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Nindagama Lands Act, No. 30 of 1968

Date of Assent : June 22, 1968

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Nindagama Lands Act, No. 30 of 1968

L. D—O. 7/66.

AN ACT TO ABOLISH THE SERVICES DUE FROM THE TENANTS AND HOLDERS OF NINDAGAMA LANDS TO THE PROPRIETORS THEREOF, TO MAKE SUCH TENANTS AND HOLDERS THE ABSOLUTE OWNERS OF SUCH LANDS, TO PROVIDE FOR THE REGISTRATION OF SUCH TENANTS AND HOLDERS AS ABSOLUTE OWNERS THEREOF, AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[Date of Assent: June 22, 1968]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Nindagama Lands Act, No. 30 of 1968.

Short title.

PART I.

ABOLITION OF SERVICES DUE IN RESPECT OF NINDAGAMA LANDS, AND THE DECLARATION OF TENANTS OR HOLDERS AS OWNERS OF SUCH LANDS.

2. The services due from any tenant or holder of any nindagama land to any proprietor thereof are hereby abolished, and accordingly—

Abolition of services due in respect of nindagama lands.

(a) no such proprietor shall be entitled to demand the performance of such services or to demand or receive any sum of money (due or which may fall due) in commutation of such services, from any tenant or holder thereof; and

(b) no such tenant or holder shall be liable to perform such services, or to pay such sum of money.

3. Every tenant or holder of any nindagama land is hereby declared to be the owner thereof.

Declaration of a tenant or holder of any nindagama land as owner thereof.

No compensation payable for any loss or damage incurred or suffered by reason of the abolition of services due in respect of nindagama lands.

4. No tenant or holder of any nindagama land shall be liable to pay compensation to the proprietor thereof or to any other person for any loss or damage incurred or suffered by such proprietor or other person, whether directly or indirectly, by reason of the abolition of the services due by such tenant or holder in respect of that land.

No compensation payable for loss or damage incurred or suffered by reason of any tenant or holder of any nindagama land becoming the owner thereof.

5. No tenant or holder of any nindagama land shall be liable to pay compensation to the proprietor thereof or to any other person for any loss or damage incurred or suffered by such proprietor or other person, whether directly or indirectly, by reason of his becoming an owner thereof.

PART II.

CLAIMS FOR AN AWARD AS TO TITLE IN RESPECT OF NINDAGAMA LANDS, AND REFERENCE OF SUCH CLAIMS TO THE BOARD.

Claim for an award as to title in respect of any nindagama land and reference of such claim to the Board.

6. (1) After the appointed date, any new owner of any nindagama land who desires to have his title as such owner registered shall, before the expiration of the prescribed period after that date, make a written claim for an award as to title in respect of that land to the Board through the competent authority for the district in which that land is situated.

(2) Regulations may be made under this Act—

(a) prescribing—

(i) the form in which any claim for an award as to title may be made to the Board, and the particulars that shall be specified in that form, and

(ii) the documents which shall be forwarded along with such claim;

(b) providing for all such other matters as may be necessary in relation to the making of such claim; and

- (c) providing for the appointment by a competent authority, either of his own motion or on application made by or on behalf of any person, of a fit and proper person to be the agent of such person, if such authority is satisfied that such person is entitled to make a claim for an award as to title in respect of any nindagama land and is a minor or a person of unsound mind.

7. (1) Upon the receipt by a competent authority of a claim for an award as to title in respect of any nindagama land, such authority shall, subject to the regulations made under this Act, refer such claim in writing to the Board, together with all documents received by such authority in respect of such claim.

Reference of claims for awards as to title to the Board.

(2) Regulations may be made under this Act prescribing—

- (a) the form in which a reference under subsection (1) shall be made to the Board, and the particulars that shall be specified in that form;
- (b) the steps or measures, if any, that shall be taken by a competent authority before he refers a claim for an award as to title in respect of any nindagama land to the Board; and
- (c) all other matters in respect of which it is necessary to make provision in regard to any of the aforesaid matters.

PART III.

NINDAGAMA LANDS BOARD.

8. (1) For the purposes of this Act, there may be established a Nindagama Lands Board (in this Act referred to as "the Board") consisting of a Chairman and fourteen other members.

Constitution of a Nindagama Lands Board.

(2) A person shall be disqualified for being appointed, or from continuing in office, as a member of the Board—

(a) if he is, or becomes, a Senator or a Member of Parliament; or

(b) if he is, or becomes, a person having a right, title or interest in or over any nindagama land.

Term of office of members of the Board.

9. Every member of the Board shall, unless he earlier vacates office, hold office for a period of three years. Any member of the Board who vacates office by effluxion of time shall be eligible for reappointment.

Appointment of Secretary and staff of the Board.

10. There may be appointed a Secretary of the Board, and such other officers and servants as may be necessary for the purpose of enabling the Board to carry on its business.

Proceedings before the Board.

11. Every reference of a claim for an award as to title in respect of any nindagama land made to the Board shall be considered and determined at a meeting of the Board.

Powers of the Chairman of the Board in considering and deciding references.

