

THE KERALA PREVENTION OF EVICTION ACT, 1966

(President's Act No. 12 of 1966)

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THE KERALA PREVENTION OF EVICTION ACT, 1966 *

(No. 12 of 1966)

ENACTED BY THE PRESIDENT IN THE SEVENTEENTH YEAR OF THE
REPUBLIC OF INDIA.

An Act to provide for the prevention of eviction of cultivating tenants, holders of Kudiyiruppus and Kudikidappukars from their holdings, Kudiyiruppus or Kudikidappus, as the case may be, in the State of Kerala and for the restoration in certain cases of the possession thereof and for matters connected therewith.

In exercise of the powers conferred by section 3 of the Kerala State Legislature (Delegation of Powers) Act, 1965 (12 of 1965), the President is pleased to enact as follows:-

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Prevention of Eviction Act, 1966.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on the date of its first publication in the Kerala Gazette.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) the terms "cultivating tenant", "eviction", "holding", "kudiyiruppu", "kudikidappu" and "kudikidappukaran" shall have the meanings respectively assigned to them in the Kerala Land Reforms Act, 1963 (Kerala Act I of 1964) ;

(b) "Revenue Divisional Officer" means the Revenue Divisional Officer holding charge of a Revenue Division and includes a Deputy Collector specifically appointed by the Government in this behalf;

(c) "Scheduled Castes" means the Scheduled Castes in relation to the State as specified in the Constitution (Scheduled Castes) Order, 1950;

(d) "Scheduled Tribes" means the Scheduled Tribes in relation to the State as specified in the Constitution (Scheduled Tribes) Order, 1950.

3. *Prevention of eviction.*—Notwithstanding anything to the contrary contained in any other law or in any contract, custom or usage, or in any judgment, decree or order of court, no person shall evict or attempt to evict a cultivating tenant or holder of a kudiyiruppu or kudikidappukaran, from his holding, kudiyiruppu or kudikidappu if such tenant or holder is a member of any Scheduled Caste or Scheduled Tribe :

Provided that nothing in this section shall apply to—

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(i) lands or buildings or both belonging to or vested in the Government of Kerala or the Government of any other State in India or the Government of India or a local authority or a corporation owned or controlled by the Government of Kerala or the Government of any other State in India or the Government of India ;

(ii) any lease of land or building or both granted by the Administrator-General, Official Trustee or Official Receiver.

4. *Penalty for eviction.*—Any person who contravenes the provisions of section 3 shall be punishable with rigorous imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

5. *Cultivating tenants, etc., entitled to restoration of possession.*—(1) Any cultivating tenant or holder of a kudiyiruppu or kudikidappukaran, who is a member of any Scheduled Caste or Scheduled Tribe and who has been, evicted from his holding, kudiyiruppu or kudikidappu, on or after the 1st April, 1964, shall be entitled to restoration of possession of his holding, kudiyiruppu or kudikidappu, as the case may be.

(2) Any person who is entitled to be restored to possession of his holding, kudiyiruppu or kudikidappu under sub-section (1), or any other person on his behalf, may make an application, either orally or in writing, within a period of one year from the commencement of this Act, or as the case may be, from the date of eviction, whichever is later, to the Revenue Divisional Officer having jurisdiction over the area in which the holding, kudiyiruppu or kudikidappu, as the case may be, of the applicant or the person on whose behalf the application has been made is situate, for—

(a) the restoration of possession in cases where the eviction was made after the 1st April, 1964, but before the 5th July, 1966 ; and

(b) the restoration of possession and prosecution of the offender in cases where the eviction was on or after the 5th July, 1966.

(3) The Revenue Divisional Officer shall, on receipt of an application under sub-section (2), make or cause to be made necessary inquiries in respect of such application and if he is satisfied that the applicant or the person on whose behalf the application has been made is entitled to restoration of possession under sub-section (1), he shall by order direct the person in possession of the holding, kudiyiruppu or kudikidappu, as the case may be, to deliver possession of the same to the applicant or to the person on whose behalf the application has been made within a period of thirty days from the date of service of the order:

Provided that if the application is made under clause (b) of sub-section (2), the Revenue Divisional Officer shall also file a complaint before the First Class Magistrate having jurisdiction to try the offence under section 4 :

Provided further that no order under this sub-section shall be made unless the person who is in possession of the property has been given an opportunity of being heard in the matter.

