



The Tamil Nadu Nambudri Act, 1932

Act 21 of 1933

Keyword(s):

Anandravan, Illom, Karnavan, Major, Minor

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THE [TAMIL NADU] NAMBU DRI ACT,
1932.

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[TAMIL NADU] ACT No. XXI OF 1933.²

[THE (TAMIL NADU) NAMBUDRI ACT, 1932.]

(Received the assent of the Governor on the 21st March 1933, and that of the Governor-General on the 12th April 1933; the assent of the Governor-General was first published in the Fort St. George Gazette on the 1st August 1933.)

An Act to define and amend in certain respects the law relating to family management, marriage, guardianship, intestate succession and partition applicable to Nambudri Brahmans and certain other communities, not governed by the Marumakkattayam law of inheritance.

Preamble.

WHEREAS it is expedient to define and amend in certain respects the law relating to family management, marriage, guardianship, intestate succession and partition applicable to Nambudri Brahmans and certain other communities, not governed by the Marumakkattayam law of inheritance;

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act;

It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the '[Tamil Nadu] Nambudri Act, 1932.

Short title
and
application.

¹ These words were substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

² For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated the 18th August 1931—Part IV, pages 224-225.

This Act was extended to the merged State of Puqukkottai by section 3 of, and the First Schedule to, the Tamil Nadu Merged States (Laws) Act, 1949 (Tamil Nadu Act XXXV of 1949).

(2) It shall apply—

(a) to all Nambudri Brahmans in the [State of Tamil Nadu] who are not governed by the Marumakkattayam law of inheritance ; and

(b) to all Nambudri Brahmans outside the [said State], not governed by the law, in respect of immovable property situated within it.

2. In this Act, unless there is anything repugnant Definitions. in the subject or context—

(a) 'anandravan' means any member of the illom other than the karnavan ;

(b) 'illom' means all the members of a Nambudri joint family with community of property and includes a 'mana' ;

Explanation.—A female shall on her marriage cease to be a member of the illom in which she was born and become a member of the illom of her husband ;

(c) 'karnavan' means the oldest male member of an illom in whom the right to management of its properties vest or in the absence of a male member the senior female member ;

Explanation.—The seniority as between two or more females, who become members of the illom by marriage, shall be determined according to the dates of their marriages ;

(d) 'major' means a person who has attained eighteen years of age ; and

(e) 'minor' means a person who has not attained eighteen years of age.

This expression was substituted for the expression 'Presidency of Madras' by the Tamil Nadu Adaptation of Laws Order, 1970, which was deemed to have come into force on the 14th January 1969.

This expression was substituted for the expression 'said Presidency' by paragraph 4 of, and the Schedule to, *ibid.*

CHAPTER II.

ILLOM AND ITS MANAGEMENT.

Proprietary
right of
members in
illom
properties.

3. (1) Every member of an illom, whether male or female, shall have an equal proprietary interest in its properties.

(2) Such proprietary interest shall not in any manner be impaired or affected by reason of the deviation of such member from any orthodox custom or usage.

Duty of
karnavan to
keep
accounts.

4. The karnavan shall keep true and correct accounts of the income and expenditure of the illom. The accounts of each year shall be available for inspection at the illom house by the major anandravans once in a year throughout the month of Kanni following such year and any such anandravan may take copies of or extracts from such accounts.

Validation
of sales,
mortgages
and leases.

5. (1) No sale or mortgage of any immovable property of an illom and no lease of any such property either for a premium returnable wholly or in part or for a period exceeding twelve years shall be valid, unless it is executed by the karnavan for consideration, for illom necessity or benefit, and with the written consent of the majority of the major members of the illom.

(2) No lease of any immovable property of an illom in cases not referred to in sub-section (1) shall be valid unless it is executed by the karnavan, and where the Malabar Tenancy Act, 1929, confers fixity of tenure on the lessee, unless also the written consent of the majority of the major members of the illom, has been obtained to the lease.

