

TAMIL NADU COURT OF WARDS ACT, 1902

474 Preamble. Short title. Court of Wards (1902: T.N. Act 1 NADU) ACT NO. 1 OF 1902, [THE (TAMIL NADU) COURT OF WARDS ACT, 1902.] (Received the assent of the governor on the 22nd February 1902, and that of the Viceroy and Governor-general on the 7th May 1902 ; the governor-general's assent was first published in the Fort. St. George Gazette of the 27th May 1902.) An Act to consolidate and amend the law relating to the Court of Wards in the [State of Tamil Nadu]. WHEREAS it is expedient to consolidate and amend the law relating to the Court of Wards in the [State of Tamil Nadu] ; It is hereby enacted as follows :— CHAPTER 1. PRELIMINARY , 1. This Act may be called the [Tamil Nadu Court of Wards Act, 1902. These words were substituted for the word ' Madras ' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) 1969, which came into force on the 14th January 1969. 2 For Statement of Objects and Reasons, see Fort St. George Gazette, 1901, Extraordinary, p. 15 ; for Report of the Select Committee, see ibid* 1902, Extraordinary, p. 1 ; and for Proceedings in Council, ibid, 1901, Pt. IV, pp. 44, 74, and ibid, 1902, Pt. V, pp. 46, 89, 123. This Act was extended to the merged State of Pudukkottai by section 3 of, and the First Schedule to, the Tamil Nadu Merged States (Laws) Act, 1949 (Tamil Nadu Act XXXV of 1949). This Act extended to the Kanyakumari district and the Shencottah taluk of the Tirunelveli district by section 4 of, and the Second Schedule to, the Tamil Nadu (Transferred Territory) Extension of Laws Act, 1960 (Tamil Nadu Act 23 of 1960) repealing the corresponding law in that territory, 3 This expression was substituted for the expression Madras Presidency" by the Tamil Nadu Adaptation of Laws Order, 1970, which was deemed to have come into force on the 14th January 1970. 4 This expression was substituted for expression Presidency of Madras " by ibid. : T.N. Act 1] Court of Wards 475 It extends to the [State of Tamil Nadu] * 2. Section 25 of the Tamil Nadu Collectors Regulation, 1803, the Madras Court of Wards Regulation, 1803, 1804, the Madras Minors Act, 1855 and the Madras Court of Wards (Amendment) Act, 1899 are hereby repealed. of 8. Nothing in this Act shall be construed to affect Jurisdiction of the High Court in any way to derogate from any power possessed by the High Court of Madras over the persons and estates of infants, idiots and lunatics. 4, In this Act, unless there is something repugnant Definitions. in the subject or context : " The Court " means the Court of Wards. "Court." " Ward " means a person who has been made a „ward„, ward of the Court under section 19. " Minor " means a person who, under the provisions of the Indian Majority Act, 1875, as amended by section 52 of the Guardians and Wards Act, 1890, has not attained majority. Proprietor. " means a person who owns or has "Proprietor." a life interest in land either solely or as a co-sharer

CHAPTER 11. THE COURT OF WARDS

5. The Board of Revenue shall be the Court of Wards for the territories to which this Act extends, and for the purposes of this Act, Collectors shall be subject to the control of the Court

6. The Court of Wards shall be subject to the control of the [State Government], and the [State Government] may, if it thinks fit, revise, modify or reverse any order of the Court. This expression was substituted for the expression "Presidency of Madras" by the Tamil Nadu Adaptation of Laws Order, 1970, which was deemed to have come into force on the 14th January 1969.

8 The words exclusive of the scheduled districts " were omitted by the Madras Adaptation of Laws Order 1957. These words were substituted for the word ' Madras ' ' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969, which came into force on the 14th January 1969. The words Provincial Government " were substituted for the words " Local Government by the Adaptation Order of 1937 and the word State " was substituted for " Provincial by the Adaptation Order of 1950. 476 Court of Wards (1902 : T.N. Act 1 order passed or proceedings taken under this Act, whether a petition is presented against such order or proceeding or not. Distribution of 7. (1) Sections 2, 3 and 4 of the [Tamil Nadu] Board of Revenue Act, 1894, shall, so far as may be, apply to business of the Board of Revenue when exercising jurisdiction as Act I 1894. the Court of Wards. (2) It shall in all cases be lawful for a Secretary to sign for Court. of the Board of Revenue to sign on behalf of the Powers of Court how exercised. Disqualification, Court

8. The Court may exercise all or any of the powers conferred on it by this Act through the District Collectors in whose districts any part of the property of the ward may be situated or through any other person whom it may appoint for the purpose ; and may confer any of its powers on any such Collector or person and withdraw any powers so conferred, CHAPTER 111. ASSUMPTION OF SUPERINTENDENCE OF PERSONS AND PROPERTY, 9. The following proprietors shall be deemed to be disqualified for the management of their property:— (a) Minor» (b) Women declared by the 2[Stote Government] to be incapable of managing their property. (c) Proprietors adjudged by a competent civil court to be of unsound mind and incapable of managing their property. These words were substituted for the word 'Mzdras" by the Tamil Nadu Adaptation of Laws Order, 1969, amended by Tamil Nodu Adaptation of Laws (Second Amendment) Order, 1969 which came into force on the 14th January 1969. 2 The words "Provincial Government" were subBtituted for the words ' 'Looal Government" by the Adaptation Order of 1997 and the word "State" was substituted for "Provincial" by the Adaptation Order of 19 50. 1902 : T.N. Act t] Court oj Varda (d) Proprietors declared by the 1[State Govern- ment] to be incapable of *managing their property owing to any physical or mental defect or infirmity renderihg them unfit to manage their property.

