
SAIF ALI KHAN'S ANCESTRAL PROPERTY IN BHOPAL: A CASE STUDY ON ROYAL HERITAGE AND LEGAL IMPLICATIONS

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ABSTRACT

The Nawabs of Bhopal are at odds over their ancestral property in Bhopal. The interpretation of Enemy Property Act and Muslim Personal Law (Shariat) Application Act gave rise to this legal dispute. The case focuses on the complicated relationship among historical inheritance, legal interpretations and property rights in modern day India.

The event of the 1947 Partition of India and Pakistan, led to these mass migrations and plethora of legal disputes over properties left by people who migrated to enemy nations. To resolve these issues the Enemy Property Act was introduced the year 1969. The Act empowered the government of India to manage the assets that belonged to citizens from antagonistic countries like China and Pakistan.

The properties central to this conflict such as the Noor-Us-Sabah Palace, Flag Staff House and many more were originally owned by the Nawab Hamidullah Khan, the last ruling Nawab of Bhopal who had three daughters. The conflict started when in the year 1950 the oldest daughter, Abida Sultan, moved to Pakistan. Her relocation put the Enemy Property Act into effect. However, Sajida Sultan, Nawab Hamidullah's second daughter remained in India, gained a considerable share of the properties through inheritance. Later in 2011, after the death of cricketer Mansoor Ali Khan Pataudi, his son Saif Ali Khan became the lawful successor of the properties owned by the Pataudis.

The Pataudi family argues that the designation of their ancestral property as enemy property by the government of India is unjust and violates the principles of natural justice. The provisions of the Enemy Property Act nullify the inheritance claims in events where the original owner has migrated to enemy country and clash with the rules of succession. The Government of India brought certain amendments to the act in the year 2017 which were meant to strengthen government control over these properties, but these amendments made it completely illegal for lawful successors to inherit enemy property. Moreover, the amendments also eliminated the

courts' power to decide in these cases by retrospectively invalidating any sales, transfers or transactions related to these properties. Consequently, these amendments limited Saif Ali Khan's capacity to reclaim his ancestral properties.

The Indian government asserts, Abida Sultan, the eldest daughter of the Nawab owned these assets, and when she migrated to Pakistan in 1950, these properties were classified as enemy properties. Saif Ali Khan's attorneys argued that the estates were justly inherited through Sajida Sultan, an Indian citizen, and cannot be designated as enemy property.

In year 2014, when Saif Ali Khan upon receiving the notifications from the custodian of enemy property, challenged the judgement in court, escalating the dispute. Initially, the Madhya Pradesh High Court imposed a stay on the Custodian's takeover of these properties, however recently in December 2024 the Jabalpur Bench of the Madhya Pradesh High dismissed this stay and directed the actor to seek for redressal from the competent appellate authority under the Enemy Property Act.

The discussions over the impact of these partition era laws have rekindled. Partition era laws like the Enemy Property Act, which were then made to safeguard national security interests, and now have lost their relevance and are being used to deny lawful successors their rights to the ancestral property.

Introduction

The division of India in 1947, besides carrying its gruesome human price tag, created a complex web of legal ambiguities on property rights, particularly for those who relocated to newly established borders. To cater to these issues, in 1968 the Government of India passed the Enemy Property Act that provided the custodian of enemy property with powers to administer property of individuals who relocated to enemy states. Through amendments, the law has evolved over the years, with the most major amendments being undertaken in the year 2017, retrospectively declaring claims of inheritance "void" and curtailed judicial review, raising serious questions regarding the sovereignty and human rights. The essence of this argument is protracted legal struggle regarding the ancestral property of the Nawabs of Bhopal.