(4) Every order made under sub-section (3) shall be served on the person for whom it is intended—

(a) by delivering or tendering it to that person ; or

(b) if it cannot be so delivered or tendered by delivering or tendering it to any agent of such person or any adult male member of the family of such person, or by affixing a copy thereof on the outer door or on some conspicuous part of the premises in which that person is known to have last resided or carried on business or personally worked for gain ; or failing service by these means ; or

(c) by registered post.

(5) Any person aggrieved by an order of the Revenue Divisional Officer under sub-section (3) may, within a period of thirty days from the date of service of the order, prefer an appeal to the Collector of the district and the decision of the Collector on such appeal shall be final.

(6) Where an order made under sub-section (3) has not been complied with, and—

(a) no appeal has been preferred within the time allowed for such appeal ; or

(b) an appeal having been preferred, has been dismissed,

the Revenue Divisional Officer shall cause the holding or kudiyruppu or kudikidappu, as the case may be, to be delivered to the cultivating tenant or holder of the kudiyruppu or kudikidappukaran, as the case may be, by putting him in possession of the holding or kudiyruppu or kudikidappu, as the case may be, and if need be, by removing any person who refuses to vacate the same.

6. *Prevention of eviction of cultivating tenants, etc., who are not members of any Scheduled Caste or Scheduled Tribe.*—(1) Notwithstanding anything to the contrary contained in any contract, custom or usage, no person shall evict or attempt to evict a cultivating tenant or a holder of a kudiyruppu or a kudikidappukaran, who is not a member of any Scheduled Caste or Scheduled Tribe, from his holding, kudiyruppu or kudikidappu except in accordance with the law in force for the time being.

(2) Any person who evicts or attempts to evict a cultivating tenant, or a holder of a kudiyruppu or a kudikidappukaran from his holding, kudiyruppu or kudikidappu in contravention of the provisions of this section shall be punishable with imprisonment which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

7. *Cultivating tenants, etc., entitled to restoration of possession.*—(1) A cultivating tenant, or a holder of a kudiyruppu or a kudikidappukaran who has been evicted from his holding, kudiyruppu or kudikidappu, on or after the 1st April, 1964, in contravention of sub-section (1) of section 6 shall be entitled to restoration of possession of his holding, kudiyruppu or kudikidappu, as the case may be.

(2) Any person who is entitled to be restored to possession of his holding, kudiyruppu or kudikidappu, as the case may be, under sub-section (1), or any other person on his behalf, may make an application, either orally or in writing, within a period of one year from the commencement of this Act or, as the case may be, from the date of eviction, whichever is later, to the Revenue Divisional Officer having jurisdiction over the area in which the holding, kudiyruppu or kudikidappu, as the case may be, of the person entitled to be restored to possession under sub-section (1) is situate, for the restoration of possession and prosecution of the offender, and thereupon the provisions of sub-sections (3) to (6) of section 5 shall apply as if the application were an application made under clause (b) of sub-section (2) of that section.

8. *Stay of suits or other proceedings for eviction.*—Wherein any suit or other proceeding for the eviction of a cultivating tenant, a holder of a kudiyruppu or a kudikidappukaran, from his holding, kudiyruppu or kudikidappu, as the case may be, whether pending at the commencement of this Act or instituted after such commencement, the cultivating tenant or the holder of a kudiyruppu or the kudikidappukaran, makes a representation to the court in which such suit or other proceeding is pending or instituted that no record of rights in respect of the holding or register of kudikidappukars in respect of the village in which the kudikidappu is situate, as the case may be, has been prepared, the court shall not proceed with the suit or proceeding until the record of rights in respect of the holding or the register of kudikidappukars, as the case may be, is prepared and made available to it and the court shall also by order direct the Revenue Divisional Officer having jurisdiction over the area in which the holding or the kudikidappu is situate to prepare a record of rights in respect of the holding, or, as the case may be, a register of kudikidappukars and to file the same in court, and the Revenue Divisional Officer shall cause the same to be prepared in the manner prescribed under the Kerala Land Reforms Act, 1963 (Kerala Act 1 of 1964).

