The Partition Act, 1893

(ACT NO. IV OF 1893)

An Act to amend the Law relating to Partition.

WHEREAS it is expedient to amend the Law relating to partition; It is hereby enacted as follows:-

Title, Extent and saving

1. (1) This Act may be called the Partition Act, 1893.

(2) It extends to the whole of [1][Bangladesh];

(3) [Repealed by section 3 and Schedule II of the Repealing and Amending Act, 1914 (Act No. X of 1914).]

(4) But nothing herein contained shall be deemed to affect any [2][other] law providing for the partition of immoveable property paying revenue to Government.

Power to Court to order sale instead of division in partition suits

2. Wherever in any suit for partition in which, if instituted prior to the commencement of this Act, a decree for partition might have been made, it appears to the Court that, by reason of the nature of the property to which the suit relates, or of the number of the shareholders therein or of any other special circumstance, a division of the property cannot reasonably or conveniently be made, and that a sale of the property, and distribution of the proceeds would be more beneficial for all the shareholders, the court may, if it thinks fit, on the request of any of such shareholders interested individually or collectively to the extent of one moiety or upwards, direct a sale of the property and a distribution of the proceeds.

Procedure when sharer

undertakes to buy

3. (1) If, in any case in which the Court is requested under the last foregoing section to direct a sale, any other shareholder applies for leave to buy at a valuation the share or shares of the party or parties asking for a sale, the Court shall order a valuation of the share or shares in such manner as it may think fit and offer to sell the same to such shareholder at the price so ascertained, and may give all necessary and proper directions in that behalf.

(2) If two or more shareholders severally apply for leave to buy as provided in sub-section (1), the Court shall order a sale of the share or shares to the shareholder who offers to pay the highest price above the valuation made by the Court.

(3) If no such shareholder is willing to buy such share or shares at the price so ascertained, the applicant or applicants shall be liable to pay all costs of or incident to the application or applications.

Partition suit by transferee of share in dwelling-house

4. (1) Where a share of a dwelling-house belonging to an undivided family has been transferred to a person who is not a member of such family and such transferee sues for partition, the Court shall, if any member of the family being a shareholder shall undertake to buy the share of such transferee, make a valuation of such share in such manner as it thinks fit and direct the sale of such share to such shareholder, and may give all necessary and proper directions in that behalf.

(2) If in any case describes in sub-section (1) two or more members of the family being such shareholders severally undertake to buy such share, the Court shall follow the procedure prescribed by sub-section (2) of the last foregoing section

Representation of parties under disability

5. In any suit for partition a request for sale may be made or an undertaking, or application for leave, to buy may be given or made on behalf of any party under disability by any person authorized to act on behalf of such party in such suit, but the Court shall not be bound to comply with any such request,

undertaking or application unless it is of opinion that the sale or purchase will be for the benefit of the party under such disability.

Reserved bidding and bidding by shareholders

6. (1) Every sale under section 2 shall be subject to a reserved bidding, and the amount of such bidding shall be fixed by the Court in such manner as it may think fit and may be varied from time to time.

(2) On any such sale any of the shareholders shall be at liberty to bid at the sale on such terms as to non-payment of deposit or as to setting off or accounting for the purchase-money or any part thereof instead of paying the same as to the Court may seem reasonable.

(3) If two or more persons, of whom one is a shareholder in the property, respectively advance the same sum at any bidding at such sale, such bidding shall be deemed to be the bidding of the shareholder.

Procedure to be followed in case of sales

7. Save as hereinbefore provided, when any property is directed to be sold under this Act, the following procedure shall, as far as practicable, be adopted, namely:-

[3][* * *].

(b) if the property be sold under a decree or order of any

[4][* * *] Court, such procedure as the [5][Supreme Court] may from time to time by rules prescribe in this behalf, and until such rules are made, the procedure prescribed in the Code of Civil Procedure in respect of sales in execution of decrees.

Orders for sale to be deemed decrees

8. Any order for sale made by the Court under section 2, 3 or 4 shall be deemed to be a decree within the meaning of section 2 of the Code of Civil Procedure.

Saving of Power to order partly partition

9. In any suit for partition the Court may, if it shall think fit, make a decree for a partition of part of the property to which the suit relates and a sale of the remainder under this Act.

and partly sale

[Omitted]

10. [Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).]

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[1] The word "Bangladesh" was substituted, for the word "Pakistan" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

[2] The word "other" was substituted, for the word "local" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

[3] Clause (a) was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).

[4] The word "other" was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).

[5] The words "Supreme Court" were substituted, for the words "High Court" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).

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