



# GUJARAT

Judicial Services Exam

CIVIL JUDGE

Gujarat Public Service Commission

Paper - 2

**Volume - 1**



# GUJARAT JUDICIAL SERVICES

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# **The Gujarat Court Fees Act**

**THE GUJARAT COURT FEES ACT, 2004**  
**GUJARAT ACT NO 4 OF 2004**

**CHAPTER I**  
**PRELIMINARY**

- 1.**
- (1) This Act may be called the *Gujarat Court-fees Act, 2004*.
  - (2) It extends to the whole of the State of Gujarat.
  - (3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.
  - (4) The provisions of this Act shall not apply to fees or stamps relating to documents presented or to be presented before any officer serving under the Central Government.
  - (5) In the absence of any specific provision to the contrary, nothing in this Act shall affect any special law now in force relating to fees taken in the courts and public offices.
- 2. In this Act, unless the context otherwise requires, -**
- (a) "Chief Controlling Revenue Authority" means such officer, as the State Government may by notification in the *Official Gazette*, appoint in this behalf for the whole or any part of the State of Gujarat;
  - (b) "Collector" includes any officer authorised by the Chief Controlling Revenue Authority to perform the functions of a Collector under this Act;
  - (c) "Plaint" includes a written statement pleading a set off or counter claim.

**CHAPTER II**  
**COMPUTATION OF FEES**

- 3.** The fees payable for the time being to the clerks and officers (other than the sheriffs and attorneys) of the High Court; or chargeable in that Court under Article 10 of the First Schedule, and Articles 11, 14, 17, 20 and 21 of the Second Schedule annexed to this Act; shall be collected in the manner hereinafter appearing.
- 4.** No document of any of the kinds specified as chargeable in the First or Second Schedule annexed to this Act shall be filed, exhibited or recorded in any Court of Justice, or shall be received or furnished by any public officer, unless in respect of such document there has been paid a fee of an amount not less than that indicated by either of the said Schedules as the proper fee for such document.
- 5.**
- (1) When any difference arises between the officer whose duty is to see that any fee is paid under this Act and any suitor or attorney, as to the necessity of
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paying a fee or the amount thereof, the question shall, when the difference arises in the High Court, be referred to the taxing officer, whose decision thereon shall be final, subject to revision, on an application, made within sixty days from the date of the decision, by the suitor or attorney or pleader or such officer as may be appointed in this behalf by the State Government, by the Chief Justice or by such Judge of the High Court as the Chief Justice shall appoint either generally or specially in this behalf. The Chief Justice shall declare the taxing officer within the meaning of this sub-section.

- (2) When any such difference arises in the Ahmedabad City Civil Court, the question shall be referred to the Registrar of the City Civil Court, whose decision shall be final, subject to revision, on an application, made within sixty days from the date of the decision, by the party concerned or such officer as may be appointed in this behalf by the State Government, by the Principal Judge or such other Judge of the said Court as the Principal Judge shall appoint either generally or specially in this behalf.
- (3) When such difference arises in any other Court, the question shall be referred to the Judge presiding over such Court for final decision.

**6. The amount of fees payable under this Act in the suits next hereinafter mentioned shall be computed as follows:-**

- (1) In suits for money (including suits for damages or compensation, or arrears of maintenance, of annuities or of other sums payable periodically) according to the amount claimed.
  - (2) In suits for maintenance (with or without a prayer for the creation of a charge), and for annuities or other sums payable periodically according to the value of the subject matter of the suit, and such value shall be deemed to be, in the case of a suit for maintenance, the amount claimed to be payable for one year and in any other case, ten times such amount: Provided that if in a suit for maintenance, the plaintiff obtains a decree for maintenance, the defendant shall be liable to make good the deficit, if any, between the fee payable on ten times the amount awarded for one year and the fee already paid by the plaintiff; and the amount of such deficit shall, without prejudice to any other mode of recovery, be recoverable as an arrear of land revenue.
  - (3) (a) In suits for movable property other than money, where the subject matter has a market value according to such value at the date of presenting the plaint;  
(b) in suits for declaration to obtain adjudication against recovery of money from the plaintiff, whether the recovery is as land revenue or arrears of land revenue or tax or duty or cess or fee or fine or penalty or under any decree or order of a court or any certificate or award other than under the Arbitration and Conciliation Act, 1996, or in any other manner, one-fourth of the *ad valorem*
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fee leviable on the amount sought to be recovered according to the scale prescribed under Article 1 of Schedule I with a minimum fee of thirty rupees : Provided that when in addition to any consequential relief other than possession is sought, the amount of fee shall be one-half of the *ad valorem* fee on the amount sought to be recovered : Provided further that when the consequential reliefs sought also include relief for possession, the amount of fee shall be the full *ad valorem* fee on the amount sought to be recovered;

