

PUBLIC WAKFS (EXTENSION OF LIMITATION) ACT, 1959

29 of 1959

[1st September, 1959]

CONTENTS

1. Short title and extent
2. Definition
3. Extension of period of limitation in certain cases for suits to recover possession of immovable property forming part of public wakfs
4. Repeal and saving

PUBLIC WAKFS (EXTENSION OF LIMITATION) ACT, 1959

29 of 1959

[1st September, 1959]

"Following the partition of the country in August, 1947, a number of wakf properties passed into unauthorised hands. Many of the mutawallis who were in charge of these properties had migrated to Pakistan and the few who stayed behind could not for various reasons institute civil proceedings for the recovery of possession of these properties. The result is, that ever since the partition, a large number of these wakf properties has been in the possession of unauthorised occupants. Under the law as it stands at present the title of the true owners would be extinguished if the properties are in adverse possession for twelve years or more. It is, therefore, proposed to extend the period of limitation up to the 15th August, 1967, in respect of suits for the recovery of possession of any immovable property forming part of a public wakf in any case where the dispossession has taken place at any time between the 15th August, 1947 (the date of partition) and the 7th May, 1954 (the date from which power to declare any property as evacuee property under the Administration of Evacuee Property Act, 1950, ceased). This would enable the Wakf Boards constituted under the Wakf Act and other interested persons to institute such suits. Since the period of limitation in some cases would expire in August, 1959, an Ordinance was promulgated for making the necessary

alteration in the law of limitation. The present Bill seeks to replace the Ordinance by an Act of Parliament."-Gaz. of Ind., 1959, Extra, Pt. II, Sec. 2. page 583. STATEMENT OF OBJECTS AND REASONS ATTACHED TO WESTBENGAL BILL NO. 33 OF 1972 "The Public Wakfs (Extension of Limitation) Act, 1959(C.A. 29 of 1959) had provided for and extended period of limitation for suits to recover possession of wakfs properties which expired on 31-12-1970. The Government of India has informed that it would not be possible for it to move for further extension of the period of limitation and that the State Wakf Boards may approach the State Governments concerned to amend the Act locally if the number of wakf properties yet to be recovered from unauthorised occupation necessitates further extension of the period of limitation. Accordingly, the Commissioner of Wakfs, West Bengal, has moved the State Government with a proposal for further extension of the period of limitation beyond 31-12-1970. on the ground that in West Bengal a large number of wakf properties are still in unauthorised occupation for the recovery of which suits have to be filed. Considering all the aspects of the matter it has been proposed that the period of limitation may be extended up to 31st December, 1976. by amending the Public Wakfs (Extension of Limitation) Act, 1959. The Bill has been prepared to give effect to this proposal." - Cal. Ga/., 28-7-1972, Pt.IV-A.p.1566-b.

1. Short title and extent :-

(1) This Act may be called The Public Wakfs(Extension of Limitation) Act, 1959.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

2. Definition :-

In this Act, "public wakf" means the permanent dedication by a person professing Islam of any immovable property for any purpose recognised by Muslim Law as a public purpose of a pious, religious or charitable nature.

3. Extension of period of limitation in certain cases for suits to recover possession of immovable property forming part of public wakfs :-

Where a person entitled to institute a suit of the description referred to in Art. 142 or Art. 144 of the First Schedule to the Limitation Act, 1908, for possession of any immovable property

forming part of a public wakf or any interest therein has been dispossessed, or has discontinued the possession, at any time after the 14th day of August, 1947. and before the 7th day of May, 1954, or, as the case may be, the possession of the defendant in such a suit has become adverse to such person at any time during the said period, then, notwithstanding anything contained in the said Act. the period of limitation in respect of such a suit shall extend up to the "131st day of December, 1970.1

4. Repeal and saving :-

(1) The Public Wakfs (Extension of Limitation) Ordinance, 1959. is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act as if this Act had commenced on the 20th day of July, 1959.