¹ This section was substituted for the original section 5 by section 48 of the Malabar Tenancy (Amendment) Act, 1951 (Tamil Nadu Act XXXIII of 1951).

² These words were substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

(3) Nothing contained in sub-section (1) or sub-section (2) shall be deemed to affect the validity of any mortgage or lease executed on or before the 27th July 1950 in accordance with the law in force at the time of such execution.]

6. No debt contracted or mortgage without possession executed by a karnavan shall bind the illom unless the debt is contracted or the mortgage is executed for illom necessity.

Debt contracted by karnavan when binding on illom.

7. Every member of an illom, whether living in the illom house or not, shall be entitled to maintenance consistent with the income and the circumstances of the illom.

Maintenance of members of illom.

8. Any karnavan may by a registered document give up his rights as karnavan.

Relinquishment of karnavanship.

CHAPTER III.

MARRIAGE.

9. Notwithstanding any custom or usage to the contrary every major male Nambudri shall, subject to the provisions of section 5 of the ²[Tamil Nadu] Marumakkattayam Act, 1932, and any other law for the time being in force, be at liberty to marry in his own community.

Right of Nambudri male to marry in his community.

²[Tamil Nadu] Act XXI of 1933.

10. (1) Any unmarried major female member of an illom who marries or has her marriage with a male belonging to her community performed with her consent by her father or any other member of her illom shall be entitled to recover from the illom properties, the reasonable expenses of such marriage as well as her dowry :

Right of major Nambudri female to have her marriage performed and recover the marriage expenses and dowry.

¹ The Hindu Marriage Act, 1955 (Central Act 25 of 1955) has an overriding effect over any other law in force immediately before the commencement of that Act, vide section 4 (b) thereof, in so far as that law is inconsistent with any of the provisions contained in that Act.

² These words were substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

Provided that not less than three months previous notice in writing of the marriage shall be given to the karnavan.

(2) The amount recoverable under sub-section (1) shall not exceed one-third of the value of the share which would fall to such female member if a division *per capita* of the properties of the illom were made among all the members thereof living on the date of the marriage, or rupees ten thousand, whichever is less :

Provided that where an illom consists of females only, the amount recoverable under this sub-section may extend to the full value of her share.

[11. * * * * *]

[12. * * * * *]

Dowry to be separate property of Nambudri female.

13. The dowry given to a Nambudri female or recovered by her under section 10 shall be her separate property.

CHAPTER IV.

GUARDIANSHIP.

Guardianship of minors.

14. (1) Subject to the provisions of sub-section (2), the following persons in the order named shall be the legal guardian of a minor, male or female, in respect of his or her person and separate property, namely, father, mother, full brothers in the order of seniority, paternal grandfather, paternal uncles in the order of seniority, father's mother and consanguine brothers in the order of seniority.

(2) The husband shall be the legal guardian of his minor wife in respect of her person and separate property.

¹ Sections 11 and 12 were repealed by section 8 of the Madras Hindu (Bigamy Prevention and Divorce) Act, 1949 (Madras Act VI of 1949).

² The Hindu Minority and Guardianship Act, 1956 (Central Act 32 of 1956) has by virtue of section 5 (b) thereof an overriding effect over any other law in force immediately before the commencement of that Act in so far as that law is inconsistent with any of the provisions contained in that Act.

Central Act VIII of 1890. 15. Nothing contained in section 14 shall be deemed to affect the operation of the Guardians and Wards Act, 1890.

Saving of the operation of Guardians and Wards Act, 1890.

CHAPTER V. INTESTATE SUCCESSION.

16. A person is deemed to die intestate in respect of all property of which he has not made a testamentary disposition which is capable of taking effect.

Property as to which a person is considered to have died intestate.

Illustrations.