•IO. (1) Whenever a Collector receives information Immediate protection that o proprietor of land situated in his division or disqualified district has died, and he has reason to believe that the heirs. heir of such proprietor is, or should be declared to be, disqualified under section 9,— (a) he may take such steps and make such order as he thinks proper for the temporary custody and protection of the property which he has reason to believe to belong to. the heir; and (b) if the heir be a minor he may direct that the person, if any, having . custody of the minor, shall produce him or cause him to be produced, at such place and time, and before such person, as he appoints, and may make such order for the temporary custody and protection of the minor as he thinks proper ; (c) female minors who ought not to be compelled to appear in public shall be produced in accordance with the manners and the customs of the country. (2) If the Collector taking action under sub-sec- tion (1) is not the District Collector, he shall report the matter forthwith to the District Collector, who Shall decide whether to direct the Collector to withdraw, or himself to report the matter to the Court as provi- ded in section 12. 477 of 11. All expenses incurred by a, Collector, acting Recovery of under section 10, shall, whether the property is after- expondituro• words taken under the superintendence of the Court or not, form a charge upon the propertý concerned, and shall be recoverable from the owner of such pro- perty, or the person whom the Collector shall find to be in possession of such property, as an arrear of land- revenue. 1 The words ' 'Provincial Government" were substituted for the words ' 'Local Government" by the Adaptation Order of 1937 and the word ' State ' ' was substituted for ' ' Provincial ' ' by the Adapta• tion Order of 1950. 478 Report by Court of Wards [1902 : T.N. Aot 12. Whenever any District Collector, afteÉ making District Collec- such inquiry as he deems necessary, hos reason to tor. believe that any proprietor in his district is, or should be declared to be, disqualified under section 9, he shall submit a report to the Court setting forth all tho circumstances of the case : Provided that in the case of proprietors of land on which the annual revenue to Government is less than Rs. 10,000 or which the annual rent value as defined in the •Madres Local Boards Act, 18841 is less than Rs. 20,000, the Act V of 1884. District Collector need not report the case to the Court unless he is of opinion that the Coürt dught to assume the superintendence of the property : Provided also thot the Court or the 2[Stato Government] call for a report on any case, if it thinks fit. 13. (I) Before reporting to the Court under section Proprietor to 12 that a proprietor ought to be declared to be disquali- be given opportunity to fied under clause (b) or (d) of section 9, the District be heard and to adduce evidence. Report Court. by Collector shall give notice to such proprietor and afford him a reasonable . opportunity to be heard and to adduce evidence. (2) All questions as to whether the provisions of the section have been complied with shall be decided finally by the 2[State Government], 14. The Court shall consider the Collector's report and except in the case of female proprietors, not being minors, whom it decides to leave in charge of their property, shall report the oase to the [Stote Govem- ment] with its recommendation and pending the receipt of orders shall have power to take such steps as it may deem necessary for the protection of the person and property of the proprietor in question. State Govern• 15. The 2[State Government] on reoeipt of the Court's ment recommendation, may in any case falling under olause declare prop- rietor disquali- (b) or (d)' of section 9 declare the proprietor to be fied and direct Court to assume See now tho Tomil Nadu District Boards Act, 1920 (Tamn Nadu superinten. Act XIV of 1920). dence. 2 The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 the

word "State" was substituted for "Provincial" by the Adaptation Order of 1950. 1902 : T.N. Act 1] Court of wards disqualified, and in any case falling under section 9 may order the Court to assume the superintendence of the person or property of the proprietor or of both. 479 Proprietor not 16. The [State Government] shall not declare any to be declared proprietor to be disqualified under clause (d) of section 9 unless satisfied that it is expedient in the public interest that his property should be managed by the Court, and statement to this effect shall be inserted in the declaration made by the [State Government] as provided in section 15. 17. (1) The [State Government] shall not order the Court to take the property of an undivided Hindu family or a Marumakkattayam tarward under its Hindu families superintendence unless all the co-parceners or and co-sharers, the members of the tarward, as the case may be are 5 or are declared to be, disqualified under section 9. (2) When two or more proprietors or co-sharers otherwise than as co-parceners in an undivided Hindu family [or as members of Marumakkattayam tarwad] and one of such co-sharers is, or is declared to be, disqualified under section 9, the [State Government] may order the Court to institute suit for partition on behalf of the disqualified proprietor and to take under its superintendence the property allotted to such proprietor in the partition. 18. A proprietor may make application to the [State Government] to have his property placed under the proprietor's superintendence of the Court, and the [State Government] may, on being satisfied that it is expedient in the public interest, by the words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950, these words were substituted for the words "an undivided Hindu Family under its superintendence unless all the co-parceners" by section 4 of, and the Second Schedule to, the Tamil Nadu (Transferred Territory) Extension of Laws Act, 1960 (Tamil Nadu Act 23 of 1960), which came into force on the 1st April 1961 repealing the corresponding law in that territory. * These words were inserted by section 4, "id. 480 Notification as assumption Superintendence. : T.N. Act 1 court Of Wards public interests that such property should be managed by the Court, make a declaration to that effect and order the Court to assume the superintendence of such property. 19. (1) Whenever under section 15 or 18 the [State Government] orders the Court to take under its superintendence the person or property of a proprietor or both, such order of the [State Government] together with any declaration made under the aforesaid sections, shall be notified in the [Official Gazette] and also in the Gazette of the district in which such property or any portion thereof is situated. The notification shall specify the District Collector who shall discharge the duties imposed upon Collector by this Act in respect of such person or property or both, as the case may be. (2) Such proprietor shall be deemed to have become a ward under the Court, from the date of the said order of the [State Government] and the superintendence of his person or property or of both shall take effect from the said date, and as to property shall extend to all movable and immovable property belonging to him at the date of the order, or to which he shall afterwards become in any way entitled whilst he continues under such superintendence : Provided that it shall be in the discretion of the Court to assume or refrain from assuming the superintendence of my property which the ward may acquire otherwise than by inheritance subsequent to the date of the order of the [State Government] under section 15 or 18

CHAPTER IVO AND GUARDIANSHIP. Collector to take charge of 20. When the Court has assumed the superintendence of the property of a ward, the District Collector specified in the notification under section 19. 1. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950, 2 These words were substituted for the words "Fore St. George Gazette" by the Adaptation Order of 1937. 1902 : T.N. Act Court of Wards or if so directed by the Court, the Collector of the District in which any part of the property is situated shall take possession and custody of such property on behalf of the Court

