



The Sthanam Properties (Assumption of Temporary Management and Control) and Hindu Succession (Amendment) Act, 1958

Act 28 of 1958

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Sthanamdar and Sthanam

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ACT 28 OF 1958

STHANAM PROPERTIES (ASSUMPTION OF TEMPORARY MANAGEMENT AND CONTROL) AND HINDU SUCCESSION (AMENDMENT) ACT, 1958^[1]s

AN

ACT

to provide for the assumption of management and control of sthanam properties for temporary periods and to amend the Hindu Succession Act..

Preamble.-WHEREAS it is expedient to provide for the purpose of assuming the management and control of sthanam properties in certain circumstances temporarily with a view to preserve and protect such properties and whereas it is necessary to include female sthanamdars also within the scope of the Hindu Succession Act, 1956;

BE it enacted in the Ninth Year of the republic of India as follows:-

1. *Short title and commencement.*-This Act may be called the Sthanam Properties (Assumption of Temporary Management and Control and Hindu Succession (Amendment) Act, 1958.

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

(a) "Collector" means the District Collector in whose jurisdiction the principal seat of the sthanam is located.

(b) The expressions "sthanamdar" and "sthanam Property" shall mean the "sthanamdar" and "sthanam property" to whom provisions of sub-section (3) of Section 7 of the Hindu Succession Act, 1956 apply and include the sthanam properties referred to in Section 19 of the Mappilla Marumakkathayam Act, 1939.

(c) "prescribed" means prescribed by rules made under this Act.

3. *Devolution of property on the death of the Mappilla sthanamdar.*-Notwithstanding anything contained in the Mappilla Marumakkathayam Act, 1939 or in the Mappilla Succession Act, 1918 or notwithstanding any custom or usage to the contrary when a sthanamdar who is a member of a Mappilla Marumakkathayam family dies after the commencement of this Act, the sthanam property held by him or her shall devolve on the members of the family to which the sthanamdar belonged and the heirs of the sthanamdar as if the sthanam property had been divided *per capita* immediately before the date of the sthanamdar among himself or herself and all the members of his or her family then living, and the shares falling to the members of his or her family and heirs of the sthanamdar shall be held by them as their separate property.

Explanation.-For purposes of this sub-section, the family of a sthanamdar shall include every branch of that family, whether divided or undivided the members of which would have been entitled by custom or usage to the position of sthanamdar if this Act had not been passed.

4.Competency of Government to assume management in certain cases.-Where consequent upon the death of a sthanamdar on or after the 17 th June, 1956, the sthanam properties have devolved or are to devolve upon members of the family and heirs of the Sthanamdar, the Government may, with a view to preserve and protect the properties till such time as the properties are divided among them, after holding an enquiry under Section 5 assume temporarily the management of the said sthanam properties, if an application is made in this behalf by not less than one fifth of the total number of adult members composed of the members of the family of the Sthanamdar and the heirs or ten adult members there of whichever is less.

5.Government to assume management after enquiry.-(1) If after considering the application and after such enquiry as the Government may deem fit to make the Government are satisfied that it is necessary of expedient so to do, they may, by notification in the Gazette assume the management of the sthanam properties for such period as may be specified not exceeding five years. The period specified in the notification may, by notification in the Gazette be extended or reduced by Government from time to time if circumstances so require.

(2) The management of the estate of a deceased sthanamdar which has not been taken over under sub-section (1) shall vest in the karavan of the tarwad, the members of which consistute the heirs and in cases where the heirs belong to more than one tarawad, the seniormost of the karavans among the various tarawads.

6.Collector entitled to assume and enter upon properties.-On and with effect from the date of publication of the notification under Section 5 or with effect from such other date as may be specified in the notification, the management of the sthanam properties shall vest in the Government, and thereupon the Collector shall enter upon the properties and assume management on behalf of the Government. Such assumption of management by the Collector shall be only as representing the sthanam's estate and shall not invest him with any higher right than those exercisable by the members of the family of the sthanamdar and heirs, except to the extent expressly conferred by this Act.

7.Collector to take possession.-subject to the provisions of any other laws in force for the time being, where after the assumption of management of any sthanam property under Section 6, any person is in possession of any property, and the sthanamdar was entitled to be in possession of such property, such person shall be deemed to be holding it on behalf of the Collector subject to the same terms and conditions and shall on demand surrender possession of it to the Collector or to any other person duly authorized by him in this behalf.