(c) in suits for declaration similar to those falling under sub-clause (b) in respect of movable property, one-fourth of the *ad valorem* fee leviable on the value of the movable property subject to the minimum fee as under sub-clause (b) : Provided that when in addition to any consequential relief other than possession is sought, the amount of fee shall be one-half of the *ad valorem* fee leviable on the value of such property : Provided further that when the consequential reliefs also sought include a relief for possession, the amount of fee shall be the full *ad valorem* fee leviable on such value;

(d) in suits for declaration of the status of plaintiff, to which remuneration, honorarium, grant, salary, income, allowance or return is attached, one-fourth of the *ad valorem* fee leviable on the emoluments or value of return for one year: Provided that when in addition to any consequential relief other than possession is sought, the amount of fee shall be one-half of the *ad valorem* fee on such emoluments or value of return : Provided further that when the consequential reliefs sought also include a relief for possession, the amount of fee shall be the full of the *ad valorem* fee on such emoluments or value of return.

(4) In suits for declaration in respect of ownership or nature of tenancy, title, tenure, right, lease, freedom, or exemption from, or nonliability to, attachment with or without sale or other attributes, of immovable property, such as a declaration that certain land is personal property of the Ruler of any former Indian State or public trust property or property of any class or community, one-fourth of the *ad valorem* fee leviable for a suit for possession on the basis of title of the subject matter, subject to a minimum fee of forty rupees: Provided that if the question is of attachment with or without sale, the amount of fee shall be the *ad valorem* fee according to the value of the property sought to be protected from attachment with or without sale or the fee of thirty rupees, whichever is less: Provided further that, where the defendant is or claims under or through a limited owner, the amount of fee shall be one-sixth of such *ad valorem* fee, subject to the minimum fee specified above: Provided also that, in any of the cases falling under this clause except its first proviso, when in addition to any consequential relief other than possession is sought, the amount of fee shall be one-half of the *ad valorem* fee and when the consequential

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relief sought also include a relief for possession, the amount of fee shall be the full *ad valorem* fee.

- (5) In suits for declaration of easement or right to benefit arising out of immovable property, with or without an injunction or other consequential relief, the amount of fee shall be as shown in the Table below:-

**Table**

Area 1	Fee 2
The area within the limits of the Municipal Corporation.	One-fourth of the <i>ad valorem</i> fee leviable for a suit for possession of the servient tenement or the dominant tenement, whichever is less subject to a minimum fee of thirty rupees.
Area within the limits of Municipality.	One-sixth of the <i>ad valorem</i> fee leviable for a suit for possession of the servient tenement or the dominant tenement, whichever is less, subject to a minimum fee of thirty rupees.
Any other area in the State of Gujarat.	Thirty rupees.

- (6) In suits for declaration of status to which no direct monetary attribute is attached such as a declaration that the plaintiff is a married husband or wife of the defendant or divorced husband or wife of the defendant or a declaration about legitimacy of children or about citizenship rights or about an adoption - Sixty rupees: Provided that where injunction or other consequential relief is also sought in such case, the amount of fee shall be one hundred rupees.
- (7) In suits for declaration of a charge in favour of the plaintiff on movable or immovable property, one-half of the *ad valorem* fee payable on the charge amount: Provided that where injunction or other consequential relief is also sought in such cases, the amount of fee shall be the full *ad valorem* fee payable on the charge amount.
- (8) In suits for declaration in respect of periodical charge or money return in favour of or against the plaintiff, one-half of the *ad valorem* fee payable on the charge for five years if the charge is annual and on the charge for one year if the period of the charge is less than one year.



