (including any jointure duly appointed or charged in the trust properties) which any person, body or authority may have been or may be entitled by due process of law to enforce against the trust properties or against any heir male of the body of Sir Currimbhoy Ebrahim to whom the title of Baronet may have at any time descended, or their heirs and legal representatives.

Act not to
affect other
rights and
interests.

11. Notwithstanding anything contained in the Baronetcy Act or any other law for the time being in force, the Corporation, and each of the Trustees whereof who before the commencement of this Act, was or has been for the time being in the office of such Trustee in pursuance of the provisions of the Baronetcy Act, and the heirs executors and administrators, estates and effects of each of such Trustees and the successors in office of such Trustee, are hereby indemnified, released and discharged jointly and severally from all accounts, suits or other legal proceedings, claims and demands whatsoever for or in relation to any failure or omission of the Corporation or the Trustees to do anything that was required to be done under the provisions of the Baronetcy Act, and from any liability for anything in good faith done or

Indemnity to
Corporation
and members
thereof.

purported to have been done under or in pursuance of the provisions of that Act ; and accordingly, no suit or other legal proceedings whatsoever shall lie in any Court against the Corporation, or any of the said Trustees, heirs, executors, administrators, estates, effects or successors for or in respect of any such failure, omission or action.

Protection of
action taken
in good
faith.

12. No suit or other legal proceeding shall lie against the Government or any officer of the Government for anything in good faith done or purported to be done under this Act, or in pursuance of the provisions of the Baronety Act, not against the Official Trustee or any person acting on his behalf for anything in good faith done or purported to be done in the management, or distribution, of the trust properties in pursuance of the provisions of this Act.

Official
Trustees
Act, 1913,
not to apply.

13. Nothing in the Official Trustees Act, 1913, shall apply to the management and distribution of the trust properties, or the performance of any of the functions of the Official Trustee, under this Act. 1913.

SCHEDULE.

[See section 2 (d).]

First—Colaba Chambers.—All that piece or parcel of land of the freehold tenure containing by admeasurement 2 570 square yards or thereabouts, and registered by the Collector of Land Revenue under Collector's New Nos. 15908 and 15909 and New Survey Nos. 1/9677 and 2/9677 and bearing Cadastral Survey No. 61 of Colaba Division together with the tenement or building standing thereon known as "Colaba Chambers" assessed by the Municipality of Bombay under A Ward Nos. 211-212 and Street Nos. 150-52, Colaba Road and 117 Wodehouse Road all which premises are situate at and on the West side of Wodehouse Road at Bombay in the City and Registration District of Bombay are bounded on or towards the East by the said Wodehouse Road on or towards the West by Colaba Road on or towards the South by Cadastral Survey No. 48 of Colaba Division and on or towards the North by Colaba Cross Lane.

Secondly—Mahomedbhoy Mansions.—All that piece or parcel of Municipal land held free of rent containing by admeasurement 1,632 square yards or thereabouts and registered by the Collector of Land Revenue under New Survey No. 1/7337 (part) and bearing Cadastral Survey No. 561 of the Malabar and Cumballa Hill Division together with the tenement or building standing thereon known as "Mahomedbhoy Mansions" assessed by the Municipality of Bombay under D Ward No. 2918 (1B) and Street Nos. 7-7A Hughes Road and 7B-6 Pan Lane all which premises are situate at and on the East side of Hughes Road at Bombay in the City and Registration District of Bombay and are bounded on or towards the East partly by Pan Lane and partly by Cadastral Survey No. 563 of Malabar and Cumballa Hill Division on or towards the West by the said Hughes Road on or towards the South by Cadastral Survey No. 560 of the said Division and on or towards the North partly by Cadastral Survey No. 624, partly by Cadastral Survey No. 1/562 and partly by Cadastral Survey No. 1/564 of the said Division.

Thirdly—Currimbhoy Manor.—All that piece or parcel of land of the Pension and Tax tenure (now redeemed) containing by admeasurement 1,624.69 square yards or thereabouts and registered by the Collector of Land Revenue under New Survey No. 7096 (part) and bearing Cadastral Survey No. 2C/755 of the Malabar and

Cumballa Hill Division together with the tenement or building standing thereon known as "Currimbhoy Manor" assessed by the Municipality of Bombay under "D" Ward No. 3534 (4) and Street No. 41, Bhulabhai Desai Road all which premises are situate at and on the East side of Bhulabhai Desai Road formerly known as Warden Road at Bombay in the City and Registration District of Bombay and are bounded on or towards the East by Cadastral Survey No. 2E/755 of Malabar and Cumballa Hill Division on or towards the West by the said Bhulabhai Desai Road on or towards the South by Nowroji Gamadia Road and on or towards the North by Cadastral Survey No. 2B/755 of the said Division.