8. *Collector to use force when necessary.*-It any person in possession of any buildings or other movables belonging to the sthanamdar unlawfully refuses or fails on demand to surrender possession thereof to the Collector or to any person duly authorized by him in this behalf, the Collector may use or cause to be used such force as may be necessary for taking possession of such property or do any other act necessary for the said purpose and the person so refusing or failing shall be deemed to have committed an offence under Section 186 of the Indian Penal Code and shall be liable to be prosecuted therefore.

9. *Collector to do everything for the due administration.*-(1) Subject to the provisions of any rules that may be made in this behalf, the Collector may take such measures as he considers necessary or expedient for the purpose of securing, administering, possessing and managing any sthanam property and generally for the purpose of enabling him satisfactorily to discharge any of the duties imposed on him by or under this Act, and may, for any such purposes aforesaid, do all acts and incur all expenses necessary or incidental thereto.

Without prejudice to the generality of the provisions contained in sub-section (1), the Collector may, for any of the purposes aforesaid,-

(a) appoint any officer who is not below the rank of a Revenue Divisional Officer or a person who is qualified to be appointed as a Munsiff as manager for the sthanam properties and authorize the manager to exercise the powers of the Collector under this section, subject to the approval of the Board of Revenue. In making appointment connected with the maintenance and management of the estate, the Collector shall, as far as possible, try to absorb the existing staff and other employees under the sthanam and if, for any reason, any retrenchment becomes necessary, compensation may be paid to them consistent with the nature of service, conditions of employment and financial position of the estate;

(b) enter, or authorize any other person to enter any land or premises to inspect any sthanam property;

(c) take all such measures as may be necessary to keep any sthanam property in good repair;

(d) complete any building which requires to be completed;

(e) require any person to furnish such returns, accounts or other information in relation to any property and to produce such documents in his possession as the Collector considers necessary for the discharge of his duties under this Act;

(f) search any building or place in which the collector after such enquiry as he deems fit to make has reason to believe that any sthanam property is being kept or concealed, and take possession thereof;

(g)take such action as may be necessary for the recovery of any debt due to the sthanam;

(h)institute, defend or continue any legal proceeding in any civil or revenue court on behalf of the sthanam or refer any dispute to arbitration or compromise any claims, debts, or liabilities on behalf of the sthanam;

(i)raise on the security of the sthanam property such loans as may be necessary;

(j)incur any expenditure, including the payment of taxes, duties, cesses; and rate to Government or to any local authority or for the discharge of any liabilities which are legally enforceable;

(k)make interim payments on a written request by a member or her entitled to share of the sthanam property, at a rate not exceeding Rs. 100 per mensem and adjust such payments against the share of such member or heir; and

(l)invest money in any of the securities referred to in Section 20 of the Indian Trust Act, 1882.

(3) (i) It shall be lawful for the Collector who is in management of any sthanam, if a request is made in writing by the majority of the major members composed of the members of the family of the sthanamdar and his heirs, to take all necessary steps to effect the division of the sthanam properties among the members of the family and heirs and the division effected by the collector shall operate, as if it were an award under the Arbitration Act, 1940 (Central Act X of 1940) subject to right of appeal to the High Court.

(ii) Court fee shall be payable for the division as on a suit for partition before a competent court. It shall be first charge on the shares of every member of the family of the sthanamdar and his heirs.

(4)When a petition for division is pending before the collector under sub-section (3), no court shall entertain a suit for partition of the sthanam property.

10. *Collector to receive payment.*-(1) Any amount due to the sthanam or in respect of any transaction entered into by the deceased sthanamdar shall be paid to the Collector by the person liable to pay the same.

(2) Any payment made otherwise than in accordance with sub-section (1) shall not discharge the person paying it from his obligation to pay the amount due and

shall not affect the right of the Collector to enforce such obligation against any such person.

11. *Accounts and registers.*-(1) The Collector shall maintain a separate account of each sthanam property the management of which has been assumed, and shall cause to be made therein entries of all receipts and expenditure in respect thereof.

(2) The accounts shall be maintained in such form and in such manner as may be prescribed.

(3) Government shall cause the accounts maintained under this section to be inspected and audited at such intervals and by such persons as may be prescribed.

