

*THE KERALA ESCHEATS AND FORFEITURES ACT, 1964

(Act 4 of 1964)

As amended by Act 33 of 1976

An Act to provide for the administration, supervision, custody and disposal of escheats and unclaimed property

Preamble.— WHEREAS it is necessary to provide for the administration, supervision, custody and disposal of escheats and unclaimed property in the State of Kerala;

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

CHAPTER I PRELIMINARY

1. Short title, extent and commencement.— (1) This Act may be called the Kerala Escheats and Forfeitures Act, 1964.

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

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.**

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

(a) "Board" means the Board of Revenue for the State of Kerala, constituted under the Kerala Board of Revenue Act, 1957;

(b) "Collector" means the Collector of a district and includes any other officer empowered by the Government to exercise all or any of the powers of a Collector under this Act;

(c) "Court" means any Civil Court of competent jurisdiction.

CHAPTER II ESCHEATS

3. Escheats.— Where a person dies intestate and without leaving legal heirs, all his property shall be escheat and shall belong to the Government.

4. Preliminary enquiry.— Whenever the collector receives information from any source that any person in possession of any movable or immovable property lying within his jurisdiction has died intestate and without legal heirs, he shall cause an inquiry to be made as to whether the deceased has died intestate and whether he has left any legal heirs.

5. Publication in the Gazette.— If, as a result of the inquiry under Section 4, the Collector is satisfied that the deceased has died intestate and without legal heirs and that it is a *prima facie* case of escheat, he shall publish in the Gazette a notice calling upon all persons who may have any claim to the property of the deceased to appear before him and prefer their claims within six months from the date of publication of the notice.

6. Investigation and decision.— If any claim is preferred within the period fixed under Section 5, the Collector shall investigate the claim and take in all evidence produced by the claimant. He shall decide the case after such inquiry as he deems fit to make, and issue notice of

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the decision to the parties concerned. The decision of the Collector shall be final, subject to the provisions of Section 7 and 11.

7. Appeal.— (1) An appeal shall lie to the Board from the decision of the Collector under Section 6 within three months from the date of the notice to the parties concerned, and the decision of the Board on such appeal shall, subject to the provisions of sub-section (2) of this section and Section 11, be final.

(2) Any person aggrieved by the order of the Board under sub-section (1) may, within sixty days of the date of communication of the order to the parties concerned, appeal to the Government against such order and the decision of the Government on such appeal shall subject to the provisions of Section 11, be final.

(3) No order under sub-section (1) or sub-section (2) shall be passed without giving all persons interested an opportunity of being heard.

8. Effect of decision.—The decision of the Collector shall not be given effect to until the time for the institution of a suit under Section 11 is over or until the suit, if any instituted is finally disposed of.

9. Disposal of escheats.— (1) In the case of escheats which are movable property, the Collector shall take steps for the sale of the property by public auction in the manner prescribed, the sale proceeds being credited to the Government.

(2) Escheats which are immovable property shall be disposed of in accordance with the provisions of the Kerala Government Land Assignment Act, 1960 and of the rules made thereunder:

Provided that lands which have escheated to the Government shall not ordinarily be sold until it has been in the possession of the Government for twelve years or more.

10. Taking Possession by Collector.— (1) Notwithstanding anything contained in Sections 5 to 9 (both inclusive) the Collector may, if satisfied after the inquiry under Section 4 that the person in possession of any movable or immovable property died intestate and without legal heirs, take possession of such property, provided that the property is not in the possession of any person or the person in possession does not offer any opposition. If there is opposition and there is no risk of the property being damaged by the delay in taking possession thereof and arranging for its care and maintenance, the person may be left in possession until the claim is finally settled. If there is risk of damage, the Collector may file a suit in the Court to establish the right of the Government and take possession of the same.

(2) The property taken possession of under sub-section (1) shall be managed by the Government in the manner prescribed:

Provided that the Collector may dispose of any perishable property by public auction in the manner prescribed at any time after taking possession under sub-section (1).

11. Saving of rights to sue.— Nothing in this Chapter shall be held to prevent parties deeming themselves aggrieved by any decision or order passed or proceedings taken or purporting to be passed or taken under this Chapter from suing the Government in the Civil Courts:

Provided that such suits shall be preferred within six months from the time at which the cause of action arose:

Provided further that the whole time occupied by the Board of Revenue and the Government under Section 7 shall be excluded from the computation of the period limitation of the said six months.

Case Law

Decree for recovery of escheats : Executability : Jurisdictional bar of Civil Court to entertain 'suit' or 'proceedings' under Land Conservancy Act : Effect of: Scheme of Act empowers Government to institute a suit for recovery of possession. Where the escheat order of the Collector has become final and the suit for recovery of possession decreed, challenge against the executability of the decree is without any merit. Provisions of the Kerala Land Conservancy Act have no application in respect of

administration, supervision, custody and disposal of unclaimed property which is governed by the Act. *Indian Timber & Plywood Corp. Ltd., Kozhikode and Others v. State of Kerala and Others — 2013 (2) KHC 420 : 2013 (2) KLT 453 : 2013 (2) KLJ 556.*

[CHAPTER IIA ABANDONED PROPERTY

11A. Abandoned property.— Any immovable property abandoned by the rightful owner thereof shall be abandoned property and shall belong to the Government.

