

THE INDIAN REGISTRATION ACT (KERALA AMENDMENT) BILL, 2008

As the provisions in Section 294 of the Indian Succession Act, 1925 has been amended by Indian Succession (Kerala Amendment) Act, 2008 by treating all the offices of District Registrars as Public Registry of wills it has become necessary to amend same of the provisions of the Indian Registration Act and for that purpose.

Be it enacted in the Fifty ninth year of the Republic of India,

1. *Short title, extent and commencement.*—(1) This Act may be called Indian Registration (Kerala Amendment) Act, —

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

(3) It shall come into force at once.

2. *Amendment Section 66 of the Indian Registration Act hereinafter referred to as the Parent Act.*—(1) In Sub-Section 1 of Section 66 of the Parent Act after the word ‘immovable property’ the following words and phrases may be inserted “or a copy of the probate or letters of Administration together with the original Will” and after the word ‘memorandum of such document’ the following words and phrases may be added “a copy of the probate or letter of administration together with the copy of the original will received by him shall be added”.

3. *Amendment of Section 89 of the Parent Act.*—In Section 89 of the Parent Act before the existing Sub-Section (2) insert the following Sub-Section as Sub-Section 1A.—Every District Judge, or District Delegate shall send a copy of the probate or letter of administration with the original will to the Registrar of the District and such officer shall file the same in his Book 1, irrespective of whether it relates to immovable property or not.

4. *After Section 89 A the following Section shall be inserted as Section 89 B.*—“89B. Power to make Regulations for the preservation and inspection of wills and connected documents forwarded under Section 294 of the Indian Succession Act, 1925.

(1) The State Government may make Regulations for all purpose connected with the filing of true copies of probates and letters of Administration in Book 1.

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

(a) the manner in which true copies and extra copies to other Registrars shall be prepared and forwarded.

(b) the manner of filing of such copies and wills.

- (c) the manner in which extra copies and Memoranda shall be sent.
- (d) generally regulating the proceedings of the Registrars and Sub Registrars.
- (3) All the Regulations made under this Section shall be published in the Official Gazette and, unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.
- (4) Every Regulations 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 in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the regulations or decides that the Regulations should not be made, the regulations 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 Regulation.

Statement of Objects and Reasons

Section 294 of the Indian Succession Act, 1925, enjoins that a public Registry of wills shall be established and Regulations shall be made for the preservation and inspection of the wills filed by the District Judges and District Delegates. Office of the Registrar of the District is considered as the appropriate office of Registry for preserving the wills. As such by the Indian Succession (Kerala Amendment) Act Section 294 of the succession Act has been amended constituting all offices of the District Registrars as public Registry of wills. Since the wills are operative from the date of death of the testator, those wills are to be deemed as non-testamentary Title deeds and hence it is proper to file them in Book 1, even though it does not relate to immovable property, so that the public can inspect the same in the light of Section 57 (1) of the Registration Act, 1908, either at the office of the Registrar or Sub Registrar through the procedure prescribed in section 66 of the Registration Act, 1908. Hence this Bill.