- (i) A has left no will. He has died intestate in respect of the whole of his property.
(ii) A has left a will whereby he has appointed B his executor but the will contains no other provisions. A has died intestate in respect of the distribution of his property.
(iii) A has bequeathed his whole property for an illegal purpose. A has died intestate in respect of the distribution of his property.
(iv) A bequeathed Rs. 1,000 to B and Rs. 1,000 to the eldest son of C and made no other bequest and died leaving Rs. 2,000. C died before A without ever having had a son. A has died intestate in respect of the distribution of Rs. 1,000.

1 The Hindu Succession Act, 1956 (Central Act 30 of 1956) has, by virtue of section 4 (b) thereof, an overriding effect over any other law in force immediately before the commencement of this Act in so far as that law is inconsistent with any of the provisions of this Act.

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17. On the death intestate of a Nambudri male, his property which is self-acquired or separate shall, subject to the provisions of section 30 of the ¹[Tamil Nadu] Marumakkattayam Act, 1932, devolve in the order and according to the rules contained in sections 18, 19 and 20.

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18. Where the intestate has left surviving him by a marriage or marriages in his own community one or more of the following relations, namely :—

(a) a widow or widows,

(b) a son or sons,

(c) an unmarried daughter or unmarried daughters, and

(d) a lineal descendant or descendants (other than married females) in the male line through a deceased son or sons,

the whole of the property shall belong to such surviving relation or relations.

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n 18.

19. The distribution of the property among the heirs referred to in section 18 shall be made in accordance with the following rules :—

(i) The widow or, if there is more than one widow, each of the widows, shall be entitled to a share equal to that of a son or unmarried daughter.

(ii) Every son or unmarried daughter shall be entitled to an equal share :

Provided that if a son has pre-deceased the intestate his lineal descendants in the male line (other than married females) shall be entitled to the share which such son would have taken had he survived the intestate.

¹ These words were substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

(iii) The sons and unmarried daughters of a deceased son shall be entitled in equal shares to what their father would have taken had he survived the intestate :

Provided that if a son's son has pre-deceased the intestate, his lineal descendants in the male line (other than married females) shall be entitled to the share which such son's son would have taken had he survived the intestate.

(iv) In like manner, the property shall go to the surviving lineal descendants of the intestate in the male line (other than married females) where such descendants are in the degree of great-grandchildren or in a more remote degree.

Explanation.—The descendants of a son, son's son or other male descendant in the male line shall not be entitled to any share in such property, if such son, son's son or other descendant is alive at the time of the death of the intestate.

Illustrations.

(1) *Z* dies intestate leaving two widows *A* and *B*, a son *C*, a grandson *D* by such son, a married daughter *E*, an unmarried daughter *F* and by a deceased son, a grandson *G*, a married granddaughter *H* and an unmarried granddaughter *J*. *A*, *B*, *C* and *F* each gets one-fifth of the property, *G* and *J* one-tenth each and *D*, *E* and *H* do not get any share.

(2) *Z* dies intestate leaving no widow but leaving *A* a son, *B* an unmarried daughter, *E* a grandson and *F* an unmarried granddaughter by a deceased son *C*, an unmarried granddaughter *G* by a deceased son *D* and two great grandsons *H* and *J* by a deceased son of *D*. *A* and *B* will each be entitled to one-fourth of the property, *E* and *F* will each be entitled to one-eighth, *G* will be entitled to one-eighth and *H* and *J* to one-sixteenth each.

(3) *Z* dies intestate leaving no widow or child but leaving three grandsons *A*, *B* and *C* by a deceased son *X* and two unmarried granddaughters *D* and *E* by a deceased son *Y*. *A*, *B* and *C* will each be entitled to one-sixth and *D* and *E* will each be entitled to one-fourth of *Z*'s property.