12. *Collector to be impleaded.*-(1) In every suit, appeal, application or other proceeding concerning sthanam properties, the management of which has been assumed by the Government under this Act, the Collector shall be named as the representative of the Government for the purpose of the suit, appeal application or other proceeding and in every pending suit, appeal, application or other proceeding concerning the said sthanam properties, the court may, upon application by the Collector, order that the plaint memorandum of appeal or application be amended impleading the Collector as the representative of Government.

(2) Any legal proceedings taken on behalf of or against the sthanam before the assumption of management of the sthanam properties by Government under this Act, may be continued by or against the Government after such assumption of management.

(3) No suit shall be instituted against a sthanam, the manage of which has been assumed by Government under this Act, until the expiration of two months after a notice in writing has been delivered or left at the office of the Collector stating the cause of action, the relief sought and the name and place of abode of the intending plaintiff, and the plaintiff shall contain a statement that such notice has been so delivered or left.

13. *Revenue Recovery Act to apply.*-The Collector may, during the period of management of a sthanam recover all arrears of rent and all demands recoverable as rent in respect of such sthanam and all interest due on such arrears or demands together with all the costs incurred for realizing the same as arrears of land revenue under the provisions of the Revenue Recovery Act for the time being in force if he is satisfied that the financial resources of the sthanam are such that it may not be possible to meet the cost of regular litigation from out of the surplus funds available after meeting the obligatory expenditure connected with the administration of the sthanam.

14. *Withdrawal from management.*-The Government may, at any time, after publication of the intention so to do in the manner prescribed and after such enquiry as may be deemed necessary, by notification in the Gazette, withdraw from management of

any sthanam property, the management of which has been assumed by the Government under the provisions of this Act, and if any difficulty arises in connection with the restoration of the properties to any persons entitled thereto, the Government may, by order authorize the doing of any matter or thing which appears to them necessary to facilitate such restoration.

15. *Control and supervision of management of certain sthanams.*-Where during the lifetime of a sthanamdar upon a complaint received from one fifty of the adult members of the family or ten adult members thereof whichever is less entitled to a share of the sthanam properties that the sthanamdar is guilty of gross neglect, wilful mismanagement or waste of sthanam properties or that his action are prejudicial to the sthanam, the Government may, after such preliminary enquiry as they may deem fit to make, cause a detailed enquiry to be conducted in regard to the management of the affairs of the sthanam.

16. *Detailed Enquire.*-(1) The Government may, for the purpose of enquiry into the affairs of the sthanam depute any officer not below the rank of a Revenue Divisional Officer. The officer so deputed may examine the properties movable and immovable and the accounts, registers and other record of the sthanam and submit a full report to the Collector on the result of such enquiry and inspection. The sthanamdar, and all other employees and servants of the sthanam shall furnish to the officer so deputed all information he may call for and shall assist him in the examination of the list of properties, accounts and registers. On receipt of the report, the Collector shall submit the same to the Government.

(2) If on a consideration of the report and after issuing notice to the sthanamdar to show cause why the Collector should not be ordered to exercise supervision and control over, the management by the sthanamdar of the sthanam properties and after giving a reasonable opportunity or the sthanamdar to be heard, the Government are satisfied that the sthanamdas was guilty of neglect, mismanagement or waste of sthanam property, and if the Government consider that in the interest of the sthanam it is necessary so to do, they may by notified order direct that the administration of the sthanam properties by the sthanamdar shall be carried on under the supervision and control of the Collector and subject to such restriction and conditions and directions, as the Collector may from time to time think fit to impose or give

17. *Courts not to grant injunctions.*-Notwithstanding anything contained in the Code of Civil Procedure, 1908 or in any other law for the time being in force, no court shall grant any temporary injunction or make any interim order restraining the Collector from assuming or extending the period of management under sections 5 and 6.

18. *Appeal to High Court.*- Any person aggrieved by an order passed by the Government under section 16 may appeal to the High Court within two months of the date of the order, and the High Court may pass such orders on appeal as it thinks just and proper.

19. *Collector entitled to call for accounts etc.*-In exercising the powers of supervision and control under section 16 the Collector may call for accounts, report, or other information relating to administration or management of the sthanam and the sthanamdar shall be bound to furnish such accounts, reports or other information within such time as the Collector may specify.

