

THE KERALA LAND CONSERVANCY (AMENDMENT) BILL, 2009

(As Passed by the Assembly)

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*BILL*

*further to amend the Kerala Land Conservancy Act, 1957.*

*Preamble.*—WHEREAS, it is expedient further to amend the Kerala Land Conservancy Act, 1957 for the purposes hereinafter appearing ;

BE it enacted in the Sixtieth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Land Conservancy (Amendment) Act, 2009.

(2) It shall be deemed to have come into force on the 8th day of November, 2008.

2. *Amendment of long title.*—In the long title of the Kerala Land Conservancy Act, 1957 (8 of 1958) (hereinafter referred to as the principal Act), the words “and to provide for matters connected therewith or incidental thereto” shall be added at the end.

3. *Amendment of the Preamble.*—In the preamble of the principal Act, the words “and to provide for matters connected therewith or incidental thereto” shall be added at the end.

4. *Substitution of section 7.*—For section 7 of the principal Act, the following section shall be substituted, namely:—

“7. *Punishment for unauthorisedly occupying land which is the property of Government.*— Notwithstanding anything contained in this Act,—

(a) whoever with the intention of using or holding any land which is the property of Government, whether poramboke or not, for any non-Governmental purpose, unlawfully enters or occupies such land shall be punishable with imprisonment of either description for a term which shall not be

less than three years but which may extend to five years and shall also be liable to pay a fine which shall not be less than fifty thousand rupees, but which may extend to two lakhs rupees.

Provided that a person who is occupying any Government land not exceeding 5 cents as on the date of commencement of this Act and is not having any other land in his name or in the name of his family members and is having any of the following documents in order to prove that he was residing therein, namely, record of rights or a ration card or an electoral identity card issued in the address of such Government land which he is so occupying or a proceeding assigning house number to a building in such property or an electric connection or a water connection, issued by the competent authorities of the Government or the Local Self Government Institutions or the respective statutory bodies, as the case may be, shall not be considered as an unlawful occupant for the purpose of imposing punishment ;

(b) whoever, for the purpose of effecting transfer of any land which is the property of Government for consideration or otherwise—

(i) commits the offence of cheating by fraudulently or dishonestly creating documents ; or

(ii) makes or creates any forged document in support of any claim or title to such land shall be punishable with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years and shall also be liable to pay a fine which shall not be less than fifty thousand rupees, but which may extend to two lakhs rupees ;

(c) Whoever being an officer entrusted with the responsibility of reporting unlawful occupation of land which is the property of Government or of initiating action to remove such unauthorised occupation fails to report or to initiate action to remove such unlawful occupation, shall be punishable with imprisonment of either description for a term which shall not be less than three years but which may extend to five years and shall also be liable to pay a fine which shall not be less than fifty thousand rupees, but which may extend to two lakhs rupees ;

(d) Whoever erects or causes to erect any wall, fence or building or puts up or causes to put up any overhanging structure or projection, whether on a temporary or permanent basis in contravention of sub-section (2) of section 5, shall be punishable with imprisonment of either description for a term which shall not be less than one year but which may extend to two years and shall also be liable to pay a fine which shall not be less than ten thousand rupees, but which may extend to twenty five thousand rupees and in the case of a continuing contravention, such additional fine which may extend to five hundred rupees for each day during which the contravention continues after conviction for the first such contravention.”.

5. *Substitution of new sections for sections 8 and 9.*—For sections 8 and 9 of the principal Act, the following sections shall, respectively, be substituted, namely:—

“8. *Abetment of offences.*—Whoever abets any offence punishable by or under this Act, if the act abetted is committed in consequence of the abetment or attempts to commit any such offence shall be punishable with the same punishment provided by or under this Act, for committing such offence.

9. *Cognizance of offence*— (1) The offence under this Act shall exclusively be triable by a Court of Chief Judicial Magistrate.

(2) The offences specified under section 7 shall be cognizable and nonbailable.”.

6. *Amendment of section 11.*—In sub-section (1) of section 11 of the principal Act, for the words and figures “pay a fine under section 7 and an assessment or prohibitory assessment under section 8”, the words and figure “punishment under section 7” shall be substituted.

7. *Amendment of section 13.*—In sub-section (1) of section 13 of the principal Act, clauses (a) and (b) shall be omitted.

8. *Amendment of section 14.*—In section 14 of the principal Act,—

- (i) in the marginal heading, the word “assessment” shall be omitted;
- (ii) the words “assessments and prohibitory assessments” shall be omitted.

9. *Amendment of section 16.*—In sub-sections (3) (4) and (5) of section 16 of the principal Act, for the words “the Board of Revenue”, the words “the Commissioner of Land Revenue” shall be substituted.

10. *Amendment of section 17.*—In sub-section (4) of section 17 of the principal Act, for the words “the Board of Revenue”, the words “the Commissioner of Land Revenue” shall be substituted.

11. *Amendment of section 19.*—In section 19 of the principal Act, for the existing proviso, the following proviso shall be substituted, namely:—

“provided that if any punishment has been imposed under section 7, no further punishment shall be imposed under any other law for the same offence”.

12. *Amendment of section 20A.*—In section 20 A of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) No civil court shall have jurisdiction to entertain any suit or other legal proceedings against the Government in respect of any action taken by it for the eviction of any person, who is in unauthorized occupation of any land which is the property of Government, whether poramboke or not, or for the recovery of any fine or any other sum due to the Government under this Act.”;

(ii) in sub-section (2), for the words “Board of Revenue”, the words “the Commissioner of Land Revenue” shall be substituted.

13. *Repeal and Saving.*—(1) The Kerala Land Conservancy (Amendment) Ordinance, 2009 (18 of 2009) is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the Principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act, as amended by this Act.

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