21. It shall be lawful for such Collector—481 Powers of Collector in so doing. (a) to order any person in possession of any movable property to the possession of which the ward is entitled or of any accounts or papers relating to the property of such ward, to deliver up such movable property, accounts or papers; (b) in case there is reason to believe that any movable property to the possession of which the ward is entitled or any accounts, or papers relating to the property of the ward are to be found in room, or receptacle within any house in the actual possession of the ward, to break open such room, box or receptacle or authorize the

same to be broken open for the purpose of searching for such property, accounts or papers; (c) to order any person who is or has been in the employ of the ward, and any person who was in the employ of the deceased proprietor, if any, from whom the ward derives his title, to attend before him for examination and to defray the necessary expenses of any person so attending out of the assets of the estate; (d) to order all holders of tenures and under tenures on the ward's property to produce their titles before him

22. The Court may determine what sums shall be Allowance. for allowed for the expenses of the ward and of his family and family. and dependants, 28. The Court may make such orders and arrange- Custody, ments, as to it may seem fit, in respect of the custody, residence, education residence, education and marriage— and 14arri%0 of wa*d (a) of any ward wh(Be person is for the time being or minor under its superintendence, relatives 125-19—31 Court of Vurds ti9Ö2 : T.N. Act 1 Appoint. (b) of any minor child, minor brother, or minor sister of such word, who, in the opinion of the Court, is entitled to maintenance at the charge of the ward's estate, (c) of the ward's next male heir being o minor and also so entitled to maintenance. 24. (1) The Court may appoint managers for the of property, and guardians for the person, of any word, ment, etc., managers and guardians, Collector to act if there is no manager or guardian. Who may and may uot be guardians. and may control or remove any manager or guardian so appointed : Provided that it shall not appoint a guardianfor any person who has become a ward in pursuance of an order under section 18. (2) Any appointment made under this section shall terminate when the Court ceases to exercise superin- tendence overthe person for whom a guardian, or over property for which a manager, has been appointed

25. If no manager of the property or guardian of the person of a ward is appointed by the Court, or the omce is temporarily vacant, the District Collector specified in the notification under section 19, or any other Collector whom the Court may appoint in this behalf, shall be competent, under the control of the Court, to do any- thing that might be done by such manager or guardian, 26.(1) No person being the next legal heir of a ward, or appearing to have a direct or indirect advantage. in the death or continued disqualification of such word, shall be appointed guardian of such ward: Provided that the mother of a ward, or any peron appointed guardian by the will of a person authorized to make such appointment Inay be appointed guardian by the Court at its discretion. (2) A female guardian shall be appointed for a female ward, and a male guardian for a male ward above seven •years of ago, unless, in any case, the Court, for special reasons, shall direct otherwise : 1902: .r.N. Act Coun oj Wards 489 Provided that no guardishn shall -ordinarily bo appointed for a female. ward if she has an adult husband

27. A guai'dian appointed under section 24 shall be Duties of charged with the custody of the wardi and, subject to guardians.the control of the Court, shall make suitable provision for his maintenance and health, and, if he be a minor, for his education, and for such other matters as are required by the personal law to which the ward is subject, and shall— (a) give such security (if ony), as the Court thinks fit, for the due performance of his duty; (b) submit such occounts as the Court may direct; (c) pay the balonoes due from him thereon; (d) continue liable to account to the Court after he has ceased to be guardian for his receipts and dis- bursements during the period of his guardianship; (e) apply for the sanction of the Court to any aot which may involve expense, not previously sanctioned by the Court; (f) be paid such allowance out of the property_ of the ward, as the Court thinks fit

28. Every manager appointed by the Court shall powers of have power, subject to the control of the Court, to manager.collect the rents of land placed under his charge, as well as all other money due to the ward, and to grant receipts therefor, ond may under bhe orders of the Court, grant or renew such leases as may in his opinion be necessary for the good management of the property, and do all such lawful acts as he may be generally or specially authorized by the Court to do for the good management of the property

29. Evory monogor appointod by tho Court shall of manager.manage the property placed under his charge diligently and faithfully and shall— (a) give such security, if any, as the Court thinks fit duly to account for whbt he may receive in respect of he rents and profits of the property under his charge; 125-19—31A Couri oj Wards : T.N. Act 1 Employees of Court deemed to be public servants. (b) keep such accounts in such form and submit them at such times the Court may direct; (c) deal with all moneys received by him in such mmner as the Court may direct; (d) apply for the sanction of the Court to any act which may involve the property in not previously sanctioned by the Court; (e) be responsible for any loss occasioned to the property by his negligence or wilful default; (f) continue liable to account to the Court

after he ceased to be manager for his receipts and disbursements during the period of his managership; (g) be paid such allowance out of the property of the ward as the Court thinks fit

80. Every guardian, manager, or other servant of the Court, shall be deemed to be a "public servant" within the meaning 161, 162, 163, 164 and 165 of the Indian Penal Code, and in the definition of legal Central Act XLV remuneration contained in the said section 161, the word "Government" shall for the purposes of this be deemed to include the Court

81. Every manager or other servant of the Court Manager and entrusted with the receipt, custody or control of moneys other servants to securities for money on behalf of the Court or with the be deemed management of any property under its superintendence to be public accountants shall be deemed to be a public accountant within the Central Act XI and meaning of the Public Accountants' Default Act, 1850, of 1850. applicable to Nadu] and shall be amenable to the provisions of the 11 Tamil Nadu Regulation Nadu] Revenue Malversation Regulation, 1822, as if Nadu of 1822. he were a] servant of the IX of 18B. Collector's public establishments. i These words were for the word "Madre" by the Tamil Nadu Adaptation of Laws Order, 1969, amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969, which came into force on the 14th January 1969. * The word "nauve" was omitted by the Adaptation (Amendment) Order of 1950. 1902 T.N. Act 1] Court of Wards 485 82. Unless the Court otherwise directs, all moneys Regulation of expenditure received by, or on behalf of, the Court on account of disbursements. the property of any ward, shall be employed in meeting the charges included in Class I hereinafter specified before it is employed in meeting the charges in Classes II and III hereinafter specified, and in meeting the charges in Class II, before it is employed in meeting those in III. Charges necessary for the maintenance, residence, education, marriage and indispensable religious observances of the ward and his family. Charges necessary for the management and supervision of the property of the ward. Charges on account of Government revenue and of all cesses and other public demands due in respect of such property, or any part of such property. Class II. Charges on account of rent, cesses or demands due to any superior landholder in respect of any land held on behalf of the ward. The liquidation of debts payable by the ward, Expenses necessary to protect the interests of the ward in the civil courts or otherwise, The maintenance in efficient condition of the estates, buildings and other immovable property and the suitable upkeep of the furniture, equipage, live-stock and other movable property belonging to the ward. The payment of such charges for the religious observances of the ward and his family and of such religious, charitable and other allowances, and of such donations befitting the of the ward's family, as the Court may authorize to be paid. 436 Surplus how to be dealt with, Court of Wards [1902 : T.N. Act 1 The prevention and relief of distress among the ward's tenantry. The improvement of the land and property of the ward and the benefit of the ward and his property generally