The case involves the estate of Nawab Hamidullah Khan, including historic buildings like Noor-Us-Sabah Palace, Ahmedabad Palace, and the contested claims of the legal heirs. When Abida Sultan, the eldest daughter of Nawab Hamidullah, departed to Pakistan in 1950, the Indian Government employed the Enemy Property Act to declare these properties as "enemy

property". On the other hand, his second daughter, Sajida Sultan, who remained in India, inherited the major portion of the estate, which she later willed to her son, Mansoor Ali Khan Pataudi. In 2014, the Custodian of the Enemy Property labeled the properties of the Pataudi family in Bhopal as enemy property. The 2017 Amendment retrospectively withdrew such inheritance rights further, which led Saif Ali Khan to approach court against the state's labelling. The judicial impasse poses a larger conflict : Are post-colonial legislations, passed for national security in a volatile period, suitable to handle inheritance disputes in contemporary times, or do they unfairly deny legitimate heirs their rights under personal laws?

By examining in the light of judicial precedents and the legislative amendments, the paper attempts to demystify the intricacies of reconciling state power under the Enemy Property Act with the Muslim Personal Laws and principles of natural justice.

Historical Context

Pre-Independence Era

The Nawab of the princely state of Bhopal provided an administrative system of rule that combined both Islamic law and native traditions. Nawab Hamidullah Khan, who served from 1926 to 1947, centralized his power during the era of British colonial rule, retaining succession and property matters. His estate, which consisted of major landmarks such as the Noor-Us-Sabah Palace, was regulated by the Islamic rules of inheritance of the Muslim, which favoured male heirs and gave daughters only half the share in comparison with their brothers. But this system tended to clash with colonial property laws that tended to favour primogeniture in princely states, creating uncertainties that would later rise to disputes.

Partition and Migration

The partition of India in 1947 resulted in violent brutality and mass migration, with more than 14 million people involved, many of whom left their homes behind as they crossed the newly demarcated borders. In this violent migration, the abandoned property of those who moved to Pakistan was called "evacuee" or "enemy assets" that required legal mechanisms to regulate them. The Evacuee Property Act of 1951 was the initial effort to address this problem by enabling the Indian Government to take over the abandoned property. The Indo-

Pakistani wars of 1965 and 1971 further escalated hostilities between the two nations, resulting in the Enemy Property Act of 1968, which further extended government control over properties belonging to immigrants from "hostile" countries like Pakistan. These Cold War-driven security concerns, which spurred these regulations, frequently ignored inheritance rights, especially in princely states with traditional inheritance systems. Abida Sultan, the Nawab's eldest daughter, migrated to Pakistan in 1950 with her 16-year-old son Shaharyar Khan, a move that inadvertently made her claims to ancestral property problematic in light of the newly enacted Enemy Property Act of 1968. This act, intended to safeguard properties belonging to individuals who were deemed "enemies" of the State, allowed the Indian Government to take over the lands left behind by those who moved to Pakistan. In contrast, the Nawab's second daughter, Sajida Sultan, stayed behind in India and was awarded a very large share of the estate, setting the stage for future legal disputes.

Post-Independence Era

Since independence, India has undergone a colossal transformation of its legal and constitutional framework. The 26th Constitutional Amendment in 1971 abolishing privy purses was a manifestation of the government's desire to erase feudal privileges of erstwhile royal families in India. Ironically, however, colonial-era legislations such as the Enemy Property Act were not only retained but consolidated as well. The Act, initially, gave limited rights to Indian heirs to claim inheritance, subject to their capacity to prove severance from hostile nations. This provision was aimed to balance state interests with individuals' rights in the property matters. The amendments made in 2017 disrupted this balance. They retrospectively excluded all claims to inheritance, even by Indian nationals who had been deprived of legal recourse and prohibited civil courts from adjudicating disputes.

These amendments clashed with Muslim Personal Law and were criticized as draconian, particularly for violating constitutional protections under Article 14 and Article 300A.

In the case of Bhopal's royal estate, these reforms did quite successfully erase Saif Ali Khan's legal right to inherited property from his grandmother who was an Indian citizen, in spite of an unbroken chain of inheritance and Indian citizenship. The historical context, therefore, is not just one of personal family conflict, but of the enduring legal tension between post-colonial state sovereignty and the constitutional protection of private property and religious personal laws.

