



The Mappilla Maru-Makkattayam Act, 1939

Act 17 of 1939

Keyword(s):

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THE MAPPILLA MARUMAKKATTAYAM ACT,
1939.

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¹[TAMIL NADU] ACT No. XVII OF 1939.²

[THE MAPPILLA MARUMAKKATTAYAM ACT, 1939.]

(Received the assent of the Governor-General on the 29th June 1939 ; first published in the Fort St. George Gazette on the 18th July 1939.)

WHEREAS it is expedient to define and amend in certain respects the law relating to family management, partition and succession among the Mappillas following the Marumakkattayam Law; It is hereby enacted as follows:—

CHAPTER I

Preliminary.

1. (a) This Act may be called the Mappilla Maru- Short title.
makkattayam Act, ³(1939).

(b) It shall apply to all Mappillas following the Extent.
Marumakkattayam Law, who are either domiciled in the ⁴[State of Tamil Nadu], or have property situate within the ⁴[State of Tamil Nadu].

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

(a) “Anandravan” means any member of a tarwad or tavazhi, as the case may be, other than the karnavan.

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 12th October 1937, Part IV, pp 52—53.

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

³ These figures were substituted for the figures “1938” by section 3 (1) of, and the Second Schedule to, the Tamil Nadu Repealing and Amending Act, 1951 (Tamil Nadu Act XIV of 1951).

⁴ This expression was substituted for the expression ‘State of Madras’ by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

(b) "Karnavan" means the oldest major male member of a tarwad or tavazhi, as the case may be, in whom the right to management of its properties vests or in the absence of such a male member, the oldest major female member; or where by custom or family usage, the right to such management vests in the oldest major female member, such female member.

(c) "Major" means a person who has attained eighteen years of age.

(d) "Marumakkattayam" means the system of inheritance in which descent is traced in the female line.

(e) "Minor" means a person who has not attained eighteen years of age.

(f) "Tarwad" means a joint family which includes all its members with community of property governed by the Marumakkattayam Law.

(g) "Tavazhi" means a branch of a tarwad consisting of a female, her children and all her descendants in the female line.

CHAPTER II

Tarwad and its Management.

3. The karnavan shall maintain a true and correct inventory of all the movable and immovable properties belonging to the tarwad.

4. The karnavan shall keep true and correct accounts of the income and expenditure of the tarwad.

5. (1) The inventory and the accounts of each year of the Malabar Era shall be available for inspection at the tarwad house by the major anandravans throughout the month of Vrischikam following such year, and any such anandravan may take copies of or extracts from the same.

Duty of the karnavan to maintain an inventory.

Duty of the karnavan to keep accounts.

Right of anandravans to inspect inventory and accounts.

(2) If the inventory or accounts are not made available for inspection as provided for in sub-section (1), the Court of a District Munsif having jurisdiction over the place ¹[where the tarwad house is situated, or where such house is situated outside the ²(State of Tamil Nadu), the Court of a District Munsif having jurisdiction over the place where any property of the tarwad is situated] may, on application by any major anandravan, and after notice to the karnavan, pass an order causing the inventory or accounts to be produced in court and allowing the anandravan to inspect, or to take copies of or extracts from, such inventory or accounts.

6. Every member of a tarwad whether living in the tarwad house or not, shall be entitled to maintenance consistent with the income and the circumstances of the tarwad. Right of every member for maintenance.

7. Any surplus left out of the income of a tarwad after providing for the customary or legitimate expenses of the tarwad including charges pertaining to the education, marriage, or death of the member of the tarwad, and the charges necessary for zakat and the proper maintenance or upkeep of the tarwad properties, shall be applied by the karnavan in the purchase of immovable property for the tarwad or otherwise invested to the best advantage of the tarwad. Investment of surplus income.

³[8. (1) No sale or mortgage of any immovable property of a tarwad 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 Validity of sales, mortgages and leases.

¹ These words were substituted for the words "where the tarwad house is situated," by clause 3 of, and the Schedule to, the Madras Adaptation of Laws Order, 1957.

² This expression was substituted for the expression "State of Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

³ This section was substituted for the original section 8 by section 2 of the Mappilla Marumakkattayam (Amendment) Act, 1954 (Tamil Nadu Act XXXVIII of 1954)

valid, unless it is executed by the karnavan for consideration, for tarwad necessity or benefit, and with the written consent of the majority of the major members of the tarwad.

(2) No lease of any immovable property of a tarwad 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, 1929,¹ [Tamil Nadu] Act XIV of 1930. confers fixity of tenure on the lessee, unless also the written consent of the majority of the major members of the tarwad has been obtained to the lease.

(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 date on which the *Mappilla Marumakkattayam* (Amendment) Act, 1954, comes into force, in accordance with the law in force at the time of such execution.] [Tamil Nadu] Act XXXVIII of 1954.

Debt contracted by karnavan when binding on tarwad.

9. No debt contracted or mortgage without possession executed by a karnavan shall bind the tarwad unless the debt is contracted or the mortgage is executed for tarwad necessity.]

Immovable property when liable for attachment or sale for maintenance.

10. No immovable property of the tarwad shall be liable to attachment or sale in execution of any decree obtained by an anandravan for maintenance, until after the decree-holder has exhausted his remedies, if any, against the personal property of the karnavan or the income of the tarwad property.