33. Any surplus which remains after providing, so far as the Court deems fit for the objects mentioned in section 32, shall be applied in the purchase of other landed property, or invested at interest on the security of— (a) promissory notes, debentures, stock and other securities of the 1[Central Government] ; 2f(b) bonds, debentures and annuities charged by the Parliament of the United Kingdom before the 15th day of August 1947, on the revenues of India or of the Governor-General in Council or of any Province ;] (c) stock, or debentures of, or shares in, railways or other companies, the interest whereon has been guaranteed by the Secretary of State for India in Council ; (d) debentures, or other securities for money, issued by, or on behalf of, any local authority under the authority of *any Central Act, any Provincial Act as defined in clause (46) of section 3 of the General Clauses Act, 1897, or State Act)] ; 1 These words were substituted for the words "Government of India" by the Adaptation Order of 1937. 2 This clause was substituted by the Adaptation (Amendment) Order of 1950 for the original clause as amended by the Adaptation order of 1937. 3 The words, letters, figures and brackets any Central Act, any Provincial Act as defined in clause (46) of section 3 of the General Clauses Act, 1897, or any Act of the Legislature of a Part A State or a Part C State" were substituted for the words "any Act of a Legislature, established in British India" by the Adaptation (Amendment) Order of 1950 and the words "any State Act" were substituted for the words and letters "any Act of the Legislature of a Part A State or a Part C State" by section 4 of, and the Third Schedule to, the Tamil Nadu Repealing and Amendment Act 1957 (Tamil Nadu Act XXV 1902 : T.N. Act 1] Court of Wards 8 (e) such other securities, stock, or shares guaranteed by the 1[Central Government] or the 2[State Government] as the Court shall deem fit ; or, (f) first mortgages of immovable property situate in provided that the property is not a leasehold for a term of

years and that the value of the property exceeds by one-third or if consisting of buildings, exceeds by one half, the mortgage-money, 4 [84. (1)]. A ward shall not be competent— (a) to transfer or create any charge on, or interest in, any part of his property which is under the superintendence of the Court, or to enter into any contract or to make any acknowledgment involving him in pecuniary liability personally or in respect of such property ; but nothing in this clause or in section 23 shall be deemed to affect the capacity of ward to enter into a contract of marriage : provided that he shall not incur in connection therewith any pecuniary liability, except such as, having regard to the personal law to which he is subject and to his rank and circumstances, the Court may, in writing, declare to be reasonable ; 1 These words were substituted for the words " Government of India " by the Adaptation Order of 1937. The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950. 3 The words and letters " a Part A State or a Part C State " were substituted for the words " British India " by the Adaptation (Amendment) Order of 1950, and the word " India " was substituted for these words by section 4 of, and the Third Schedule to, the Tamil Nadu Repealing and Amending Act, 1957 (Tamil Nadu Act XXV of 1957). In so far as this Act applies to the added territories, this word was substituted for the words, figures and letters " any part of India which, immediately before the 1st day of November 1956 , comprised in a Part A State or a Part C State " by section 4 of, and the Second Schedule to, the Tamil Nadu (Added Territories) Extension of Laws (No. 2) Act, 1961 (Tamil Nadu Act 39 of 1961), Section 34 was renumbered as sub-section (1) of section 34 by section 2 of the Madras Court of Wards (Amendment) Act, 1943 (Madras Act XVII of 1933). 487 Disabilities of wards. 488 Court of Wards (b) to grant valid receipts for the rents and profits arising or accruing from such property or for debts or other moneys due to the estate ; (c) to adopt or to give a written or verbal permission to adopt, without the consent of the Court ; (d) to dispose of his property by will without the consent of the Court : Provided first, that the Court ; shall not withhold its consent under clause (c) or (d) if the adoption or testamentary disposition is not contrary to the personal or special law applicable to the ward, and does not appear likely to cause pecuniary embarrassment to the property, or to lower the influence or respectability of the family in public estimation : Provided, secondly, that the Court may confirm a will or an adoption made, or a permission to adopt given, without its previous consent : Provided thirdly, that the provisions of clauses (c) and (d) shall not apply to any proprietor in regard to whose property a declaration has been made under section 18. No claim under section 68 of the Indian Contract Act, 1872, shall be enforceable against a person in respect of the property of a ward which is under the superintendence of the Court ; but the Court may, in its discretion, satisfy in whole or in part, any such claim.) Powers Of 85. The Court may mortgage or sell the whole or part of the property under any part of any property under its superintendence and may give leases or farms of the whole or any part of such property for such terms as it thinks fit, and may make remissions of rent or other dues, and may generally pass such orders and do such acts not inconsistent with the provisions of this or any other Act for the time being in force as it may judge to be for the advantage of the ward or for the benefit of the property This sub-section was added by section 2 of the Madras Court of Wards (Amendment) Act 1933 (Madras Act XVII of 1933, 1902: T.N. Act 1) Court of Wards 489 86. The Court may order such establishments to be established, employed and charges to be incurred as it shall consider and distribution of requisite for the care and management of the persons and properties under its superintendence, and generally for all the purposes of this Act, and may order that such charges shall be borne by and distributed amongst the said properties in such proportions as it deems fit