Conflict with the Inheritance Rights

The Nawabs' conflict symbolises the conflict between state sovereignty and the personal. The 2017 amendments, justified in the name of safeguarding national security, disregarded the theoretical basis of the Shariat Application Act, which treats inheritance as a "divine right". Under Islamic jurisprudence, migration does not nullify inheritance rights; thus, Abida Sultan's relocation to Pakistan should not have invalidated her sister Sajida's lineage's claim. Yet, the retroactive application of the act reclassified the entire estate as "enemy property" invalidating decades of succession and branding Saif Ali Khan's inheritance as illegal.

Legal Framework: Enemy Property Act, 1968

The Enemy Property Act, 1968, was enacted "to provide for the continued vesting of enemy property vested in the Custodian of Enemy Property for India under the Defence of India Act and the rules made thereunder".¹ The Act defines Enemy Property as any property belonging to or held by an enemy subject, with the term "enemy" including those who migrated to Pakistan or China during the wars of 1962, 1965 and 1971. According to Ministry of Home Affairs, "enemy property refers to assets left behind by individuals or entities that migrated to enemy countries following conflicts such during the partition and wars."²

The original act gave significant administrative powers to the Custodian of Enemy Property, including the authority to manage, lease and sell vested properties.³ According to the Section 5 sub-clause 3 of the Act, "The enemy property vested in the Custodian shall, notwithstanding that the enemy or the enemy subject or the enemy firm has ceased to be an enemy due to death, extinction, winding up of business or change of nationality or that the legal heir and successor is a citizen of India or the citizen of a country which is not an enemy, continue to remain, save as otherwise provided in this Act, vested in the Custodian."⁴ This grant of power authorizes the Custodian to acquire enemy property to protect national security and to prevent any potential misuse by the enemy or by persons acting on their

¹ *Enemy Property Act*, No. 34 of 1968, pmbi. (India).

² Drishti IAS, *Enemy Property Act*, , <https://www.drishtiias.com/daily-updates/daily-news-analysis/enemy-property-act-1968> (last visited [19-04-2025]).

³ Jagran Josh, What is Enemy Property Act?, <https://www.jagranjosh.com/general-knowledge/what-is-enemy-property-act-1737716868-1> (last visited April 17, 2025).

⁴ *Enemy Property Act*, No. 34 of 1968, § 5(3) (India).

behalf. The Custodian may manage, dispose of, or sell the property, subject to the condition that its use is not contrary to the sovereignty, security, or interests of India. This provision placed a permanent ban on the restoration of such property, regardless of any future change in nationality or death of the original enemy person.

Section 8 of the Enemy Property Act, 1968 further empowers the Custodian to take “such measures as he considers necessary or expedient” for the preservation of enemy property, including managing the property, collecting rent, evicting occupants, and even disposing of it.⁵ These powers, however, were originally balanced by a thin thread of judicial recourse, and there remained a general presumption that Indian citizens, particularly natural heirs would retain the right to challenge the Custodian’s actions, especially in cases where the “enemy” had long been deceased or where successors had always been Indian nationals.

However, In 2005, in the notable case of *Union of India v. Raja Mohammad Amir Mohammad Khan*, the Apex Court that the properties vested in the Custodian of Enemy Property under the Enemy Property Act 1968, do not permanently lose their original ownership. The court further clarified that a property once inherited by an Indian, such properties cease to be “enemy property” and must be returned, as the Act only grants temporary management rights to the Custodian, not the ownership. The judgment clarified that inheritance by an Indian citizen terminates the “enemy” status of the property.⁶

Impact of the 2017 Amendments to the Enemy Property Act

The Enemy Property (Amendment and Validation) Act, 2017 marked a significant and controversial turning point in India’s approach to managing property once owned by individuals who migrated to enemy nations. Prior to the 2017 amendments, Indian citizens who were legal heirs of such individuals could claim ownership or succession to properties that had vested in the Custodian of Enemy Property. This understanding had been solidified by the Supreme Court in the case of *Union of India vs. Raja Mohammad Amir Mohammad Khan*, 2005. However, the 2017 amendments dramatically reversed this legal position.

