

THE KERALA LAND REFORMS AMENDMENT BILL, 2008

A BILL

Further to amend the Kerala Land Reforms Act, 1963.

Preamble.—WHEREAS it is expedient further to amend the Kerala Land Reforms Act, 1963 for the purposes hereafter appearing;

BE it enacted in the Fifty ninth year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Land Reforms Amendment Act, —(2) All sections except section 2, 3 and 5 shall come into force at once. Sections 2, 3 and 5 shall be deemed to have come into force on the 18th day of October, 2006.

2. *Substitution of section 7E.*—For section 7E of the Kerala Land Reforms Act, 1963 (1 of 1964), (hereafter referred to as ‘the Principal Act’), the following section shall be substituted, namely.—

7E. Certain persons who acquired excess land to be deemed tenants—(1) Notwithstanding anything to the contrary contained in section 74 or section 84 or in any other provisions of the Act, or in any other law for the time being in force, or in any contract, custom or usage, or in any judgment, decree or order of any Court, tribunal or other authority, a person who, on the 18th day of October, 2006 is in possession of any land, acquired by him or his predecessors-in-interest, during the period between the date of commencement of the Kerala Land Reforms Act, 1963 (1 of 1964) and the 1st day of January, 1977, by way of purchase or otherwise on payment of consideration from any person holding land in excess of the ceiling area shall be deemed to be a tenant in respect of such extent of land which would, together with other lands if any in his possession make the total extent of such land to be one acre.

(2) Notwithstanding any thing to the contrary contained in any other provisions of this Act or in any other law, for the time being in force where a person is in possession of land acquired by him or his predecessors-in-interest under a transaction described in sub-section (1), so much extent held by him, in excess of the area, as determined under sub-section (1) of section 84 of the Act and such extent of land shall be deemed to be land in excess of ceiling area within the meaning of this Act.

3. *Amendment of section 84.*—In section 84 of the Principal Act, after subsection (1 A), the following sub-section shall be inserted, namely:—

“(1B) Notwithstanding anything to the contrary contained in subsection (1) or in any judgment, decree or order of any court, tribunal or other authority, no acquisition of land as specified in sub-section (1) of Section 7E shall be deemed to be invalid or ever to have been invalid by reason only of the fact that the land so acquired was found included as or forming part of, the land liable to be surrendered by the transferor as excess land under the provisions of this Act.

Explanation.—For the purposes of this sub-section “Transferor” means the person who was liable to surrender such land as excess land to Government, as on the date notified under section 83.”

4. *Insertion of new sections 84A, 84B, 84C, 84D and 84E.*—After section 84 of the Principal Act, the following new sections shall be inserted namely:—“84A. Certain persons to file statement before the land Board.—(1) Notwithstanding anything to the contrary contained in any other provisions of this Act, every persons claiming to be a deemed tenant under section 7E shall file a detailed statement before the Land Board within three months from the date of commencement of the Kerala Land Reforms (Amendment) Act, 2008 (.... of 2008) indicating the location, total extent of the lands acquired and such other particulars as are essential to identify all lands acquired and held by him on the date of filing of the statement:

Provided that the Land Board may entertain a statement filed after the said period of the three months, if it is satisfied that there was sufficient grounds for not filing the statement within the said period:

Provided further that the Land Board shall not entertain any application filed after a period of one year from the date of publication of the Kerala Land Reforms (Amendment) Act, 2008(...of 2008).

(2) On receipt of the Statement under sub-section (1), the Land Board shall transfer such statement to the concerned Taluk Land Board where the property is situate or to the Taluk Land Board where the ceiling case in respect of that land is pending for enquiry and disposal, after giving all parties having interest in the land an opportunity of being heard, in accordance with the provision of this Act and the rules made thereunder.