11B. Preliminary inquiry.— Whenever the Collector receives information from any source that any immovable property situate within his jurisdiction has been abandoned by the rightful owner thereof, he shall cause an inquiry to be made as to whether there is any legal claimant to such property.

11C. Publication of notice.— If as a result of the inquiry under Section 11B, the Collector is satisfied that there is a *prima facie* case of abandonment of the property by the rightful owner thereof, he shall publish in the Gazette a notice calling upon all persons who may have any claim to such property to appear before him and to prefer their claims within six months from the date of publication of the notice.

11D. Investigation and decision.— If any claim is preferred within the period fixed under Section 11C, the Collector shall investigate the claim and decide the case after such inquiry as he deems fit to make, and issue notice of the decision to the parties concerned.

11E. Appeal.— (1) An appeal shall lie to the Board from the decision of the Collector under Section 11D within three months from the date of receipt of the notice of such decision by the parties concerned and the order of the Board on such appeal shall, subject to the provisions of sub-section (2) and Section 11G be final.

(2) Any person aggrieved by the order of the Board under sub-section (1) may, within sixty days of the date of communication of the order to the parties concerned, appeal to the Government against such order, and the order of the Government on such appeal shall, subject to the provisions of Section 11G be final.

(3) No order under sub-section (1) or sub-section (2) shall be passed without giving all persons interested an opportunity of being heard.

11F. Taking Possession by Collector.— (1) Notwithstanding anything contained in Sections 11C, 11D and 11E, the Collector may, if satisfied after inquiry under Section 11B that any immovable property has been abandoned by the rightful owner thereof, take possession of such property, provided the property is not in the possession of any person or the person in possession does not offer any opposition.

(2) If there is opposition in the taking possession of any property by the Collector under sub-section (1), the person in possession of the property may be left in possession thereof until the claim is finally settled under the foregoing provisions of this Chapter.

(3) The property taken possession of under sub-section (1) shall be managed by the Government in the manner prescribed.

11G. Saving of rights to sue.— Nothing in this Chapter shall be held to prevent any person deeming himself aggrieved by any decision or order passed or proceedings taken or purporting to be passed or taken under this Chapter from filing a suit against the Government in the competent Civil Court for establishing his claim.

11H. Disposal of Property.— Abandoned property shall be disposed of in accordance with the provisions of the Kerala Government Land Assignment Act, 1960 and the rules made thereunder.

Provided that such property shall not be sold until it has been in the possession of the Government for not less than twelve years].

CHAPTER III UNCLAIMED PROPERTY

12. Police to take charge of unclaimed Properties found in Public places.— Any article found in a public place, the owner of which is not known, shall be taken charge of by any police officer who shall send them for disposal to the Collector.

13. Publication in the Gazette.— (1) The Collector shall publish a notice in the Gazette inviting claimants to prefer claims to the article sent to him by the police under Section 12 within three months from the date of publication of the notice.

(2) Nothing contained in sub-section (1) shall prevent the collector from disposing of any perishable articles, which come into his possession, at any time, either before or after the publication of the notice under sub-section (i).

(3) The articles referred to in sub-section (2) shall be sold in public auction in the manner prescribed, and the proceeds of the sale shall be handed over to the rightful claimants after deducting the expenses of the sale or credited to the Government if no claim is preferred within the period specified in sub-section (1).

14. Forfeiture of articles.— If no claim is preferred within the period specified in sub-section (1) of Section 13, the Collector shall pass an order forfeiting the articles, other than those dealt with under sub-section (2) of the said section, to the Government, and the articles shall thereupon be sold in public auction in the manner prescribed, and the sale proceeds credited to the Government.

15. Uncontested claim.— If a claim is preferred within the time allowed and it is not contested, the article shall be handed over to the claimant.

16. Contested claim.— In the case of a contested claim, the Collector shall refer the matter to the Court and shall be guided by the decision of the Court:

Provided that nothing contained in this section shall prevent the Collector from disposing of any perishable articles which come into his possession by public auction in the manner prescribed, at any time before the decision of the Court, and in that case the sale proceeds shall be handed over to the Court after deducting therefrom the expenses of the sale.

CHAPTER IV MISCELLANEOUS

17. Power of Government 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) In particular, and without prejudice to the generality of the foregoing power, such rules, may provide for:—

(a) the superintendence and disposal of escheats ²[abandoned property] and unclaimed articles;

(b) the manner in which property shall be managed by the Government under Section 10 ²[or Section 11F];

(c) The procedure to be observed in public auction under this Act;

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

(3) 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

2. Inserted by Act 33 of 1976.

