

Continuance of Legal Proceedings Act, 1948

38 of 1948

[3RD SEPTEMBER, 1948]

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"S.15(2) of the Indian Independence Act, 1947, provides inter alia that any legal proceedings by or against the Secretary of State in respect of any right or liability of the undivided India or any part thereof which were pending in Indian Courts immediately before the 15th August, 1947, shall be continued by or against such person as may be designated by order of the Governor-General under Section 9 of that Act or otherwise by law of the Dominion concerned Art. 12(3) of the Indian Independence (Rights, Property and Liabilities) Order, 1947, makes the requisite provision for the continuance of such legal proceedings, but only in respect of any liability of the undivided India or part thereof. This Article does not cover proceedings in respect of any right of the undivided India. The Bihar Government brought to the notice of the Government of India the existence of a long pending suit which was instituted in 1933 before the passing of the Government of India Act, 1935, in the name of the Secretary of State in Council to establish the right of Government to underground minerals in an estate, and since there was the possibility of a few more cases of a similar character pending by or against the Secretary of State in some of the Courts, an Ordinance entitled the Continuance of Legal Proceedings Ordinance, 1948 (12 of 1948), was promulgated. The object of the present Bill is to convert that Ordinance into an Act of the

Legislature."-Gazette of India, 1948, Part V, page 464.

1. Short title and extent :-

(1) This Act may be called The Continuance of Legal Proceedings Act, 1948.

(2) It extends to ¹[the whole of India except ² [the territories which, immediately before the 1st November, 1956, were comprised in Part B States.]]

1. Substituted for the words "all the Provinces of India," by A.L.O., 1950

2. Substituted for the words "Part B States", by 3 A.L.O., 1956.

2. Interpretation :-

In this Act, "the appointed day" means the 15th day of August, 1947.

3. Continuance of legal proceedings :-

Any legal proceedings which, immediately before the appointed day,-

(a) were pending by or against the Secretary of State in any Court within the territories which as from the appointed day became the territories of India by virtue of sub-section (1) of Section 2 of the Indian Independence Act, 1947, and

(b) were in respect of any right of India or any part of India, shall-

(i) if the right in question was that of the Governor-General in Council be continued by or against the Dominion of India;

(ii) if the right in question was that of the former Province of Bengal or the Punjab, be continued by or against the Province of West Bengal or East Punjab, as the case may be; and

(iii) if the right in question was that of any Governor's Province other than Bengal, the Punjab, the North-West Frontier Province or Sind, be continued by or against that Province.

4. Exclusion of time in computing period of limitation :-

In computing the period of limitation prescribed for any appeal or application to a Court in respect of any such proceedings as aforesaid, the period from the appointed day up to the 28th day of May, 1948 shall be excluded.

5. Repeal :-

(1) The Continuance of Legal Proceedings Ordinance, 1948, is hereby repealed.

(2) Anything done or any action taken in exercise of any powers conferred by or under the said Ordinance shall be deemed to have been done or taken in exercise of powers conferred by or under this Act as if this Act had commenced on the 28th day of May, 1948.