CHAPTER V. ASCERTAINMENT AND SETTLEMENT OF DEBTS. 87. (1) On the publication of a notification under Notice section 19, the District Collector therein specified may, at any time with the previous sanction of the claims. 1[State Government] publish in the Gazette of the district or districts in which such property may be situated a notice in English and in the vernacular calling upon all having pecuniary claims, whether immediately enforceable or not against the ward or his property to notify the same in writing to the Collector within six months from the date of such notification, (2) The notice shall also be published at such places and in such other manner as the court may, by general or special order, direct and shall be sent by registered post to every person who is known to the Collector as having a pecuniary claim against the ward or his property and of whose address the Collector is credibly informed. (3) The 1[State Government] may at any stage of the proceedings under sections 37, 38 and 40 invest any

person either by name or in virtue of his office with the powers of a Collector for any or all of the purposes of these sections. The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950. 490 Court. of Wards. [1902 : T.N., Act.1 Explanation.—A claim shall be deemed to be pecuniary for the purpose of this section and sections 38 and 41. notwithstanding that a suit for its enforcement or a reference of such claim to arbitration is pending or that a decree or award has been passed establishing the same. Claimants to 38. (1) Every such claimant shall within the period furnish full particulars and prescribed by section 37, notify to the Collector in writing his claim with full particulars thereof : documents , Provided that any claim presented after the expiration of such period and within a further period of six months may be admitted if the claimant satisfies the Collector that he had sufficient cause for not notifying the claimant at an earlier date. (2) Every document (including entries in books of account) in the possession of or under the control of the claimant on which he founds his claim, shall be produced before the Collector with the statement of claim or within such time after the preferring of the claim as may be allowed by the Collector in that behalf : Provided that if the claim relates to an amount secured by a decree or award, it shall be sufficient for the claimant to produce before the Collector a certified copy of the decree and certificate from the Court which passed or is executing the same declaring the amount recoverable thereunder or true copy of the award and a statement of the sum recoverable thereunder as the case may be ; and if the claim is pending adjudication in any court or has been referred to arbitration, it shall be sufficient for the claimant to produce a certified copy of the plaint or a true copy of the reference to arbitration as the case may be. (3) It shall be lawful for the Collector to require the production by any claimant of such of the documents in his possession or power relating to his claim other than the documents, if any, produced under section (2) as the Collector may consider necessary. 1902 : LN. Act 1] Court of Ward, 491 (4) Unless the Collector shall otherwise direct, every document produced under this section shall be accompanied by a true copy thereof. The Collector shall mark the original document for the purpose of identification and, after examining and comparing the copy with it, shall retain the copy and return the original to the claimant. Pecuniary 89. Nothing contained in sections 37 and 38 shall claim of the Government, or any local authority, or to claims for maintenance not affected. or for wages or salaries due to servants

40. The Collector shall after making such inquiry Claims as he may deem fit, decide whether claims notified or admitted and disallowed. admitted under section 38 are to be allowed in whole or in part; and which are to be disallowed, and, on his decision being confirmed by the Court, shall give written notice of the same to the claimants : Provided that nothing herein contained shall be construed as precluding any claimant from continuing or instituting proceedings in any civil court in respect of any claim whether such claim be allowed or disallowed by the Court in whole or in part

41. Every pecuniary claim against the ward or Claims not notified cease his property which has not been duly notified to, or to carry admitted by, the Collector under section 38 shall interest, etc. notwithstanding any law, contract, decree or award to the contrary, cease to carry interest from the expiration of the period prescribed by section 37, and shall not be paid until after the discharge or satisfaction of the claims notified or admitted under section 38

42. No document in the possession or under the In admissibility in evidence control of the claimant which should have been, but of documents has not been, produced in accordance with the requirements of section 38 shall be admissible in evidence against the ward or his representative in any suit The words " the Crown " were substituted for the word " Government " by the Adaptation Order of 1937 and the word Government was substituted for " Crown " by the Adaptation Order of 1950. 492 When mortgagion may be disposed of. Court of Ward 8 [190m: T.N. Act 1 brought by or against the claimant, or any person claiming under him unless it be proved to the satisfaction of the civil court that it was not within his power to produce such document before the Collector 48. (1) When any property of a ward is in the possession of a mortgagee, or any person claiming under & mortgagee, the [State Government] may, on being satisfied that it is expedient in the public interest that the estate should be preserved and that such incumbrancer should deliver up possession of the mortgaged property, make declaration to that effect, and direct the Court to take possession thereof ; the Court shall, thereupon by an order in writing, require such incumbrancer to deliver up possession of the same to the manager of the end