- (9) In suits for declaration that any sale or contract for sale or termination of the contract for sale of any moveable or immoveable property is void, one-half of the *ad valorem* fee leviable on the value of the property.
- (10) In suits for declaration that any proceedings for compulsory acquisition of any moveable or immoveable property are void, one-half of the *ad valorem* fee leviable on the value of the property.
- (11) In suits for accounts according to the amount at which the relief sought is valued in the plaint or memorandum of appeal, subject to the provisions of section 8 and subject to a minimum fee of one hundred rupees.
- (12) In suits where declaration is sought, with or without injunction or other consequential relief and the subject matter in dispute is not susceptible of monetary evaluation and which are not otherwise provided for by this Act - one hundred rupees, In all suits under sub-clauses (b), (c) and (d) of clause (3) and clauses (4) to (11), the plaintiff shall state the amount at which he values the relief sought, with the reasons for the valuation.
- (13) In suits for the possession of land, houses and gardens according to the value of the subject matter; and such value shall be deemed to be, where the subject matter is a house or garden according to the market value of the house or garden and where the subject matter is land, and (a) where the land is held on settlement for a period not exceeding thirty years and pays the full assessment to Government -- a sum equal to twenty times the survey assessment; (b) where the land is held on a permanent settlement, or on a settlement for any period exceeding thirty years, and pays the full assessment to Government -- a sum equal to forty times the survey assessment; and (c) where the whole or any part of the annual survey assessment is remitted a sum computed under sub-clause (a) or sub-clause (b), as the case may be, in addition to forty times the assessment, or the portion of assessment, so remitted
- (14) In suits to enforce a right of pre-emption according to the value ( computed in accordance with the clause (13) ) of the land, house or garden in respect of which the right is claimed.
- (15) In suits for partition and separate possession of a share of joint family property or of joint property, or to enforce a right to a share in any property on the ground that it is joint family property or joint property whether or not, the plaintiff is in actual or constructive possession of the property of which he claims to be a co-parcener or co-owner according to the value of the share in respect of which the suit is instituted.

**Explanation.**- For the purposes of this clause, if the property in which a share is claimed consists of or includes any land assessed to land revenue for the purpose of agriculture; the value of such land shall be deemed to be the value as determined under clause (13).

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- (16) In suits for the interest of an assignee of land revenue, thirty times his net profits as such for the year next before the date of presenting the plaint.
- (17) In suits to set aside an attachment of land or of an interest in land or revenue - according to the amount for which the land or interest was attached: Provided that where such amount exceeds the value of the land or interest, the amount of fee shall be computed as if the suit were for the possession of such land or interest.
- (18) In suits against a mortgagee for the recovery of the property mortgaged, and in suits by a mortgagee to foreclose the mortgage, or when the mortgage is made by conditional sale, to have the sale declared absolute - according to the principal money expressed to be secured by the instrument of mortgage.
- (19) In suits for specific performance -
- (a) of a contract of sale -- according to the amount of the consideration,
  - (b) of a contract of mortgage -- according to the amount agreed to be secured,
  - (c) of a contract of lease -- according to the aggregate amount of the fine or premium (if any) and of the rent agreed to be paid during the first year of the term,
  - (d) of an award -- according to the amount or value of the property in dispute :
- (20) In the following suits between landlord and tenant -
- (a) for the delivery by a tenant of the counterpart of a lease,
  - (b) to enhance the rent of a tenant having a right of occupancy,
  - (c) for the delivery by a landlord of a lease,
  - (d) for the recovery of immovable property from a tenant, including a tenant holding over after the determination of a tenancy,
  - (e) to contest a notice of ejectment,
  - (f) to recover the occupancy of immovable property from which a tenant has been illegally ejected by the landlord, and
  - (g) for abatement of rent— according to the amount of the rent of the immovable property to which the suit refers, payable for the year next before the date of presenting the plaint.