Section 5B of Enemy Property (Amendment and Validation) Act, states that “Nothing contained in any law for the time being in force relating to succession or any custom or usage

⁵ *Enemy Property Act*, No. 34 of 1968, § 8 (India).

⁶ *Union of India v. Raja Mohammed Amir Mohammad Khan*, (2005) 8 SCC 696.

governing succession of property shall apply in relation to the enemy property under this Act and no person (including his legal heir and successor) shall have any right and shall be deemed not to have any right (including all rights, titles and interests or any benefit arising out of such property) in relation to such enemy property.”⁷ This clause overrides centuries of settled succession law, including personal laws and codified statutes such as Hindu Succession Act or the Indian Succession Act, effectively declaring all enemy property as non-inheritable state assets.

Section 6 of the Act states that any transfer of enemy property whether before or after the commencement of the amendment “shall be void”.⁸ As a result of this clause, the transactions legally completed decades ago, and even court-sanctioned ownership changes can be overturned. The law reaches into the past to invalidate transfers, sales, and gifts involving enemy property, raising serious concerns about legal certainty and fairness.⁹ In tandem with this, the amendment also clamps down on judicial oversight. Through Section 18(2), it bars civil courts from entertaining any matter concerning enemy property and prohibits them from granting injunctions against actions taken under the Act.¹⁰ The only recourse now lies with High Courts or the Supreme Court under limited constitutional jurisdiction, essentially shielding administrative actions from ordinary legal challenge.¹¹

For heirs such as Saif Ali Khan, whose grandmother Sajida Sultan’s family connections with Abida Sultan (who opted for Pakistani citizenship) led to ancestral properties being designated as enemy property, the amendments closed the door to inheritance claims entirely. Despite being an Indian citizen and the direct descendant of Mansoor Ali Khan Pataudi, Saif Ali Khan’s claims over properties in Bhopal and elsewhere face insurmountable legal hurdles under the amended law. The amendment also fortified the administrative authority of the Custodian by effectively removing judicial oversight; Section 18(2) prohibits civil courts from entertaining disputes or issuing injunctions related to enemy property, thus insulating the Custodian’s actions from standard legal challenge. Although writ jurisdiction

⁷ *Enemy Property (Amendment and Validation) Act*, No. 3 of 2017, § 5B (India).

⁸ *Enemy Property (Amendment and Validation) Act*, No. 3 of 2017, § 6 (India).

⁹ The Enemy Property (Amendment and Validation) Ordinance, 2016, PRS Legislative Research, <https://prsindia.org/billtrack/the-enemy-property-amendment-and-validation-ordinance-2016> (last visited [19-04-2025]).

¹⁰ *Enemy Property (Amendment and Validation) Act*, No. 3 of 2017, § 18 (India). ¹

¹¹ Malvika Bakshi, *Enemy Property in India: An Overview*, Lexology (May 23, 2023), <https://www.lexology.com/library/detail.aspx?g=41a91d28-65dc-4733-96d2-b6de707a3d71> [<https://perma.cc/XXXX-XXXX>] (last visited [April 19, 2025]).

of High Courts and the Supreme Court remains technically open, the scope for relief has been significantly narrowed. The retrospective nature of the amendment has been criticized for violating the principle of legal certainty, undermining vested rights, and disrupting settled expectations in property law. Critics argue that the amendment is an instance of legislative overreach, especially in light of Article 300A of the Indian Constitution, which protects the right to property as a constitutional, if not fundamental, right. The Bombay High Court in *Neelkamal Realtors Suburban Pvt. Ltd. v. Office of the Custodian of Enemy Property*¹² that until a property is officially vested in the Custodian following proper inquiry under Section 11, coercive administrative actions like freezing or stopping construction are without jurisdiction.¹³ Yet, the overarching impact of the 2017 amendment is to firmly entrench a state-centric regime, where enemy property becomes a permanent and inalienable asset of the Union of India, irrespective of changes in citizenship, passage of time, or death of the original enemy subject. This has had the effect of extinguishing a broad category of inheritance and ownership claims, including those like Saif Ali Khan's, thereby altering the landscape of succession and property rights in India in a fundamental and irreversible manner.

