

**THE KERALA STAY OF EVICTION PROCEEDINGS ACT, 1957**

**(ACT 1 OF 1957)**

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**ACT 1 OF 1957**

**THE KERALA STAY OF EVICTION PROCEEDINGS ACT, 1957**

**[Repealed by Act 4 of 1961]**

*An Act to stay eviction of tenants, Kudikidappukars and certain other classes of persons cultivating land.*

*Preamble.*—WHEREAS it is necessary to take immediate action to provide for the temporary protection of tenants, Kudikidappukars and persons cultivating land on varom, Sambalattom or other similar arrangements pending enactment of a comprehensive legislation relating to tenancy and agrarian reforms;

Be it enacted in the Eighth Year of the Republic of India as follows:-

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Stay of Eviction Proceedings Act, 1957.

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

(3) It shall come into force at once and shall cease to have effect on <sup>1</sup>[the 11<sup>th</sup> day of October, 1960].

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

<sup>2</sup>[(1) "holding",—

(a) in relation to any immovable property situated in any part of the State where the Malabar Tenancy Act, 1929, is in force, shall have the meaning assigned to it in that Act and shall also include any immovable property in the possession or occupation of a person *bona fide* believing himself to be a lessee or sub-lessee for a continuous period of not less than two years immediately before the 11<sup>th</sup> day of April, 1957 and which continued to be in his possession or occupation up to the 22<sup>nd</sup> day of February, 1960;

(b) in relation to any immovable property situated in any part of the taluk of Kasargod or Hosdurg where the Malabar Tenancy Act, 1929, is not in force, shall have the meaning assigned to it in the Madras Cultivating Tenants Protection Act, 1955; and

(c) in relation to any immovable property situated in any other part of the State, shall mean any immovable property held under a single transaction by which a leasehold right in the property is created and possession of the property is transferred by one person in favour of another and includes kanattom;]

(2) "hut" means any building which is constructed principally of wood, mud, leaves, grass or thatch;

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1. Substituted by Act 5 of 1960 (w.e.f. 11.04.1960).

2. Substituted by Act 5 of 1960 (w.e.f. 11.04.1960).

<sup>1</sup>[(3) "Kudikidappukaran" means a person who has no homestead or land of his own to erect a homestead and—

(i) who has been permitted with or without an obligation to pay rent by an owner of land to have the use and occupation of a portion of the land in his possession for the purpose of erecting a homestead, or

(ii) who is in occupation of a hut constructed by a person owning and possessing the land in which the hut is situated and who has been permitted by such person to occupy the hut with or without an obligation to pay rent,

but otherwise has no interest in the land; and "Kudikidappu" means the land and the homestead or the hut so permitted to be erected or occupied together with the easements attached thereto, and includes an *ulkudi*.

*Explanation I.*—Any person who was in occupation of a *kudikidappu* on the commencement of the Kerala Stay of Eviction Proceedings Ordinance, 1957, shall be deemed to be in occupation of such *kudikidappu* with permission as required under this clause.

*Explanation II.*—For the purpose of this clause, "hut" means any dwelling house which has a value not exceeding four hundred rupees;]

(4) "Kudiyiruppu" means a *Kudiyiruppu* as defined in the Travancore-Cochin Prevention of Eviction of *Kudikidappukars* Act, 1955, and includes a hut occupied by the *Kudikidappukaran*;

(5) "Varomdar" means a person who under the system known as *Varom*, *Pathivarom*, *Pankuvarom* or *Pankupattom* or by any other name, has agreed, whether in writing or not, with the owner or other person in lawful possession of any land to cultivate the land and share with him the produce of the land;

(6) "Varom agreement" means an agreement, whether in writing or not, entered into between the *Varomdar* and the owner or other person in lawful possession of the land for the cultivation and sharing of the produce of the land.

3. *Application.*—Nothing in this Act shall apply to—

(a) lands owned by the Government; or

(b) rights created by the Administrator General, Official Trustee or Official Receiver; or

(c) buildings rented out including houses, shops or ware-houses and the sites thereof together with the gardens or lands appurtenant thereto.

*Explanation.*—For the purpose of this clause a hut which is a *Kudiyiruppu* shall not be deemed to be a building; or

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1. Substituted by Act 30 of 1958 (w.e.f. 06.06.1958).

(d) lands or buildings or both given on lease for industrial or commercial purposes; or

(e) lands transferred for felling timber or for planting tea, coffee, rubber or any other special crop prescribed by a rule or order made by the Government or the erection of any building for the purpose of or ancillary to the cultivation of PBN-2/42/2025 such crop or the preparation of the same for the market.

4. *Stay of eviction proceedings.*—Notwithstanding anything to the contrary contained in any other law for the time being in force or in any contract, with effect on and from the commencement of this Act, no suit or other proceedings for eviction of a person from his holding or for the recovery of arrears of rent in respect of, or for damages for use and occupation of, the holding accrued due before the commencement of the Kerala Stay of Eviction Proceedings Ordinance, 1957, shall lie in any Court and all suits, proceedings in execution of decrees or orders and other proceedings pending in the Courts at such commencement for such eviction or recovery of arrears of such rent or damages shall be stayed:

<sup>1</sup>[Provided that nothing in this section shall preclude the recovery of the rent or any instalment of rent if according to custom; usage or agreement, such rent or instalment of rent is payable and accruing after the day on which the Kerala Stay of Eviction Proceedings Ordinance, 1957, came into force.]