9. *Jurisdiction.*—No court inferior to that of a Magistrate of the First Class shall try an offence punishable under this Act.

10. *Protection to persons acting in goodfaith under this Act.*—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in goodfaith done or intended to be done under this Act.

11. *Saving of other laws.*—The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force regulating any of the matters dealt with in this Act.

12. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly agrees that the rule shall be either modified or annulled, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

13. *Amendment of the Kerala Land Reforms Act, 1963.*—In the Kerala Land Reforms Act, 1963 (Kerala Act 1 of 1964),—

(1) in sub-section (1) of section 29, for the words "at any time within one year from the commencement of this Act", the words "at any time within four years from the commencement of this Act or such further period as the Government may, from time to time, by notification in the Official Gazette, specify in this behalf" shall be substituted;

(2) section 51 shall be renumbered as sub-section (1) thereof, and—

(i) in sub-section (1), as so re-numbered,—

(a) for the words "interest therein in favour of the land lord:", the words "interest therein :

Provided that no such surrender shall be made in favour of any person other than the Government: " shall be substituted;

(b) in the first proviso,—

(i) for the words "Provided that", the words " Provided further that" shall be substituted;

(ii) the words "and is made in good faith" shall be omitted;

(c) the second proviso shall be omitted ;

(ii) after sub-section (1), as so re-numbered, the following sub-sections shall be inserted, namely:—

“(2) The Government shall pay to the landlord fair rent of the tenancy surrendered to it under sub-section (1).

(3) The Government may let any land surrendered to it under sub-section (1) to any person, as far as may be, in accordance with such rules as may be made under this Act.

(4) The tenant to whom any land is let under sub-section (3) shall pay the fair rent thereof directly to the landlord and the Government's liability under sub-section (2) with regard to the payment of the rent of that land shall, on and from the date of induction of the tenant on such land, cease.";

(iii) after section 51, the following sections shall be inserted, namely:—

"51 A. *Abandonment by a tenant.*— (1) No landlord shall enter on any land which has been abandoned by a tenant.

(2) If a tenant abandons his tenancy and ceases to cultivate his holding either by himself or by some other person, the landlord of such tenancy shall, within thirty days of such abandonment inform the Government in writing that the tenant has abandoned such tenancy and the Government may, on receipt of such intimation, take possession of the land appertaining to such tenancy.

(3) The Government shall pay to the landlord fair rent for the land possessed by it under sub-section (2) from the date on which it takes possession of such land.

(4) The Government may let to another tenant any land, possession of which has been taken under sub-section (2), as far as may be, in accordance with such rules as may be made under this Act.

(5) The tenant to whom any land is let under sub-section (4) shall pay the fair rent thereof directly to the landlord and the Government's liability under sub-section (3) with regard to the payment of the fair rent for such land shall, on and from the date of induction of the tenant on the land, cease.

51B. *Landlord not to enter on surrendered or abandoned land.*—If any landlord enters into the possession of any abandoned land or any land which has not been surrendered in accordance with the provisions of section 51, he shall be deemed to have contravened the provisions of section 6 of the Kerala Prevention of Eviction Act, 1966, and shall be punished accordingly." .

14. *Savings.*—(1) Notwithstanding the expiry of the Kerala Scheduled Castes and Scheduled Tribes Prevention of Eviction Ordinance, 1966 (Ordinance 2 of 1966), anything done or any action taken in exercise of any powers conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under the corresponding provision of this Act as if this Act had come into force on the 5th day of July, 1966.

(2) The expiry of the Kerala Scheduled Castes and Scheduled Tribes Prevention of Eviction Ordinance, 1966, shall not—

(a) affect any right, privilege, obligation or liability acquired, accrued or incurred under the said Ordinance,

(b) affect any penalty or punishment incurred in respect of any offence committed under the said Ordinance,

(c) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty or punishment, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty or punishment may be imposed as if this Act had commenced on the 5th day of July, 1966.