## 7.

- (1) The amount of fee payable under this Act on a memorandum of appeal against an order having the force of a decree relating to compensation under any Act for the time being in force for the acquisition of land for public purposes shall be computed according to the difference between the amount awarded and the amount claimed by the appellant.
- (2) The amount of fee payable under this Act on a memorandum of appeal against an award of a Claims Tribunal preferred under section 173 of the Motor Vehicles Act, 1988, shall be computed as follows:-
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- (i) if such appeal is preferred by the insurer or owner of the motor vehicle, the full *ad valorem* fee leviable on the amount at which the relief is valued in the memorandum of appeal according to the scale prescribed under Article 1 of Schedule I;
- (ii) if such appeal is preferred by any other person - one-half of the *ad valorem* fee leviable on the amount at which the relief is valued in the memorandum of appeal according to the said scale: Provided that if such person succeeds in the appeal, he shall be liable to make good the deficit, if any, between the full *ad valorem* fee payable on the relief awarded in the appeal according to the said scale and the fee already paid by him; and the amount of such deficit shall, without prejudice to any other mode of recovery, be recoverable as an arrear of land revenue.

**8.** If the Court is of opinion that the subject matter of any suit has been wrongly valued or if an application is made to the Court for the revision of any valuation made, the Court may determine the correct valuation by holding such inquiry as it thinks fit for such purpose, and revise the valuation.

**9.**

- (1) For the purpose of an inquiry under section 8, the Court may depute, or issue a commission to, any suitable person to make such local or other investigation as may be necessary and to report thereon to the Court. Such report and any evidence recorded by such person shall be evidence in the inquiry.
- (2) The Court may, from time to time direct such party to the suit as it thinks fit to deposit such sum as the Court thinks reasonable as the costs of the inquiry, and if the costs are not deposited within such time as the Court shall fix may, notwithstanding anything contained in any other Act, reject the plaint or, as the case may be the appeal, if such party is the plaintiff or the appellant and, in any other case, may recover the costs as a public demand : Provided that when any plaint or appeal is rejected under this section, the court-fees already paid shall not be liable to be refunded.

**10.**

- (1) The Court, when making an inquiry under section 8 and any person making an investigation under section 9 shall have respectively for the purposes of such inquiry or investigation, the powers vested in a Court under the Code of Civil Procedure, 1908, in respect of the following matters, namely:-
    - (a) enforcing the attendance of any person and examining him on oath or affirmation;
    - (b) compelling the production of documents or material objects;
    - (c) issuing commissions for the examination of witnesses;
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(d) taking or receiving evidence on affidavits.

(2) An inquiry or investigation referred to in sub-section (1) shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code.

11. If in the result of an inquiry under section 8, the Court finds that the subject matter of the suit has been undervalued, the Court shall order the party responsible for the under valuation to pay the costs of the inquiry. If in the result of such inquiry, the Court finds that the subject matter of the suit has not been undervalued, the Court may, in its discretion, order that such costs shall be paid by the Government or by any party to the suit at whose instance the inquiry has been undertaken and if any amount exceeding the proper amount of fee has been paid shall refund the excess amount so paid.

12.

(1) The State Government may appoint generally, or in any case, or for any specified class of cases, in any local area, one or more officers to be called inspecting officers.

(2) The inspecting officer may, subject to the control of the Court concerned, examine the records of any case which is pending or has been disposed of, with a view to finding out whether proper fees have been paid therein.

(3) If on such examination, the inspecting officer finds that the fee payable under this Act, on any document filed, exhibited or recorded in such case, has not been paid or has been insufficiently paid, he shall report the fact to the presiding officer of the court.

(4) Such presiding officer, after satisfying himself of the correctness of such report, shall record a provisional finding that the proper fee has not been paid and determine the amount of the fee payable and such further sum as he thinks reasonable as the costs of the inquiry and the person from whom the fee or the difference thereof, if any, and the costs shall be recoverable.

(5) After recording the finding under sub-section (4), the presiding officer shall issue a notice to the person referred to in that sub-section to show cause as to why he should not be ordered to pay the fee and the costs determined thereunder, and if sufficient cause is not shown, the presiding officer shall confirm the finding and make an order requiring such person to pay the proper fee and the cost before a specified date.

(6) If such person fails to pay the fee and the costs in accordance with the provisions of sub-section (5), they shall, on the certificate of such presiding officer, be recoverable as an arrears of land revenue.

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13.

