

THE CODE OF CIVIL PROCEDURE (KERALA AMENDMENT) BILL

A BILL to amend the Code of Civil Procedure, 1908 in its application to the State of Kerala;

Preamble.—**WHEREAS** it is expedient to amend the Code of Civil Procedure, 1908, in its application to the State of Kerala for the purposes hereinafter appearing;

1. *Short title, extent and application.*—(1) This Act may be called the Code of Civil Procedure (Kerala Amendment) Act.....

(2) It extends to the whole of Kerala.

(3) It shall come into force at once.

2. *Deletion of Section 80.*—Section 80 of the Code of Civil Procedure, 1908 (Central Act of 1908), (hereinafter referred to as the Principal Act) shall be deleted.

3. *Amendment of Section 89.*—(a) Sub-section (1) of Section 89 of the Principal Act shall be deleted and the following shall be added as sub-section (1)

“The Courts shall generally in all suits, but excluding suits coming within the purview of the provisions in order XV of the Principal Act and suits where any substantial question of law is raised for consideration; formulate as far as possible on the date to which the suit is adjourned on the first hearing date; the terms of a possible settlement after hearing both parties and after complying with the provisions in Order X; and refer the dispute in accordance with relevant rules for

(a) Arbitration or

(b) Conciliation or

(c) Judicial Settlement including settlement through Lok Adalat; or

(d) Mediation.

4. *Amendment of Rule 1-A, 1-B and 1-C of Order X of the Principal Act.*—(a) Rule 1-A shall stand deleted and the following provision shall be added as Rule 4-A after Rule 4 of the Principal Act.

“At the first hearing of the suit, or at any rate, before the matter is listed for trial, the court shall after recording the admissions and denials made by the parties and formulating the terms of a possible settlement after hearing the parties, direct them to opt either of the modes of settlement outside the court as specified in sub-section (1) of Section 89. On the exercise of option by the parties or at least by one party the court shall fix the date for

appearance before such forum or authority as may be opted by the parties or fixed by the court following the relevant rules.”

(b) Rule 1-B and 1-C of Section 89 of the Principal Act shall be renumbered as 4B and 4C respectively and added after 4A incorporated as per clause (a) of this section.

5. Amendment of Section 115 of the Principal Act shall stand deleted.

Statement of Objects and Reasons

Law Commission of India in its 54th report dated 6-12-1973 has recommended the deletion of Sections 80 and 115 of the Civil Procedure Code for reasons stated in detail in its report. Law Reforms Commission, Kerala is also of the view that the above two sections should be deleted from Civil Procedure Code. The said provisions would only cause delay and protraction of the proceedings and may not advance the cause of justice. Hence provisions have been included in the Bill to delete Sections 80 and 115 from the Civil Procedure Code.

In the light of the provisions in the newly amended Section 89, the Commission feels that it will be expedient to direct the Government to constitute an Alternative Dispute Redressal Forum for deciding matters referred by the Civil Courts as provided in Section 89. If such Forums are constituted in each District, on a permanent basis the object sought to be achieved by incorporating the new provision in Section 89 can be achieved more effectively without causing undue delay. Hence the amendments.