

THE KERALA HIGH COURT (AMENDMENT) BILL

A BILL

to provide for more effective enforcement and execution of the writs, directions or orders inclusive of orders and directions for payment of monies by way of costs or otherwise, issued by the High Court while exercising powers under Articles 226 and 227 of the Constitution of India.

WHEREAS at present, failure to comply with the writs, directions or orders issued by the High Court while exercising powers under Articles 226 and 227 are sought to be redressed mainly by instituting applications to initiate proceedings under the Contempt of Courts Act, in the High Court itself, and

WHEREAS it is expedient to provide further modes of enforcement of writs, directions and orders, deeming them to be decrees for execution through Civil Courts;

BE it enacted in the Fifty ninth Year of the Republic.

1. *Short title, extent and commencement.*—(i) This Act may be called the Kerala High Court (Amendment) Act.

(ii) It shall extent to the whole of the State.

(iii) It shall come into force on such date as the Government may notify in the official Gazette.

2. After Section 8 of the Kerala High Court Act 1958, the following Section may be incorporated as Section 8A:

“8A. (1) Notwithstanding anything, contained in any other law for the time being in force or any instrument having effect by virtue of any such law, or decisions of any court; any writ, direction or order issued by the High Court shall be deemed to be a decree passed by a civil court, to be executable as such through the District Court within whose jurisdiction either all or any of the parties to it resides:

Provided that the provisions of this section shall be in addition to and not in derogation of the rights of the holder of such writ, direction or order to have recourse to the provisions of any other law for the time being in force, for its enforcement and execution and to complain of neglect or disobedience, either willful or otherwise, of the authority of Court.

(2) The result of any execution as aforesaid shall be intimated to the High Court by the Court executing such decree.”

Statement of Objects and Reasons

At present, the only method by which a judgment of the High Court rendered in a writ petition under Article 226 and 227 of the Constitution of India is enforced is by filing petition under the contempt of Courts Act in the High Court itself to punish the violator of the judgment. The present amendment is to treat the decision in such cases as a decree passed by a Civil Court and executable through the District Court within whose jurisdiction either all or any of the parties reside. The present amendment will help the litigants to obtain quick and in expansion remedy to redress their grievances.

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