Inheritance rights under Muslim Personal Law

Under Muslim Personal Law, as governed by the Muslim Personal Law (Shariat) Application Act, 1937, the law of inheritance is not merely a legal mechanism but a divinely ordained process governed by the Qur'an and classical Islamic Jurisprudence, particularly in the Hanafi school prevalent in India. The moment of death triggers succession, and inheritance vests automatically in the rightful heirs without the need for any administrative intervention or testamentary direction.¹⁴ Muslim law does not recognize concepts such as the right by birth, joint family ownership or survivorship, which are the prominent features in Hindu Law but follows a strict individualistic system where every heir receives a fixed and predetermined share of the deceased's estate. These heirs are categorized into three classes :

¹² *Neelkamal Realtors Suburban Pvt. Ltd. v. Off. of the Custodian of Enemy Prop. for India*, 2022 SCC OnLine Bom 10685.

¹³ *Neelkamal Realtors Suburban Pvt. Ltd. v. Off. of the Custodian of Enemy Prop. for India*, 2022 SCC OnLine Bom 10685, available at <https://livelaw-nfsu.refread.com/high-court/bombay-high-court/bombay-high-court-ruling-custodian-of-enemyproperties-prohibitory-orders-enemy-properties-act-240940> (last visited [Month Day, Year]).

¹⁴ Sarthak Yadav, Muslim Law of Inheritance, iPleaders Blog (Aug. 15, 2023), <https://blog.ipleaders.in/muslim-law-of-inheritance/#:~:text=Under%20the%20Hanafi%20law%2C%20the,devoted%20on%20to%20the%20state.>

Sharers, Residuaries and Distant Kindred. Sharers heirs are explicitly mentioned in the Qur'an and receive fixed shares. This includes the spouse, parents, daughters and maternal grandparents. Residuaries are typically male agnates who receive the remaining estate after the sharers are paid, like sons, brothers etc. Distant Kindred include blood relatives not listed as sharers or residuaries like maternal uncles or aunts etc. They inherit only when no sharers or residuary are alive. Importantly, a Muslim cannot bequeath more than one-third of their estate by will, and cannot do so in favour of a legal heir unless other heirs consent, reinforcing the sanctity of Quranic shares. Inheritance rights are not lost due to political circumstances such as migration, unless clearly barred by law.¹⁵ In the case of Saif Ali Khan, his claim to the properties of the late Nawab Hamidullah Khan stems through his grandmother, Sajida Sultan, who remained in India, unlike her elder sister Abida Sultan who migrated to Pakistan. As per Islamic law, Sajida would have inherited her lawful share, and on her death, that portion would descend to her son Mansoor Ali Khan Pataudi and then to Saif Ali Khan. However, the Indian Government's classification of the estate as "enemy property" based solely on the migration of Abida Sultan overrode this natural chain of succession. The 2017 amendments to the Enemy Property Act further solidified this position by retrospectively extinguishing all rights of even Indian citizens to such properties, thereby legally severing the connection to inheritance as prescribed under Muslim law and denying Saif Ali Khan a lawful claim under religious and personal law, despite clear lineage and Indian citizenship.

Judicial Trends and Evolving Interpretations

Indian courts have progressively refined the interpretation and application of the Enemy Property Act, 1968, emphasizing procedural safeguards, evidentiary standards, and the limited scope of powers granted to the Custodian. A chronological overview of key judgments illustrates this evolving legal stance:

1. **Tanwir Egbal & Ors. v. Union of India & Ors. (1989)** In this case, the petitioners challenged the classification of their residential property in Calcutta as enemy property. The Calcutta High Court held that such classification cannot be presumed. It ruled that the burden of proof lies on the Custodian, and property cannot be seized without transparent evidence