Right to remove karnavan by suit.

11. An anandravan may institute a suit in a civil court for the removal of a karnavan—

- (i) for any malfeasance, misfeasance, breach of trust or neglect of duty in respect of the tarwad ;
- (ii) for any misappropriation or improper dealing with the income or the properties of the tarwad ;

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) for unsoundness of mind or any physical or mental infirmity which unfits him for discharging the functions of a karnavan ;

(iv) for persistent default in the maintenance of the inventory referred to in section 3 or the accounts referred to in section 4 or in making them available for inspection by the anandravans under section 5 ; or

(v) for any other sufficient cause which, in the opinion of the court, makes his continuance as karnavan injurious to the interest of the tarwad.

12. Any karnavan may, by a registered document, give up his right of management. Relinquishment of right of management by karnavan.

CHAPTER III

Partition.

13. Any individual member of a tarwad may claim to take his or her share of the properties of the tarwad over which the tarwad has power of disposal and separate from the tarwad. Right of individual members to claim partition.

14. Two or more members belonging to the same tavazhi may claim to take their share of the properties of the tarwad over which the tarwad has power of disposal, separate from the tarwad, and enjoy the same jointly, with all the incidents of tarwad property. Right of tavazhi to claim partition.

15. For purposes of sections 13 and 14, a minor member of a tarwad shall be represented by his or her mother and in the absence of the mother, by his or her guardian under the Islamic Law. Representation of minor in claim to partition.

16. In a partition of tarwad properties, unless two-thirds of the members of the tarwad desire to the contrary, the tarwad house including the site or sites of any building appurtenant thereto and such other land as is necessary for the convenient enjoyment of the tarwad house shall be kept undivided for the Partition of tarwad house.

common use of all the members of the tarwad, in which case, the charges of upkeep and maintenance of the tarwad house shall be borne by the member or members that live in the house :

Provided that where such house is no longer used or required for purposes of residence or is continually neglected, such house, site or sites and land may be divided among the members of the tarwad entitled thereto.

Ascertainment of share at partition.

17. In case of a division under section 13 or section 14, the individual member, or the members of the tavazhi as the case may be, shall be entitled to such share or shares of the tarwad properties as would fall to such individual member or such members, if a division *per capita* were made among all the members of the tarwad then existing.

Subsequent devolution of the property.

18. Succession to the property obtained by an individual member on partition shall be governed by the Islamic Law of inheritance.

Exemption of Arakkal family from partition.

19. The provisions of this chapter shall not apply to the Arakkal family or to the stanom properties of the Ali Rajas of Cannanore.

CHAPTER IV

Registration of Tarwads.

Registration as impartible tarwad.

20. (1) If within a year from the passing of this Act not less than two-thirds of the major members of a tarwad present a petition to [the Collector of the district in which any property of the tarwad is situated] in such form and with such particulars as may be prescribed he shall, after satisfying himself that not less than two-thirds of the major members of the tarwad consent and desire the registration of the tarwad as impartible, register the tarwad as impartible.

¹ These words were substituted for the words "the Collector of the district," by clause 3 of, and the Schedule to, the Madras Adaptation of Laws Order, 1957.

(2) On such registration the provisions of Chapter III shall not apply to such tarwad unless and until the registration is cancelled under section 21.

(3) During the pendency of a petition under sub-section (1) of this section, all proceedings in court, if any, under Chapter III shall be stayed.

21. (1) If at any time after the registration of a tarwad as impartible, not less than two-thirds of the members of the tarwad present a petition to the Collector in such form and with such particulars as may be prescribed for the cancellation of such registration the Collector shall, after satisfying himself that not less than two-thirds of the major members of the tarwad consent and desire the cancellation of the registration, cancel such registration.

Cancellation
of regis-
tration.

(2) On such cancellation the provisions of Chapter III shall apply to such tarwad.

22. The Collector shall, for the purposes of this chapter, have the same powers as are vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely :—

Collector's
powers.

(a) enforcing of attendance of any person and examining him on oath or affirmation;

(b) compelling the production of documents ;
and

(c) issuing commissions for the examination of witnesses ; and any proceeding before the Collector under this chapter shall be deemed to be a judicial proceeding.

23. The order of the Collector registering a tarwad as impartible under section 20 or cancelling such registration under section 21, shall be final and shall not be questioned in any civil court.

Collector's
order to be
final.

24. The Collector shall keep a register of all petitions presented to him under sections 20 and 21 and of all orders passed by him on such petitions and shall on payment of the prescribed fee, give a copy certified under his hand, of any entry therein.

Collector to
maintain a
register.

CHAPTER V

General.

Chapters II and III to apply to tavazhi.

25. The provisions of Chapters II and III shall apply to every tavazhi possessing separate properties as if it were a tarwad.

State Government to make rules.

26. The [State] Government may make rules consistent with this Act to carry out the provisions thereof and these rules shall have effect as if enacted in this Act from the date of publication of the same in the *Fort St. George Gazette*.

Savings.

27. Nothing contained in this Act shall be deemed to affect the provisions of the Mappilla Succession Act, 1918, or of the Mappilla Wills Act, 1928, or of any law or custom or usage except to the extent expressly laid down in this Act.

²[Tamil Nadu] Act I of 1918.
³[Tamil Nadu] Act VII of 1928.

¹ This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

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.