

Next 2003

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Tenth Kerala Legislative Assembly,

Bill No. 191

THE KERALA GRANTS AND LEASES (MODIFICATION OF RIGHTS) AMENDMENT BILL, 1999

A

BILL

to amend the Kerala Grants and Leases (Modification of Rights) Act, 1980.

Preamble.—WHEREAS it is expedient to amend the Kerala Grants and Leases (Modification of Rights) Act, 1980, for the purposes hereinafter appearing;

Be it enacted in the Fiftieth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Grants and Leases (Modification of Rights) Amendment Act, 1999.

(2) It shall come into force at once.

2. *Amendment of section 2.*—In section 2 of the Kerala Grants and Leases (Modification of Rights) Act, 1980 (Act 16 of 1980) (hereinafter referred to as the principal Act),—

(i) clause (a) shall be omitted;

(ii) after clause (g), the following clause shall be inserted, namely:—

“(h) Principal Chief Conservator of Forests” means the Principal Chief Conservator of Forests of the Government of Kerala, in charge of the General Administration of the Forest Department.”.

3. *Amendment of section 4.*—In sub-section (2) of section 4 of the principal Act, for the word “Collector”, the words “Principal Chief Conservator of Forests” shall be substituted.

4. *Amendment of section 5.*—For section 5 of the principal Act, the following section shall be substituted, namely:—

“5. *Power of the Principal Chief Conservator of Forests to revise assessment or rent.*—(1) Notwithstanding anything contained in any law for the time being in force, or in any grant, lease deed, contract or agreement, or in any judgment,

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decree or order of any court, the Principal Chief Conservator of Forests may revise, from time to time, the assessment or rent stipulated in any grant or lease deed:

Provided that the first revision of assessment or rent under this sub-section shall be made within a period of six months from the date of commencement of the Kerala Grants and Leases (Modification of Rights) Amendment Act, 1999:

Provided further that the period between two revisions shall not, in any case, exceed five years.

(2) Before revising any assessment or rent under sub-section (1), the Principal Chief Conservator of Forests shall give the grantee or lessee, as the case may be, an opportunity of being heard and shall make such further enquiry as he deems fit.

(3) A revision of assessment or rent under sub-section (1) shall be made on the basis of the location of the area, the nature of the crop raised therein and the rates applicable to similar lands leased out by the Government in other parts of the State.

5. *Amendment of section 6.*—In sub-section (1) and in sub-section (3) of section 6 of the principal Act, for the word “Collector”, the words, “Principal Chief Conservator of Forests” shall be substituted.

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

- (i) in the marginal heading, for the word “Collector”, the words, “Principal Chief Conservator of Forests” shall be substituted;
- (ii) in the opening paragraph, for the word “Collector”, the words, “Principal Chief Conservator of Forests” shall be substituted.

7. *Amendment of section 9.*—In section 9 of the principal Act, for the word “Collector”, the words, “Principal Chief Conservator of Forests” shall be substituted.

8. *Amendment of section 10.*—In section 10 of the principal Act, for the word “Collector”, the words, “Principal Chief Conservator of Forests” shall be substituted.

9. *Amendment of section 12.*—In sub-section (2) of section 12 of the principal Act, clause (a) shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The Kerala Grants and Leases (Modification of Rights) Act, 1980 was enacted to provide for modification of rights under grants and leases of lands made or granted by or on behalf of the former States of Travancore and Cochin for cultivation. Section 5 of the said Act confers power on the Collector to revise from time to time, the assessment or rent stipulated in any grant or lease deed. Such lands comprise vast areas of forest and other lands. Although rules regarding the principles to be followed for the revision of assessment or rent were issued by the Government, there were complaints that assessment or rent of similarly placed lands under lease or grant was revised at different rates by the Collectors of various districts in the State. In the circumstances, the Government considered that for having uniformity in the rate of increase, the power to revise the assessment or revision, shall be vested with the Principal Chief Conservator of Forests. Government have also decided to include provision in the Act, regarding the principles to be followed for revision of assessment or rent.