of the then current revenue year, (2) If such incumbrancer refuses or neglects to obey Buoh order, the Collector may, without re- sorting to a Oivil court, enter upon the property, and summarily evict therefrom the said inoumbronoer and any other person obstructing or resisting on his behalf. (3) The dispossession of the incumbrancer under sub-sections (1) and (2) shall not deprive him of any summary powers which he would heve had under the Madras Rent Recovery Act, 1865,a for the recovery Aot VII of arrears of rent due to him at the dote of his of 1865. dispossession. (4) If in the instrument of mortgage under which the incumbrancer iN in possession of the property, no rate of interest is specified, the Collector shall, in cases where the mortgage debt has been notified to or admitted by him, offer to the incumbrancer the rate of interest which appears to him to be reason- able ; and pass an order fixing the rate accordingly, I The words " Provincial " were substituted for words Govemawnt" by the Adaptation of 1937 \ and the word " State " wu s&tstituted for "Provincial by the Adaptation Order of 1950. by Nadu 1 of 1908. 1902 : T.N. Act 11 Court of Wards 493 Copy of the b. order shall be served upon the incumbrancer the manner presm•ibed by the Code of Civil Procedure 1 for service of summons entral ot XIV upon a defendant. Ifthe incumbrancer be dissatisfied 1882, with the rate of interest so fixed, he may, within three months from the date of service upon him of such order, institute a suit against the ward in & district court within whose jurisdiction the property mortgaged or any portion thereof is situate, and the said court shall, if the mortgage debt has been notified or admitted os aforesaid, pass a declaratory decree fixing such rate of interest as to it may seem reasonable. If no such suit be instituted within the said period, the incumbrancer shall be deemed to have agreed to the rate fixed by the Collector. (5) If an incumbrancer is dispossessed under this section, the money due to him under the instrument of mortgage at the date of such dispossession together with subsequent interest on the unliquidated principal of the mortgage debt at the rate stipulated in the said instrument, and in the obsenoe of such stipulation at the rate determined as hereinbefore provided, shall, subject to the provisions of section 41, and subject to the charges specified in classes I and 11 in section 32, excepting the liquidation of debts payable by the ward, and the provisions with reference to the upkeep of the furniture, equipage, live-stock and other movable property belonging to the word, be recoverable together with any money which he may be legally entitled to odd to the principal money, on the security of the property mortgaged and of the rents and profits arising or accruing therefrom subsequent to the date of such dispossession, in the same manner os if he were a simple mortgagee under the said instrument of such property and of such rents and profits. (6) The Collector shall, as soon as oonveniently may be, after the expiration of the revenue year oommemoing with the date of such dispossession and of every successive revenue year declare, subject to the approvol of the Court, the goss annual rents 1 See now the Code of Civil Proæduw, 1908 (Central Aot V of 1908), Court of Wards : T.N. Act Z Provision and profits realized from such • property, the several heads of, expenditure and the bolance and such declaration shall be oonolusive• evidence of tho statement therein contained. A copy of such declaration shall be furnished to the dispossessed incumbrancer free of charge. 44. (1) When any property of a word is in the regarding leases possession of ony person claiming to hold under a for ineumoient lease granted by the ward and dated within the three consideration. years immediately preceding the commencement of the superintendence or of any person claiming under such lessee, the Collector may inquire into the suffoienoy of the consideration for which the lease was granted ; and if such consideration appears to him inadequate, he may, with the previous sanction of the Court, give notice in writing thot the lease shall determine at the end of the then current revenue year unless the lessee or any one claiming under him pays or agrees to pay such additional consideration as may be mentioned in such notice within a dote therein fixed. If within such date such person does not pay or enter into an agreement to pay the additional consideration demanded, or such other consideration as the Collector may be willing to accept, the leose sholl determine at. the end of the then current revenue year : Provided that such person moy, if dissatisfied with the said notioe of the Collector, institute a suit ogoinst the word within three months from the dote of. service of such notioe in a district court within .whose jurisdiction the property comprised in the lease or any portion thereof is situate- for determining whether the consideration for the lease was adequate, md if not, whether the additional consideration demanded by the Collector or what other amount is reasonable. (2) If the said district court be satisfied that the lease was granted for adequate consideration and it is not shown to be otherwise invalid, it shall a decree estoblishing the validity of the lease. jr.N. 1] Court of Wards (3) If the district court holds the consideration for tho lease to be inadequate, it shall determine the amount of additional consideration to be paid by the lessee. (4) If no such suit be

instituted or if on the institution of such suit the lessee does not within one month from the date of the decree therein pay or enter into an agreement to pay the additional consideration, . determined by the district court, the Collector may without resorting to a civil court enter upon the property and summarily evict therefrom • such person and any other person obstructing or resisting on his behalf. 45. (1) In the case of any • specified, ward of the Execution Of decreen to be Court, the 1[State Government] may * * * * transferred to * * * * *] declare by notification in the Collector in Official Gazette that execution of decrees passed by certain l. civil courts, which are capable of execution by sole of any immovable property of such ward, or which in pursuance of a contract specifically affecting ony such immovable property order the sole of the some, whether such decrees be passed prior to such notification or subsequent thereto, shall be transferred to the Collector of the district in which such property or any portion thereof is situate and rescind such notification : Provided that when portion only of a decree passed by a civil court is of the description aforesaid, such portion alone shall be transmitted to the Collector for execution. 1 [State Government] may also (2) The V of notwithstanding anything contained in the Code • of Civil Procedure 3 prescribe rules for the transmission i The words " Provincial Government " were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State " substituted for "Provincial " by the Adaptation Order of 1950. The words "with the previous sanction of the Governor. General in Council " were omitted by the Devolution Act, 1920 (Central Act xxxvlll of 1920) First Schedule—Part iii. 3 See no" Central Act V of 1908. 496 Couri of Wards T.N. Act 1 of the decree from the civil court to the Collector, ond for regulating the procedure of the Collector in executing the same, and for retransmitting •the decree from the Collector to the civil court. (3) Rules under this section may confer upon the Collector or any gazetted subordinate of the Collector all or any of the powers which a Oivil court might exercise in the execution of tho decree if the execution thereof hod not been transferred to the Collector, including the powers of the civil oourt under sections 294 and 312 of the Code of Civil Pro- Central oedurel and may provide for orders passed by the Ao"XIV Collector or any gazetted subordinate of the Collector Of 1882'• or orders passed on appeal with respect to such orders, being subject to appeal to and by superior revenue authorities os nearly as may be as the orders passed by the civil court, or orders possed on appeal with respect to suoh>rders, would be subject to appeal to and revision by appellate or revisional civil oourts Central under the Code of Civil Prooedurel or other law for Act XIV the time being in force if the decree had not been 1882. transferred to the Collector. (4) A power conferred by the rules upon the Collector, or any gazetted subordinate of the Collector, or upon any appellate or revisional authority, shall not be exercisable by the civil oourt which passed the transferred deoree or by any civil court in exercise' of any appellate or revisional jurisdiction which it has with respect to decrees or orders of the aforesaid civil oourt. (5) In executing o decree transferred to the Collector under this section the Collector shall be Collector to whom execution deemed to be acting . judicially within the meaning ot decree • has of the Judicial Offoers' Protection Act, 1850, Central been traaderred Aot xvrn to to dis- q. (1) When the Collector, to whom the execution of 1850. the of any decree has. been transferred under seotion 45, functions of . Collector under also the Collector who has to discharge the other the Act. 1 See now Central Act V of 1908. a The words " Provincial Government were substituted for the words " L0081 Government " by the Adaptation Order ot 1937 the word " State wu substituted for "Provincial" by Adaptation Order of 1950. 1902 : T.N. Act IJ Court of Ward, 497 bdra• of 94. mtral XIV 82. functions of a Collector under this Aot in respect of the ward against whom such decree has to be executed, the 1[State Government] shall appoint some other person by name or in virtue of his office to exercise the functions of a Collector under this Act in respect of such ward other than the execution of the deoreer transferred to him. (2) The BO .rd of Revenue may authorize the person so appointed to exercise all or any of the vowers conferred on a levonue-offcer in charge of a division by sub-section (2) of section 16 of the Madras Proprietary Estites' Village Service Act, 1894