- (1) In a suit or proceeding the difference, if any, between the fee actually paid and the fee which would have been payable, on delivery of judgment, be taxed by the court and shall be leviable from the plaintiff and if not paid by him within thirty days from the date of the judgment be recoverable according to the law and under the rules for the time being in force for the recovery of an arrears of land revenue.
- (2) The Court shall send a copy of the decree or order or award passed in such suit to the Collector.
- (3) No decree passed in any suit by the Court shall be executed, until a certificate to the effect that such difference is paid or recovered, signed by the Court which passed the decree or by the Collector who recovered the amount, is produced along with the application for such execution.

**Explanation.** - For the purpose of this section, "Plaintiff" includes any party to a suit to whom any profits or amount are or is found to be due.

14.

- (1) Every question relating to valuation for the purpose of determining the amount of any fee chargeable under this Chapter on a plaint or memorandum of appeal shall be decided by the Court in which such plaint or memorandum, as the case may be, is filed and such decision shall be final as between the parties to the suit.
- (2) But whenever any such suit comes before a Court of appeal, reference or revision, if such Court considers that the said question has been wrongly decided to the detriment of the revenue, it shall require the party, by whom such fee has been paid, to pay such additional fee as would have been payable had the question been rightly decided.

15. If an appeal or plaint, which has been rejected by the lower Court on any of the grounds mentioned in the Code of Civil Procedure, 1908, is ordered to be received, or if a suit is remanded in appeal, on any of the grounds mentioned in rule 23 of Order XLI in the First Schedule to the same Code for a second decision by the lower Court, the Appellate Court shall grant to the appellant a certificate, authorising him to receive back from the Collector, the full amount of fee paid on the memorandum of appeal : Provided that if, in the case of remand in appeal, the order of remand shall not cover the whole of the subject matter of the suit, the certificate so granted shall not authorise the appellant to receive back more than so much fee as would have been originally payable on the part or parts of such subject matter in respect whereof the suit has been remanded.

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**16.** Where an application for review of judgment is presented on or after the ninetieth day from the date of the decree, the Court, unless the delay was caused by the applicant's laches, may, in its discretion, grant him a certificate authorising him to receive back from the Collector so much of the fee paid on the application as exceeds the fee which would have been payable had it been presented before such day.

**17.** Where an application for a review of judgment is admitted, and where, on the rehearing, the Court reverses or modifies its former decision on the ground of mistake in law or fact, the applicant shall be entitled to a certificate from the Court authorising him to receive back from the Collector so much of the fee paid on the application as exceeds the fee payable on any other application to such Court under clause (c) or (f) of Article 1 of the Second Schedule annexed to this Act. But nothing in the former part of this section shall entitle the applicant to such certificate where the reversal or modification is due, wholly or in part, to fresh evidence which might have been produced at the original hearing.

**18.** Where a suit embraces two or more distinct subjects, the plaint or memorandum of appeal shall be chargeable with the aggregate amount of the fees to which the plaints or memoranda of appeal in suits embracing separately each of such subjects would be liable under this Act. Nothing in the former part of this section shall be deemed to affect the power conferred by the Code of Civil Procedure, 1908, Schedule I, Order II, rule 6.

**19.** When the first or only examination of a person who complains of the offence of wrongful confinement, or of wrongful restraint, or of any offence other than an offence for which police officer may arrest without a warrant, and who has not already presented a petition on which a fee has been levied under this Act, is reduced to writing under the provisions of the Code of Criminal Procedure, 1973, the complainant shall pay a fee of ten rupees unless the court thinks fit to remit such payment.