<sup>2</sup>[xxxx]

<sup>3</sup>[4A. *Restoration of certain persons to possession or occupation.*—(1) Where, after the 22<sup>nd</sup> day of February, 1960, and before the commencement of the Kerala Stay of Eviction Proceedings (Amendment) Act, 1960, any person has been evicted from his holding situated in any part of the State where the Malabar Tenancy Act, 1929, is in force, in execution of a decree or order passed by a court and such decree or order would not have been passed if the said (Amendment) Act, 1960, had been in force at the time, the person so evicted shall be entitled to be restored to the possession or occupation of such holding with all the rights and subject to all the liabilities to which he was entitled or liable immediately before such eviction, if he makes an application in that behalf to the court which passed the decree or order within thirty days from the commencement of the said (Amendment) Act, 1960:

Provided that before such restoration is effected the applicant shall be bound to return or pay to the person who evicted him—

- (i) the value, if any, paid by such person to the applicant for improvements;
- (ii) the value of improvements, if any, effected *bona fide* by such person between the date on which he obtained possession of the holding and the date on which possession or occupation thereof is restored to the applicant.

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1. Added by Act 30 of 1958 (w.e.f. 06.06.1958).

2. Omitted by Act 7 of 1957 (w.e.f. 03.08.1957).

3. Inserted by Act 5 of 1960 (w.e.f. 11.04.1960).

(2) Nothing contained in this section shall affect the rights of a *bona fide* transferee from the person who evicted.]

5. *Stay of proceedings against Kudikidappukars.*—Notwithstanding anything to the contrary contained in any other law for the time being in force or in any contract, with effect on and from the commencement of this Act, no suit or other proceedings for eviction of a Kudikidappukaran from his Kudiyruppu or for the recovery of arrears of rent in respect of, or for damages for use and occupation of, the Kudiyruppu from him, shall lie in any Court and all suits, proceedings in execution of decrees or orders or other proceedings pending in the Courts at such commencement for such eviction or recovery of arrears of such rent or damages shall be stayed.

6. *Varomdar's right to continue to cultivate lands.*—(1) Notwithstanding anything to the contrary contained in any other law for the time being in force or in any contract,—

- (i) subject to the provisions of clause (ii), where in respect of any land there is a Varomdar at the commencement of this Act, such Varomdar;
- (ii) where a Varomdar, in respect of any land, has not started agricultural operations at the commencement of this Act and a person other than that Varomdar had cultivated the land under a varom agreement in the cultivation season immediately preceding such commencement, such other person;
- (iii) where in respect of any land there is no Varomdar and the agricultural operations have not been started at the commencement of this Act, the person, if any, who had cultivated the land under a varom agreement during the cultivation season immediately preceding such commencement; and
- (iv) where in respect of any land there is no Varomdar at the commencement of this Act, but the person who had cultivated the land under a varom agreement during the cultivation season immediately preceding such commencement had started the agricultural operations of the land at such commencement, such person

shall be entitled to cultivate the land on the same terms and conditions under which he was cultivating the land at the commencement of this Act or during the cultivation season immediately preceding such commencement, as the case may be.

(2) All agricultural operations carried out before the commencement of this Act, by a person entitled to cultivate the land under clause (iv) of sub-section (1) shall be deemed to have been lawfully carried out in exercise of the right conferred on him under that clause.

7. *Continuance of Sambalapattom or Coolypattom arrangements.*—Any person cultivating the land of another, whether as an agent or otherwise, under a Sambalapattom or Coolypattom arrangement or under any licence at the commencement of this Act shall, notwithstanding the expiry or termination of such arrangement or licence, be entitled to continue on the same terms and conditions as were applicable to him at such commencement, to cultivate the land.

<sup>1</sup>[7A. *Disputes regarding right to cultivate land.*—(1) Any person claiming to be in possession and cultivating under section 4 or claiming to be entitled to cultivate any land under section 6 or section 7 if prevented or obstructed from cultivating the land, may apply to the Tahsildar of the taluk in which the land is situate for an order that he is so entitled.

(2) The Tahsildar shall, on receipt of an application under sub-section (1) and after such enquiry as he deems necessary and after issue of notice to the opposite party, by order, decide whether the applicant is entitled to cultivate the land under section 4 or section 6 or section 7, and if he is so entitled, restore him to possession and allow him to cultivate the land.

(3) Where any person who, under an order of the Tahsildar under subsection (2), is entitled to cultivate the land, is prevented or obstructed from so cultivating, the person who causes such prevention or obstruction shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to Rs. 500 or with both.

(4) Nothing in this section shall be held to prevent a party deeming himself aggrieved by any decision or order passed or proceedings taken by the Tahsildar from seeking his remedy in a court of law.

7B. *Interim order of injunction to be vacated in certain circumstances.*—Where any court has passed an interim order of injunction without giving notice to the opposite party and thereupon the opposite party enters appearance disputing the possession of the plaintiff and offering to adduce evidence to prove his possession or his right to cultivate the land under section 6 or section 7, the injunction order shall stand vacated pending final orders on the application for injunction.]

8. *Limitation.*—In computing the period of limitation prescribed for the institution of suits or proceedings prohibited or stayed under this Act, the time during which such suits or proceedings are prohibited or stayed shall be excluded.

<sup>2</sup>[xxxx]

10. *Repeal.*—The Holdings (Stay of Execution Proceedings) Act, 1950 and the Kerala Stay of Eviction Proceedings Ordinance, 1957, are hereby repealed.

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1. Inserted by Act 30 of 1958 (w.e.f. 06.06.1958).

2. Omitted by Act 30 of 1958 (w.e.f. 06.06.1958).