Fourthly—Mehboob Building.—(1) All that piece or parcel of Government land held free of rent containing by admeasurement 974·40 square yards or thereabouts and registered by the Collector of Land Revenue under New Survey No. 1/8475 (part) and bearing Cadastral Survey No. 1/1504 of the Fort Division together with the tenement or building standing thereon assessed by the Municipality of Bombay under the Ward and Street Nos. hereinafter mentioned all which premises are situate at and on the South side of Musafarkhana Road at Bombay in the City and Registration District of Bombay and are bounded on or towards the East by the property hereinafter described in paragraph (2) bearing Cadastral Survey No. 2/1504 of Fort Division on or towards the West partly by Cadastral Survey No. 15/1504 and partly by Cadastral Survey No. 19/1504 of the said Division on or towards the South by Cadastral Survey No. 1504 of the said Division and on or towards the North by the said Musafarkhana Road.

(2) All that piece or parcel of Government land held free of rent containing by admeasurement 653·77 square yards or thereabouts and registered by the Collector of Land Revenue under New Survey No. 1/8475 (part) and bearing Cadastral Survey No. 2/1504 of the Fort Division together with the tenement or building standing thereon assessed by the Municipality of Bombay under the Wards and Street Nos. hereinafter mentioned all which premises are situate at and on the South side of Musafarkhana Road at Bombay in the City and Registration District of Bombay and are bounded on or towards the East by the property hereinafter described in paragraph (3) bearing Cadastral Survey No. 3/1504 of the Fort Division on or towards the West by the property hereinbefore described in paragraph (1) bearing Cadastral Survey No. 1/1504 of the said Division on or towards the South by Cadastral Survey No. 14/1504 of the said Division and on or towards the North by the said Division and by the said Musafarkhana Road.

(3) All that piece or parcel of Government land held free of rent containing by admeasurement 845·38 square yards or thereabouts and registered by the Collector of Land Revenue under New Survey No. 1/8475 (part) and bearing Cadastral Survey No. 3/1504 of the Fort Division together with the tenement or building standing thereon assessed by the Municipality of Bombay under the Ward and Street Nos. hereinafter mentioned all which premises are situate at and on the South side of Musafarkhana Road at Bombay in the City and Registration District of Bombay and are bounded on or towards the East partly by Cadastral Survey No. 8/1504 and partly by Cadastral Survey No. 1506 of Fort Division on or towards the West by the property hereinbefore described in paragraph (2) bearing Cadastral Survey No. 2/1504 of the said Division on or towards the South by Cadastral Survey No. 14/1504 of the said Division and on or towards the North by the said Musafarkhana Road.

All the said properties in paragraphs (1), (2) and (3) described above known as "Mehboob Building" are assessed by the Municipality of Bombay under A Ward Nos. 3368, 3371, 3372 (1) and 3372 (2) and Street Nos. 11-11E, 9-9F, 7-7D and 7E Musafarkhana Road.

Fifthly—Mahim Mansions.—All that piece or parcel of Municipal land held free of rent containing by admeasurement 2,044 square yards of thereabouts and registered by the Collector of Land Revenue under New Survey No. 106 (part) and bearing Cadastral Survey No. 2/1219 of Mahim Division together with the tenement or building standing thereon known as "Mahim Mansions" assessed by the Municipality of Bombay under G Ward Nos. 5793 (2C) and 5793 (2D) and Street Nos. 2-2E and 7-7H Pitambar Lane and 1-1H and 9-9G Pitambar Lane and Miya Mohamed Chhotani Road all which premises are situate at and on the South side of Miya Mohamed Chhotani Road at Bombay in the City and Registration District of Bombay and are bounded on or towards the East by a 40 feet Road on or towards the West by a 40 feet Road on or towards the South partly by Cadastral Survey No. 1487 and partly by Cadastral Survey No. 1547 of Mahim Division and on or towards the North by the said Miya Mohamed Chhotani Road.

Sixthly.—All that piece or parcel of vacant land or ground situate lying and being in the Civil Lines of Poona in the Registration Sub-District of Haveli containing by admeasurement three acres twenty-eight Gunthas and forty-one square yards being equal to seventeen thousand nine hundred and forty-nine square yards or thereabouts being portion of land registered in the Books of the Collector under Old Survey No. 94 and the New No. 126 and which said land is bounded as follows that is to say on or towards the East partly by the land belonging to K. B. Dastoor Hoshang Jamasp and partly by the road leading from Bund Garden to the City on or towards the West by the land belonging to Narayan bin Raghoji Dhala on or towards the North by the property of Hari Rowji and on or towards the South by the road leading to Record Hall and beyond that by the property of Desai Har Prasad together with bungalow and buildings standing thereon.