47. The provisions of sections 321, 322, 322A,322B, Certain pro.3'2'2C, 322D, 323, 324, 324-A, 325) 325A, 325Cofthe of Civil Procedure Code of Code of Civil Procedure*, shall subject to the provi- to be applicable siong of this Act and to such rules as may be prescribed to execution oi by the i[State Government] under section 45, be appli- decrees trans. ferred to cable as far as may be to the exec ution of decrees Collector. transfen•ed under section 45

CHAPTER VI. Svms, 48. No declaration made by the 1 (State Govern- Exercise of discretion not ment] under section 15 or 18 and no act done in the to b, questioned exercise of any discretionary power

conferred by in civil court. this Act shall be questioned in any civil court. 49. (1) No suit relating to the person or property to be of any ward shall be instituted in my civil court until after notice to the expiration of two months after notice in writing Collector. has been delivered to or left at the office of the District Collector specified in the notification under section 19 or the Collector appointed under section 46, 8B the case -may be. 1 'he words " Provincial Govemment " were substituted for the words " ' Local Government " by the Adaptation Order of 1987 and the wofd " State " was substituted for Provincial " by the Adaptation Order of 1950. a See now Central Act V of 1908, 125-19—32 498 Court of Wards [1902 : T.N. Act (2) Such notice shall state the name and place of abode of the intending plaintiff, the cause of action and the relief which he claims ; and the plaint shall contain a statement that such notice has been so delivered or left : Provided that notice under this section shall not be required in the case of any suit the period of 'limitation for which will expire within three months from the date of the notification under section 19. Suit or pro- 1[50. In all suits or proceedings in any civil or ceeding by or revenue court the ward shall sue and be sued in his own name and tho manager of his property appointed under section 24 or, if there is no such manager, the offcer competent to act as manager under section 25 Bhall represent-him, as next friend or guardian ad litem as the case may be.] Costs agains 51. If in any such suit or proceedings any civil Collector or or revenue court shall decree any costs against the manager how manager 3[or other offcer compe- maid. tent to aot as manager under section 25] the Court of Wards shall cause costs to be paid out of any property of the ward, which, for the time being, may be in its hands

52. No suit shall be brought on behalf of any Bui" mnst bo tant.horized by ward by the 2 * 3 [or other manager ()urt, offcer competent to act as manaoer under section 25] authorized by some particular or general order of the Court : Provided that a manager 4 [or other offcer as aforesaid] 5. . may file a plaint in order to prevent a suit from being barred by the law 1 This section was substituted for the original s.50 by Mad. Act 1 of 1911, 8.2. 2 The words " Collector or were omitted by ibid, s.3. 3 Inserted by ibid. 4 Inserted by ibid, s. 4. 6 words " in the name of the Collector or in bis ovn nere as tho caw may be" weN repealed by ibid. : T.N Aet 1] Court of Wards 499 of limitation, but such suit shall not be further proceeded with, until the consent of the Court has been obtained. 53. (1) When any question arises as between two or Adjudication of more wards of such ture that an adjudication upon civil disputes it shall be lawful between two or it by a civil court ii xpedient, more wards. for the Court of Wards, acting through the Collector of the district in which a case might have been stated for the opinion of the civil court with regard to such Centrnl Aet XIV of matter under section 527 of the Code of Civil Proce- 1882. ntral dure, to filo in the Oivil court having jurisdiction, a statement containing the point or points for determi- nation. (2) When such statement has been filed, the Oivil court shall appoint a ad litem for each ward having a separate interest, and such guardian shall thereupon conduct the case subject to the general control of the Court of Wards. (3) The civil court may, if it thinks fit, amend the case so stated, and shall then proceed to hear and dispose of the case in the manner provided in Chapter xxxvlll of the Code of Civil Procedure Act of for the hearing and disposal of cases stated (or opinion 1882. under that Chapter

CHAPTER VII. :éLEASE OF PERSONS AND PROPERTY FROM SUPERINTENDENCE. Release from 54. The Courttmay, with the previous sanction of the supe:intend. State Government] in all cases where superinten- dence has been assumed in pursuance of orders under section 15, at any time release from its superinten- 1 See now Central Act V of 1908. were substituted for 2 The • words " Provincial Govornment " the words " Local Government " by the Adaptation Order of 1937 and the word " State " •was substituted for "Provincial " by the Adaptation Order of 1950. 125-19—32A 500 Court of Wards [1902 : T.N. Act 1 denoe the person or property of a ward or both and Bhall save as provided in section 57 release from superin- tendence— (a) the person and property of a ward disqualified under clause (a) of section 9 oon as he ceases to be a minor ; (b) the person and property of a ward disqualified under clause (c) of section 9 as soon as it is found by competent civil court that the disability has ceased ; (c) the person and property of a proprietor declared to be disqualified under clause (b) or (d) of section 9 soon as the 1 [State Government] revokes its decla- ration that such proprietor is disqualified ; 2 [(d) the property of an undivided Hindu family or a Marumakkattayam tarward, and the person of every co- parcener in such family or member of such tarward, cs the case may be, who is not ofseparate estate, as soon as any co-parcener or member oease to be disqualified under section 9.] Release of 55. (1) The Court may, with the previous sanction •e tateg taken of the i [State Government], at any time within two under manage. ment under years from the date of the notification published section 18 Whenunder section. 19,