20. (1) Where the intestate has not left surviving him any of the heirs mentioned in section 18, the property shall devolve on the relations and in the order specified below :—

- (1) Father ;
- (2) Mother ;
- (3) Brothers and sisters ;
- (4) Sons and unmarried daughters of brothers ;
- (5) Father's father ;
- (6) Paternal uncles ;
- (7) Sons of paternal uncles ;
- (8) Sisters' children ;
- (9) Father's paternal grandfather ;
- (10) Father's paternal grandfather's descendants in the male line, the nearer excluding the more remote ; and

(11) Father's remoter ascendants in the male line and their descendants, the nearer ascendant and his descendants excluding the more remote ascendant and his descendants and among the descendants of the same ascendant, the nearer excluding the more remote.

(2) Property devolving on two or more heirs under sub-section (1) shall be divisible among them equally.

21. (1) On the death intestate of a married Nambudri female, her property which is self-acquired or separate shall devolve on the relations and in the order specified below :—

- (1) Sons and daughters ;
- (2) Children of deceased sons ;
- (3) Sons of deceased daughters ;

- (4) Husband ;
- (5) Father ;
- (6) Mother ;
- (7) Brothers and sisters ;
- (8) Brothers' and sisters' children ;
- (9) Relations of her husband mentioned in section 18 and not included in clauses (1) and (2) ; and
- (10) Relations of her husband mentioned in sub-section (1) of section 20 in the order specified therein.

(2) Property devolving on two or more heirs under sub-section (1) shall be divisible among them equally :

Provided that where the property devolves on the relations of the husband referred to in clause (9) of sub-section (1), it shall be divisible among them in accordance with the rules laid down in section 19.

22. On the death intestate of an unmarried Nambudri female, the whole of her property which is self-acquired or separate shall devolve on her parents. In the absence of her parents, it shall devolve on her brothers and sisters in equal shares and in their absence it shall devolve on her illom.

Devolution of property left by an unmarried Nambudri female intestate.

CHAPTER VI.

PARTITION.

23. (1) Any member of an illom, male or female, may claim to take his or her share of all the properties of the illom over which it has power of disposal and separate from the illom :

Right of member to claim partition.

Provided that where a male member of an illom whose wife is also a member thereof claims to separate from the illom, he shall do so on behalf of himself

and his wife and the shares of the husband and wife shall be allotted to them jointly; and save as provided in section 24, neither the husband nor the wife shall be entitled to claim partition from the other.

(2) (a) A member of an illom separating from it under sub-section (1) shall be entitled to such share of the illom properties as would fall to him or her if a division *per capita* were made among all the members of the illom then living.

(b) A husband and wife separating from an illom under the proviso to sub-section (1) shall be entitled to such share of the illom properties as would fall to them if a division *per capita* were made among all the members of the illom then living.

(3) No claim to separate from an illom made on behalf of a minor member shall be allowed by any court unless it is satisfied that such separation would be to the benefit of such minor.

Partition on
change of
religion.

24. (1) Any member of an illom who has changed his or her religion may claim, or be compelled by any other member of the illom, to take his or her share of the illom properties and separate from the illom.

(2) The member who claims or is compelled to divide from the illom under sub-section (1) shall be entitled to such share of the illom properties as would fall to him or her if a division *per capita* were made among all the members of the illom then living.

Character of
property
taken on
partition.

25. The share obtained by any member separating from an illom under sub-section (1) of section 23 or under section 24 shall be the separate property of such member :

Provided that the share obtained by a husband and wife separating jointly under the proviso to sub-section (1) of section 23 shall be taken by them with the incidents of illom property.

CHAPTER VII.

MISCELLANEOUS.

26. Nothing contained in this Act shall be deemed ^{Saving.} to affect any law, custom or usage applicable to Nambudri Brahmans except to the extent expressly laid down in this Act.

27. The provisions of this Act shall also apply to ^{Application} the following communities in the Malabar district who ^{of the Act} are not governed by the Marumakkattayam law of ^{to certain} inheritance and who follow customs and usages similar ^{commu-} to those of the Nambudris, namely, Adigal, Elayads, ^{nities.} Moosads, Pitarans and Numbissans.