2. Para 199 of the Budget Speech for 1999-2000 inter alia envisages a comprehensive assessment of the rates of lease rent on lands leased out for various purposes.

3. The Bill seeks to achieve the above objects.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any expenditure out of the Consolidated Fund of the State.

DR. A. NEELALOHITHADASAN NADAR

EXTRACTS FROM THE KERALA GRANTS AND LEASES
(MODIFICATION OF RIGHTS) ACT, 1980
(16 OF 1980)

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2. *Definitions.*—In this Act, unless the context otherwise requires,—
- (a) “Collector” means the Collector of the district;
 - (b) “grant” means any grant to which this Act applies;
 - (c) “grantee” means the person in whose favour a grant has been made and includes his heirs, successors and assigns;
 - (d) “lease” means any lease to which this Act applies;
 - (e) “lessee” means the person in whose favour a lease deed has been executed and includes his heirs, successors and assigns;
 - (f) “lease deed” means the document evidencing a lease;
 - (g) “prescribed” means prescribed by rules made under this Act.

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4. *Grantees and lessees to pay current seigniorage rates.*—(1) Notwithstanding anything contained in any law for the time being in force, or in any grant, lease deed, contract or agreement, or in any judgment, decree or order of any court, with effect on and from the commencement of this Act, every grantee and every lessee shall be bound to pay to the Government the seigniorage rates in force for the time being for the timber cut and removed from any land held by him under the grant or lease.

(2) If any dispute arises as to the seigniorage rates for the time being in force, such dispute shall be decided by the Collector.

5. *Power of Collector to revise assessment or rent.*—(1) Notwithstanding anything contained in any law for the time being in force, or in any grant, lease deed, contract or agreement, or in any judgement, decree or order of any court, the Collector may revise, from time to time, the assessment or rent stipulated in any grant or lease deed.

(2) Before revising any assessment or rent under sub-section (1), the Collector shall give the grantee or lessee, as the case may be, an opportunity of being heard and shall make such further inquiry as he deems fit.

(3) Any revision of assessment or rent under sub-section (1) shall be in accordance with such principles as may be prescribed.

6. *Appeal.*—(1) Any person aggrieved by any decision of the Collector under sub-section (2) of section 4 or under sub-section (1) of section 5 may, within sixty days from the date on which the decision was communicated to him, appeal against such decision to the Government:

Provided that the Government may admit an appeal preferred after the said period of sixty days if they are satisfied that the appellant had sufficient cause for not preferring the appeal within that period.

(2) An appeal under sub-section (1) shall be in such form and shall contain such particulars and shall be accompanied by such fee, as may be prescribed.

(3) On receipt of an appeal under sub-section (1), the Government shall, after giving the appellant an opportunity of being heard and after such further inquiry as may be prescribed, confirm or modify the decision or set aside the decision and direct the Collector to decide the matter afresh.

(4) The decision of the Government under sub-section (3) shall be final.

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8. *Powers of Collector.*—The Collector shall, for the purpose of exercising any power conferred by or under this Act, have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavit;
- (d) issuing commissions for the examination of witnesses or for local investigation;
- (e) inspecting any property or thing concerning which any decision has to be taken; and
- (f) any other matter which may be prescribed.

9. *Bar of suits.*—No civil court shall have jurisdiction to decide or deal with any question or to determine any matter which is, by or under this Act, required to be decided or dealt with or to be determined by the Government or the Collector or any other officer.

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10. *Indemnity.*—No suit, prosecution or other legal proceedings shall lie against the Government or the Collector or any other person for anything which is in good faith done or intended to be done under this Act or any rule made thereunder.

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12. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the principles to be followed for the revision of assessment or rent stipulated in any grant or lease deed;

(b) the form of, and the particulars to be contained in, any appeal under sub-section (1) of section 6 and the fee for such appeal;

(c) any other matter which has to be, or may be, prescribed.

(3) Every rule made under this section 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 makes any modification in the rule or decides that the rule should not be made, 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.