¹⁵ Shaik Nazim Ahmed Shafi, *Concept of Succession under Islamic Law* (PowerPoint slides, Maharashtra National Law University, Nagpur, Mar. 18, 2023).

and a fair hearing. Any declaration made without due process was held to be invalid.¹⁶

2. *Buniad Husain v. Zila Adhikari, Bara Banki* (1998) The Allahabad High Court observed that where revenue records reflect ownership in the name of ancestors alleged to have migrated to an enemy state, such property could be treated as enemy property. However, this treatment is contingent on substantiation through records and lawful procedure.¹⁷

3. *Union of India v. Raja Mohammad Amir Mohammad Khan* (2005) The Supreme Court emphasized that inheritance by an Indian citizen removes the “enemy” character of the property. The Court clarified that the Custodian is not the owner, but only a temporary manager, and that inheritance rights must be upheld in accordance with Article 300A of the Constitution.¹⁸

4. *Allahuddin & Ors. v. Union of India* (2009) Here, the Court quashed a 1984 declaration by the District Magistrate, finding it to be “wholly without jurisdiction and inconsequential.” The judgment reiterated that the Enemy Property Act was not intended to regulate post-partition evacuee property, but to prevent enemy subjects from dealing in Indian property during conflict. It reaffirmed that temporary vesting does not amount to ownership.¹⁹

5. *Lucknow Nagar Nigam v. Kohli Brothers Colour Lab Pvt. Ltd.*, 2024. The Supreme Court clarified that “Union of India cannot assume ownership of the enemy properties once the said property is vested in the Custodian. This is because, there is no transfer of ownership from the owner of the enemy property to the Custodian and consequently, there is no ownership rights transferred to the Union of India. Therefore, the enemy properties which vest in the Custodian are not Union Properties.”²⁰

6. *Custodian of Enemy Property for India v. Md. Yakub*²¹ The petitioner challenged an order of the High Court, which had directed that no coercive action be taken until the Municipal Building Tribunal was constituted. The Supreme Court stayed this order and

¹⁶ *Tanwir Eqbal v. Union of India*, 1988 SCC OnLine Cal 145, AIR 1989 Cal 139, (1989) 1 Cal LT 129 (Cal. High Ct).

¹⁷ *Buniyad Husain v. Zila Adhikari, Barabanki*, 1998 (2) AWC 946 (All. High Ct. Mar. 3, 1998).

¹⁸ *Union of India v. Raja Mohammed Amir Mohammad Khan*, AIR 2005 SC 4383.

¹⁹ *Allahuddin v. Union of India*, 2009 SCC OnLine All 1466.

²⁰ *Lucknow Nagar Nigam v. Kohli Brothers Colour Lab Pvt. Ltd.*, 2024 LiveLaw (SC) 156.

²¹ *Custodian of Enemy Property for India v. Md. Yakub*, 2024 LiveLaw (SC) 719.

directed the Municipal Corporation and Custodian of Enemy Property to proceed with the identification and demolition of unauthorized constructions.

Conclusion

The evolving legal battle over the Pataudi family's ancestral property in Bhopal is emblematic of the broader tensions between historical legacy, personal laws, and post-colonial legislation. While the Enemy Property Act, 1968 was originally conceived as a security measure during periods of international conflict, its contemporary application especially post-2017 amendments—raises serious constitutional and ethical concerns. The retrospective annulment of inheritance rights, exclusion of judicial oversight, and overriding of Muslim personal law reflect a growing state-centric approach that undermines individual entitlements and legal certainty.

Judicial pronouncements have consistently emphasized that vesting under the Act does not amount to a transfer of ownership, and that heirs particularly Indian citizens retain legitimate claims under succession law. However, parliamentary amendments still preempt these safeguards. The Saif Ali Khan case is thus more than a private property dispute but a constitutional issue regarding the reconciliation of state interest and natural justice, inheritance rights and personal laws. It underscores the imperative for thoughtful legal reform, a reform that balances national security and rights of individual in a contemporary constitutional democracy.