20. *Registers etc., to be kept in prescribed manner.*-(1) Every sthanamdar in respect of the sthanam the management of which is under supervision and control of the Collector, shall maintain registers in such manner as may be prescribed, containing the following particulars namely:-

(a) particulars of all immovable properties belonging to the sthanam;

(b) particulars of all movable properties belonging to the sthanam with their estimated value and of all investments made by the sthanamdar,

(c) particular of all liabilities; and

(d) such other particulars as the Collector may from time to time prescribe.

(2) As soon as may be after the issue of an order under section 16 and within such time as may be specified by the Collector, the sthanamdar shall furnish to the Collector a statement containing the particulars specified in sub-section (1) duly signed and verified by the sthanamdar.

(3) Any sthanamdar who fails to furnish the statement under sub-section (2) or knowingly furnished a statement which is false or incorrect in any material particular, shall be punishable with fine which may extend to one hundred rupees.

21. *Transactions without sanction of Collector void.*-On and after the date of the order issued by the Government under section 16, any sale, mortgage, exchange, pledge, lease or other alienation of property of a sthanam executed or made or any debt contracted on its behalf shall be void unless it is executed, made or contracted with the previous sanction of the Collector, provided that no such sanction shall be necessary if an alienation is made or a debt is contracted under orders of a competent Civil or Revenue Court.

22. *Expenditure charge on sthanam.*-Any expenditure incurred by the Collector in the exercise of any power conferred by or under this Act and all expenditure incurred in connection with the management, control and supervision of any sthanam shall, in relation to the sthanam in respect of which it has been incurred be a charge on such sthanam property and shall have priority over all other charges on the property, and such expenditure may be met or recouped by the Collector out of the income accruing from such property or otherwise at such rates as may be prescribed from time to time.

23. *Protection of officers.*-No suit or other legal proceeding shall lie against any officer or person in respect of anything which is in good faith done or intended to be done under this Act.

24. *Supervision, control and review.*-(1) All orders and proceeding of the Collector in exercise of his functions under this Act shall be subject to the supervision and control of the Board of Revenue.

(2) All orders and proceedings of the Board of Revenue under this Act shall be subject to the supervision and control of the Government.

(3) The supervising authority in each case may of its own motion review, and if it thinks fit revise, modify or reverse any order or proceeding.

25. *Power to make rules.*-(1) The Government may make rules for carrying into effect tee provisions of the Act.

(2). In particular and without prejudice to the generality of the foregoing power, such rules may provide,-

(a)the registers to be kept;
(b)the various accounts to be maintained;

(c)the expenditure that may be incurred;

(d)the form and the manner in which the notices are to be sent;

(e)for the continuance in service of persons under the employment of the sthanamdar at the time of his death and the conditions subject to which they shall be continued in service;

(f)for any other matter which has to be or may be prescribed

(g)the Government may by notification in the Gazette direct that any power conferred on them under this Act, except the powers under sections 4 and 5 shall in such circumstances and under such conditions, if any, as may be specified in the notification, be exercisable also by an officer, not being below the rank of a Collector.

(3). All rules made under this section shall be published in the Gazette and shall, on such publication, have effect as if enacted in this Act.

(4) All rules made under this Act shall be laid for not less than fourteen days before the Legislative Assembly as soon as possible after they are made and shall be subject to such modifications as the Legislative Assembly may make during the session in which they are so laid.

26. *Bar of limitation.*-For the purpose of any suit, appeal, or application by or on behalf of a sthanam, the management of which has been assumed under this Act in computing the period of limitation for any of the aforesaid purposes the period from the date of death of the sthanamdar up to and including a period of two months after the date on which the Collector assumed charge of the management of the sthanam shall be excluded.

27. *Amendment of Hindu Succession Act, 1956.*-In Section 7 of the Hindu Succession Act, 1956 in its application to the State of Kerala.-

(a) In sub-section (3) between the words "him" and "shall" the words "or her", between the words himself" and "and" the words "or herself" and between the words "his" and "family in the two places where they occur the words "or her" shall be respectively inserted.

(b) In the explanation to sub-section (3) the word "male" shall be omitted.

(c) The existing explanation to sub-section (3) shall be numbered as explanation I and the following shall be added as explanation II:

Explanation II.-The devolution of Sthanam properties under sub section (3) and their division among the members of the family and heir shall not be deemed to have conferred upon them in respect of immovable properties any higher rights than the sthanamdar regarding eviction or otherwise as against tenants who were holding such properties under the sthani.