release from its superintendence, debts cannot be on a day to be notified, the property of a person who liquidated Tithin has been made a ward of the Court in pursuance reasonable time of an order under section 18 without liquidating any of his debts and liabilities or after liquidating some of the debts and liabilities, where the Court is satisfied that it is impracticable to liquidate within a reasonable time all the debts and liabilities or such of them as have not been liquidated and in either case the legal incapacity of such ward shall on the date so notified. 1 The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " substituted for " Provincial " by the Adaptation Order of 1950. 2 This clause was substituted for the original clause (d) by section 4 of, and the Second Schedule to, the Tamil Nadu (Transferred Territory) Extension of Laws Act, 1960 (Tamil Nadu Act 23 of 1960). 1902 : T.N. Act 1] Court of Wards 501 (2) Whenever an incumbrancer is dispossessed under section 43, and his debt remains unliquidated at the time the Court releases from its superintendence the property of such ward under sub-section (1), the Collector shall replace the incumbrancer in possession. (3) Whenever the property of a person is released under sub-section (1) from the superintendence of the Court, the provisions of sections 41 and 42 shall not apply to any of the debts and liabilities of the ward remaining unliquidated at the time when his property is so released. (4) In computing the period, of limitation applicable to a suit brought or application made against such person or his legal representative after the Court has his property under sub-section (1) the time during which the superintendence of the Court continued shall be excluded

56. The Court may, with the previous sanction When taken of the [State Government], replace any proprietor under management. made a ward of the Court in pursuance of an order made under section 18, in the management of his estate be made over to him on a day to be notified if the debts and liabilities binding on his estate have been discharged, and the Court is satisfied that he will thereafter be competent to take charge of his estate and administer his own affairs and his legal incapacity shall cease on such date. 57. When a ward dies or ceases to be disqualified retain superintendence in before the debts and liabilities binding on his estate have been discharged, the Court may, with the previous sanction of the [State Government], retain the property under its superintendence until the debts and liabilities are discharged or for any shorter period, and when for the purpose of discharging such debts and liabilities the Court has raised money on condition that it should retain the superintendence of the property until the money so raised is repaid, the Court shall in words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950. 502 1 Court of Wards [1902: T. N. Act Disabilities proprietor such cases. not without the consent of the lender or his representatives withdraw from superintendence until the money so raised has been repaid: Provided that, after the death of the ward the Court shall not retain charge on account of any debt or liability which has been declared by a civil court not to be binding on the representatives of the deceased ward, of 58. If the Court retains the superintendence under the provisions of the last preceding section, the person who has succeeded to the property, or the person who has ceased to be disqualified shall in so far as the property in question is concerned be deemed to be a ward of the Court for the purposes of clauses (a) and (b) of '[sub-section (1) and sub-section (2) of section 34], Appointment 59. (1) When the Court decides to release from its superintendence the person and property of minor before release. it may, before such release, by an order in writing, appoint any person to be the guardian of the person or property or both of such minor. (2) Such appointments shall take effect from the date of such release. (3) In appointing a guardian under this section, the Court shall be guided by the provisions of section 17 of the Guardians and Wards Act, 1890. (4) Every such guardian shall have and be subject Central Act to the same rights, duties and liabilities as if he had been appointed under the Guardians and Wards Act, 1890. 60, Any expense incurred by the Court on account of Recovery expenses of any property under its charge, and not defrayed from release. such property during the Court's superintendence may, after the release of such property, be recovered as if it were an arrear of land-revenue from any person into whose possession such property or any part thereof may have passed: 1 The portion within square brackets was substituted for the word and figures " section. 34 " by section 3 of the Madras Court of Wards (Amendment) Act, 1933. (Madras Act XVII of 1933). Court of Ward 1902 : T.N. 1] 503 C. (nt,ra) Act XX of 1863 Provided that the sum so recovered from any such person shall not be greater than the value of any such property, which so passed into the possession of such person

61. Whenever, on the death of any ward, the succession to his property or any part thereof is disputed, the Court may either direct that such property, or part thereof, be made over to any person claiming the property, or may retain the superintendence of the property until claimant has established his title to the same in a competent civil court, or institute a suit of inter-pleader against all the claimants. Notification of 62. Whenever the Court releases any person or from release property from its superintendence, the release shall be notified in the 1[Official Gazette] and also in the Gazette of the district in which such property or any part thereof is situated. CHAPTER VI MISCELLANEOUS 68. If a ward is the hereditary trustee or manager of a temple, mosque or other religious establishment or religious endowment, the Court, notwithstanding anything contained in section 22 of the Religious Endowments Act, 1863, may make such arrangements as it thinks fit for the discharge, during the wardship of the ward's duties as trustee or manager, provided that for the direct and personal management of the religious affairs of any such institution, establishment or endowment the Court shall appoint suitable persons other than 2[servants of the Government] and that the Court shall as far as possible restrict its superintendence to the preservation of the property belonging to the institution, establishment or endowment. 1 These words were substituted for the words "Fort St. George gazette" by the Adaptation Order of 1937. 2 The words "servants of the Crown" were substituted for the words "officers of Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950. 504 Court of Wards [1902: T.N. Act 1 of 1902]. In holding any inquiry under this Act the Collector or other person authorized to hold such inquiry shall have all the powers conferred on revenue officers by the 1[Tamil Nadu] Revenue Summons Act, [Tamil Nadu 1869. 111 of Property under 65. No immovable property under the superintendence of the Court shall be liable to sale on account of arrears of land-revenue, accruing while such estate is under the superintendence of the Court: Provided that all such arrears of revenue shall be the first charge upon the sale proceeds of any such property which may be sold for any other cause than for arrears of revenue, Power to make 66. The Court may, with the previous sanction of the Government, consistent with this Act,— (d) regulating the management of property under the superintendence of the Court; and (b) generally for the guidance of all persons in all proceedings under this Act and for carrying out the provisions of this Act. [66-A. The powers and functions conferred on the Government by or under this Act shall, in relation to the estates of Rulers of Indian States, be powers and functions of the Central Government.] CHAPTER IX. PENALTIES

67. Whoever, without the previous consent of the Court, abets the marriage of any of the persons specified in clauses (a), (b) and (c) of section 23 shall be liable, on conviction before a Court of Session, to a fine not exceeding Rs.2,000 or to imprisonment for a term not exceeding six months or to both. 1 These words were substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969, which came into force on the 14th January 1969. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950, 8 This section inserted by the Adaptation (Amendment) Order of 1950.