12. The Chairman of the Board, and if the Chairman is not presiding at a meeting of the Board, the chairman of that meeting, shall, for the purposes of considering and deciding any reference of a claim for an award as to title in respect of any nindagama land made to the Board, have all the powers of a District Court—

(a) to summon and compel the attendance of witnesses;

(b) to compel the production of documents; and

(c) to administer any oath or affirmation to witnesses.

13. Every person giving evidence on any matter before a meeting of the Board shall be bound to state the truth on such matter.

Persons giving evidence before the Board bound to state the truth.

14. The quorum for a meeting of the Board shall be three members.

Quorum for meetings of the Board.

15. A decision made at a meeting of the Board on any matter considered at that meeting shall be deemed to be the decision of the Board on that matter.

Decisions of the Board.

16. Separate meetings of the Board may be convened and held at the same time to consider and decide different references of claims for awards as to title in respect of different nindagama lands.

Separate meetings of the Board may be held at the same time.

17. The proceedings before the Board on any reference of a claim for an award as to title in respect of any nindagama land shall, as far as possible, be free from the formalities and the technicalities of the rules of procedure and evidence applicable in a court of law, and may be conducted by the Board in any manner, not inconsistent with the principles of natural justice, which to the Board may seem best adapted to elicit proof concerning the matters that are investigated.

Special provision relating to proceedings before the Board on a reference.

18. Where a reference of a claim for an award as to title in respect of any nindagama land is made to the Board, the Board shall, before making such award, give any such claimant an opportunity of being heard either in person or by an agent authorized in that behalf.

Claimant for an award in respect of any nindagama land to be given an opportunity of being heard.

19. (1) Where a reference of a claim for an award as to title in respect of any nindagama land is made to the Board, the Board shall, after considering all such matters and hearing all such witnesses as may be necessary for the purpose, and having due regard to any such regulations made under this Act as may be applicable in that behalf, make a decision in respect of such claim, and give notice of its decision to any such claimant.

Decision of the Board on a reference.

(2) Subject to the other provisions of this Act, where the Board makes a decision on any reference of a claim for an award as to title in respect of any nindagama land, and no appeal is preferred against such decision as hereinafter provided, the decision shall be final and conclusive.

Appeal against the decision of the Board on any reference to a District Court.

20. (1) Where any claimant is dissatisfied with the decision of the Board on any reference of a claim for an award as to title in respect of any nindagama land, he may, within the prescribed period after the date of service on him of a notice of such decision, prefer an appeal against such decision to the District Court having jurisdiction over the place where such land is situated.

(2) Regulations may be made under this Act providing the form, mode and manner in which any appeal under sub-section (1) shall be preferred, the persons who shall be made parties to such appeal, and the procedure to be followed by a District Court in entertaining, hearing and disposing of, such appeal.

(3) No stamp duty shall be required in any proceedings before a District Court relating to an appeal under sub-section (1).

(4) A District Court may award to any party to any appeal under sub-section (1) an amount determined by that Court as his costs of proceedings relating to the appeal.

(5) The determination of a District Court on any appeal under sub-section (1) shall be final and conclusive.

Award of the Board.

21. (1) The Board shall, as soon as may be after its decision on any reference of a claim for an award as to title in respect of any nindagama land has become final and conclusive under section 19 (2), or after the final determination of that reference by the District Court on an appeal preferred to such Court against

such decision, make an award as to title in respect of that land, determining all such matters as may be prescribed and as are applicable in the case of that award. Such award shall be substantially in the prescribed form, and shall contain such prescribed particulars as may be applicable thereto.

(2) The Board shall give written notice of an award as to title in respect of any nindagama land to every person whose interests in that land are affected by such award.

(3) An award as to title in respect of any nindagama land made by the Board shall, where the decision of the Board on the reference for such award became final and conclusive under section 19 (2), accord with that decision, or where an appeal against that decision was preferred to a District Court, accord with the determination of that Court in such appeal.

PART IV.

AWARDS AS TO TITLE IN RESPECT OF NINDAGAMA LANDS.

22. Every award as to title in respect of any nindagama land shall, subject to the provisions of section 23, be published in the *Gazette*, and every award so published shall be judicially noticed, and shall be conclusive proof, so far as any person is thereby declared to be entitled to such land or to any share or interest in such land, that such person is entitled to such land or to such share of or interest in that land, free of all encumbrances whatsoever other than those specified in such award, and that, subject to the encumbrances so specified, such land or share or interest vests absolutely in such person to the exclusion of all persons whatsoever:

Awards as to title in respect of nindagama lands to be proof of title, &c.

Provided that nothing in the preceding provisions of this section shall affect the right of any person prejudiced by fraud, or the wilful suppression of facts of any claimant to any interests in any nindagama land from proceedings against such claimant, either for the recovery of damages or for the recovery of the land or any share or interests in the land awarded to such claimant by any award referred to in the preceding provisions of this section.

Registration of an award as to title in respect of any nindagama land.

Cap. 117.