**20.** Nothing contained in this Act shall render the following documents chargeable with any fee-

- I. Power-of-attorney to institute or defend a suit when executed by a member of any of the Armed Forces of the Union not in civil employment.
  - II. Application for certified copies of documents or of any other purpose in the course of a criminal proceeding presented by or on behalf of the State Government to a criminal Court.
  - III. Written statements called for by the Court after the first hearing of a suit.
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- IV. Probate of a will, letters of administration, and, save as regards debts and securities, a certificate under the Bombay Regulation VIII of 1827 or any corresponding law in force, where the amount or value of the property in respect of which the probate or letters or certificate shall be granted does not exceed one thousand rupees.
  - V. Application or petition to the Collector or other officer making a settlement of land revenue, or to a Board of Revenue, or a Commissioner of Revenue, relating to matter connected with the assessment of land or the ascertainment, of rights thereto or interest therein, if presented, previous to the final confirmation of such settlement.
  - VI. Application relating to supply for irrigation of water belonging to Government.
  - VII. Application for leave to extend cultivation, or to relinquish land, when presented to an officer of a land revenue by a person holding, under direct engagement with Government, land of which the revenue is settled, but not permanently
  - VIII. Application for service of notice of relinquishment of land or of enhancement of rent.
  - IX. Written authority to an agent to distrain.
  - X. Petition, application, charge or information respecting any offence when presented, made or laid to or before a police officer, or to or before the Heads of Villages or the village police.
  - XI. Petition by a prisoner, or other person in duress or under restraint of any Court or its officer.
  - XII. Complaint of a public servant (as defined in the Indian Penal Code), a municipal officer, or an officer or servant of a railway company.
  - XIII. Application for the payment of money due by the Government to the applicant.
  - XIV. Petition of appeal against any municipal tax.
  - XV. Applications for compensation under any law for the time being in force relating to the acquisition of property for public purposes, other than those chargeable under Article 15 of Schedule I.
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**CHAPTER III**  
**PROBATES, LETTERS OF ADMINISTRATION AND**  
**CERTIFICATES OF ADMINISTRATION**

**21.** Where any person on applying for the probate of a will or letters of administration has estimated the property of the deceased to be of greater value than the same has afterwards proved to be, and has consequently paid too high a court-fee thereon, if, within six months after the true value of the property has been ascertained, such person produces the probate or letters to the Chief Controlling Revenue Authority for the local area in which the probate or letters has or have been granted, and delivers to such Authority a particular inventory and valuation of the property of the deceased, verified by affidavit or affirmation, and if such Authority is satisfied that a greater fee was paid on the probate or letters than the law required,

the said Authority may

- (a) Cancel the stamp on the probate or letters if such stamp has not been already cancelled;
- (b) Substitute another stamp for denoting the court-fee which should have been paid thereon; and
- (c) Make an allowance for the difference between them as in the case of spoiled stamps, or repay the same in money, at his discretion.

**22.** Whenever it is proved to the satisfaction of such Authority that an executor or administrator has paid debts due from the deceased to such an amount as, being deducted out of the amounts or value of the estate reduces the same, to a sum which, if it had been the whole gross amount or value of the estate, would have occasioned a less court-fee to be paid on the probate or letters of administration granted in respect of such estate than has been actually paid thereon under this Act, such Authority may return the difference, provided the same be claimed within three years after the date of such probate or letters of administration.

But when, by reason of any legal proceeding, the debts due from the deceased have not been ascertained and paid, or his effects have not been recovered and; made available, and in consequence, thereof the executor or administrator is prevented from claiming the return of such difference within the said term of three years, the said Authority may allow such further time for making the claim as may appear to be reasonable under the circumstances.

**23.** Whenever a grant of probate or letters of administration has been or is made in respect of the whole of the property belonging to an estate and the full fee chargeable under this Act has been or is paid thereon, no fee shall be chargeable

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under the same Act when a like grant is made in respect of the whole or any part of the same property belonging to the same estate.

Whenever such a grant has been or is made in respect of any property forming part of an estate, the amount of fees then actually paid under this Act shall be deducted when a like grant is made in respect of property belonging to the same estate, identical with or including the property to which the former grant relates.

**24.** The probate of the will or the letters of administration of the effects of any person deceased hereto before or hereafter granted shall be deemed valid and available by his executors or administrators for recovering, transferring or assigning any movable or immovable property whereof or whereto the deceased was possessed or entitled either wholly or partially as a trustee, notwithstanding the amount or value of such property is not included in the amount or value of the estate in respect of which a court-fee was paid on such probate or letters of administration.