“84B. *Initiation of suo moto proceedings.*—The Land Board may either suo moto or on the basis of a complaint received by it or the Taluk Land Board on the basis of a written direction from the Land Board may initiate proceedings against any person who, in its opinion has failed to submit a statement under Section 84 A within the time allowed, with a view to ascertain the total extent acquired on the basis of transfers as specified in sub-section (1) of Section 7E and the total extent of land liable to be treated as excess land

and such other matters as are relevant in this regard. Such proceedings may be initiated generally on the basis of materials already available with it or collected after conducting appropriate enquiries, sufficient to form a *prima facie* opinion that the person concerned has acquired lands, under a transfer made by a person having excess land during the said period, to defeat the provisions of the Act.

84C. Special rule of evidence.—In proceedings under Sections 84 A and 84 B the burden of proving that the land involved in the proceedings is not excess land liable to be included in the account of the transferor shall always be on the transferor or his successor in interest, as the case may be.

84D. Order in proceedings under section 84A and 85B.—(1) In proceedings under Sections 84A and 84B, the Land Board or the Taluk Land Board shall after issuing notice to all parties interested and conducting such enquiries, as may be prescribed, shall pass final orders containing the following particulars, namely—

- (a) The total extent of land owned and/or possessed by the person against whom the proceedings are initiated;
- (b) The land measuring such extent opted by the applicant, if any, as land entitled to be retained by the person as deemed tenant under Section 7E of the Act.
- (c) Total extent of land in excess of the area determined under subsection(1) of Section 7E found to be in the possession of the person against whom the proceeding is initiated, and which is liable to be treated as land vested in the Government as per Section 86 of the Principal Act;
- (d) If the person against whom the proceedings are initiated has transferred any portion of the land acquired by him the extent of such land and the rights if any, to which such transferee is entitled to, in case the land in his possession is to be taken over by the Government as excess land either wholly or partly;
- (e) The amount of compensation determined in accordance with section 88 of the principal Act and the persons to whom such amount is payable and the amount payable to each, if there are more than one person to whom, amounts, are due; (f) The particulars of the land which is liable to be vested in the Government under section 86 of the principal Act, such as survey number and extent, the person in whom possession of the land is remaining etc;

(2) If a person is found eligible to retain any extent of land under clause (b) of sub-section (1), he shall, notwithstanding anything contrary contained in any other provisions of this Act, be entitled to get a certificate of it in accordance with the provisions of this Act.

“84E. Application of sections 86 and 88 to 92 of the Act to apply to excess lands determined in proceedings under section 84A and 84B.—Sections 86 and 88 to 93 (both inclusive) shall, as far as practicable, apply to excess land determined in proceedings under section 84A and 84B for the purpose of regulating the vesting of such land in Government, determination of compensation payable and the persons to whom such compensation is payable and the rights of all persons interested in such excess lands”.

5. Amendment of section 106B of the principal Act.—For section 106B of the principal Act, the following section shall be substituted, namely:—

“106B. Special provisions for issue of certificate of title.—Notwithstanding anything to the contrary contained in any other provision of this Act, or in any other law for the time being in force, a person entitled to retain any land as per an order passed under section 84D, may apply, within such time and such manner as may be prescribed, to the Land Tribunal having jurisdiction over the area in which such land is situate, for a certificate of title in respect of the land held by him and the Land Tribunal shall issue a certificate of title in such form, as may be prescribed, within a maximum period of 6 months from the date of application.

6. Transitory provisions.—Notwithstanding anything contained in any judgment, decree or order of any Court, Tribunal or other authority, if any final order is passed in any application filed by any person under section 106B of the principal Act, during the period between the date of commencement of the Kerala Land Reforms (Amendment) Act, 2005(21 of 2006) and the date of commencement of this Act it shall be reopened and fresh orders shall be reopened and fresh orders shall be passed in accordance with the provision of the principal Act as amended by this Act:

Provided that no order shall be passed under this Section, without giving the person affected thereby, an opportunity of being heard in this matter.

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