23. Before an award as to title in respect of any nindagama land is published in the *Gazette* by the Board under section 22, the Board shall cause a copy of such award to be transmitted to the Registrar of Lands of the district or each district in which the land is situated, and such Registrar, or each such Registrar, as the case may be, shall duly register such copy under the Registration of Documents Ordinance as an instrument affecting the land to which such copy relates. No fee shall be charged for the registration of such copy under such Ordinance, notwithstanding anything to the contrary in such Ordinance or in any regulation made thereunder.

PART V.

GENERAL.

Administration of this Act.

24. The Settlement Officer shall be responsible for the general supervision and control of the administration of this Act, and in that capacity may issue general or special directions to a competent authority as to the exercise, performance or discharge of his powers, duties or functions under this Act, and it shall be the duty of such authority to comply with such directions.

Appointed date for the purposes of section 6.

25. The appointed date referred to in section 6 shall be such date as may be appointed for the purposes of that section by the Minister by Order published in the *Gazette*.

Regulations.

26. (1) The Minister may make regulations for the purpose of carrying out and giving effect to the principles and provisions of this Act.

(2) In particular, but without prejudice to the generality of the powers conferred by sub-section (1), the Minister may make regulations in respect of the following matters:—

(a) any matter required by this Act to be prescribed, or in respect of which regulations are authorized by this Act to be made;

(b) all or any of the matters specified in the Schedule to this Act;

(c) any matter for which no provision or no effective provision is made by this Act, or in respect of which it is necessary to modify or supplement the provisions of this Act.

(3) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation on the date of such publication, or on such other later date as may be specified in the regulation.

(4) Every regulation made by the Minister shall, as soon as convenient after its publication in the *Gazette*, be brought before the Senate and the House of Representatives for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder.

27. No act or proceeding of the Board shall be deemed to be invalid by reason of any vacancy in the office of a member of the Board.

Vacancy in the office of a member of the Board not to invalidate acts or proceedings.

28. The provisions of this Act shall have force and effect, notwithstanding anything to the contrary in any custom, usage, or other law, written or otherwise, and accordingly, in the event of any conflict or inconsistency between the provisions of this Act and such custom, usage or other law, the provisions of this Act shall prevail over such custom, usage or other law.

This Act to prevail over any custom, usage or any other law.

29. The Service Tenures Ordinance shall cease to apply to any nindagama land, and accordingly the provisions of that Ordinance shall be read and construed so as to give full force and effect to the preceding provisions of this Act relating to such cessation.

Chapter 467 to cease to apply to nindagama lands.

30. The Service Praveni Lands Succession Ordinance is hereby repealed.

Repeal of Chapter 466.

31. (1) In this Act, unless the context otherwise requires—

Interpretation.

“commissioner” means the Surveyor-General or any of his assistants, or any licensed surveyor, to whom a commission is issued under this Act;

“competent authority” means the Government Agent of any administrative district or any other prescribed officer;

Cap. 392.

“ district ” means any administrative district established under the Administrative Districts Act;

Cap. 467.

“ holder ”, in relation to any nindagama land, means a person who was, prior to the date of the commencement of this Act, a praveni nilakaraya of any praveni pangu of that land within the meaning of the Service Tenures Ordinance;

Cap. 379.

“ Minister ” means the Minister to whom the subject of lands has been assigned under the Ceylon (Constitution) Order in Council, 1946;

“ new owner ”, in relation to any nindagama land, means a person who becomes such owner by virtue of the operation of the provisions of section 3, and includes any successor or successors to his title as such owner;

“ nindagama land ” means any land in respect of which a proprietor thereof was, prior to the date of the commencement of this Act, entitled to demand services from any praveni nilakaraya or maruwena nilakaraya for and in respect of a praveni pangu or maruwena pangu held by any such nilakaraya, or to demand or receive from any such nilakaraya any sum of money in commutation of any such services, but does not include vihara-gama or devalagama land;

“ tenant ”, in relation to any nindagama land, means a person who was, prior to the date of the commencement of this Act, a maruwena nilakaraya of a maruwena pangu of that land within the meaning of the Service Tenures Ordinance;

“ this Act ” includes the regulations made thereunder.

(2) The expression “ absolute owners ” occurring in the long title to this Act in any context relating to nindagama lands shall not be deemed or construed

to mean the owners of such lands free of encumbrances, but shall be deemed or construed to mean only the owners of such lands free of the services abolished in respect thereof by this Act.

SCHEDULE

1. The remuneration of members, officers and servants of the Board.

2. The constitution of the Board, the procedure to be observed in summoning meetings and in the conduct of meetings of the Board.

3. The payment of travelling and other expenses to persons summoned to give evidence before the Board.

4. The manner of recovery of costs of claimants in awards relating to claims to title in nindagama lands.

5. The facts to be ascertained before issuing commissions and terms of commissions issued by the Board.

6. The due execution and due return of commissions issued by the Board.

7. Power of the Board or any member of the Board or its officers to enter, inspect and do all such acts or things in or upon land as may be necessary for the purposes of this Act.

8. The power of the commissioner and his assistants to enter land and do all such acts or things in or upon such land for the due execution of a commission, issued by the Board.

9. Penalty for obstructing or resisting any person in the discharge of any power, duty or function conferred or imposed on him by this Act or regulations made thereunder.