**25.** Where any person on applying for probate or letters of administration has estimated the estate of the deceased to be of less value than the same has afterwards proved to be, and has in consequence paid too low a court-fee thereon, the Chief Controlling Revenue Authority for the local area in which the probate or letters of administration has or have been granted may, on the value of the estate of the deceased being verified by affidavit or affirmation, cause the probate or letters of administration to be duly stamped on payment of the full court-fee which ought to have been originally paid thereon in respect of such value and of the further penalty, if the probate or letters is or are produced within one year from the date of the grant, of five times, or, if it or they, is or are produced after one year from such date, of twenty times, such proper court-fee, without any deduction of the court-fee originally paid on such probate or letters of administration : Provided that if the application be made within six months after the ascertainment of the true value of the estate and the discovery that too low a court-fee was at first paid on the probate or letters of administration, and if the said Authority is satisfied that such fee was paid in consequence of a mistake or of its not being known at the time that some particular part of the estate belonged to the deceased, and without any intention of fraud or to delay the payment of the court-fee, the said Authority may remit the said penalty, and cause the probate or letters of administration to be duly stamped on payment only of the sum wanting to make up the fee which should have been at first paid thereon.

**26.** In case of letter of administration on which too low a court-fee has been paid at first ; the said Authority shall not cause the same to be fully stamped in manner aforesaid until the administrator has given such security to the Court by which the

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letters of administration have been granted as ought by law to have been given on the granting thereof in case the full value of the estate of the deceased had been then ascertained.

**27.** Where too low a court-fee has been paid on any probate or letters of administration in consequence of any mistake, or of its not being known at the time that some particular part of the estate belonged to the deceased, if any executor or administrator acting under such probate or letters of administration does not, within six months after the discovery of the mistake or of any effects not known at the time to have belonged to the deceased, apply to the said Authority and pay what is wanting to make up the court-fee which ought to have been paid at first on such probate or letters of administration, he shall forfeit the sum of one thousand rupees and also a further sum at the rate of ten rupees per cent. on the amount of the sum wanting to make up the proper court-fee.

**28.**

- (1) Where an application for probate or letters of administration is made to any Court other than the High Court, the Court shall cause notice of the application to be given to the Collector.
  - (2) Where such an application as aforesaid is made to the High Court, the High Court shall cause notice of the application to be given to the Chief Controlling Revenue Authority.
  - (3) The Collector within the local limits of whose revenue jurisdiction the property of the deceased or any part thereof is, may at any time inspect or cause to be inspected, and take or cause to be taken copies of, the record of any case in which application for probate or letters of administration has been made; and if, on such inspection or otherwise, he is of opinion that the petitioner has underestimated the value of the property of the deceased, the Collector shall forward his report, giving therein his reasons for his opinion and his estimate of the true valuation, to the High Court or any other Court, as the case may be, serving at the same time a copy of his report on the petitioner.
  - (4) If within thirty days from the date of receipt of the copy of the Collector's report served on him under sub-section(3), the petitioner does not file in Court his objections to the Collector's valuation, the Court shall make an order amending the petitioner's valuation, in accordance with the report of the Collector.
  - (5) If within the aforesaid period, the petitioner filed in Court his objection, the Court shall hold, or cause to be held, an inquiry in accordance with the provisions of sections 9, 10 and 11 as if the application were a suit and shall record the finding as to the true value, as near as may be, at which the property of the
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deceased should have been estimated. The Collector shall be deemed to be a party to the inquiry.

- (6) The finding of the Court recorded under sub-section (5) shall be final, but shall not bar the entertainment and disposal by the Chief Controlling Revenue Authority of any application under section 25.
- (7) The State Government may make rules for the guidance of Collector, in the exercise of the powers conferred by sub-section (3).

**29.**

- (1) No order entitling the petitioner to the grant of probate or letters of administration shall be made upon an application for such grant until the petitioner has filed in the Court a valuation of the property in the form set forth in the Third Schedule, and the Court is satisfied that the fee mentioned in Article 10 of the First Schedule has been paid on such valuation.
- (2) The grant of probate or letters of administration shall not be delayed by reason of any report made by the Collector under sub-section (3) of section 28.

**30.**

- (1) Any excess fee found to be payable on an inquiry held under section 28 and any penalty or forfeiture under section 27, may, on the certificate of the Chief Controlling Revenue Authority, be recovered from the executor or administrator as if it were an arrear of land revenue by any Collector.
- (2) The Chief Controlling Revenue Authority may remit the whole or any part of any such penalty or forfeiture as aforesaid, or any part of any penalty under section 25 or of any court-fee under section 25 in excess of the full court-fee which ought to have been paid.

**31.** Nothing in sections 4 and 40 shall apply to probates or letters of administration.

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