

Thirteenth Kerala Legislative Assembly
Bill No. 143

THE KERALA STAMP (AMENDMENT) BILL, 2012

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further to amend the Kerala Stamp Act, 1959.

Preamble.—WHEREAS, it is expedient further to amend the Kerala Stamp Act, 1959 for the purposes hereinafter appearing ;

BE it enacted in the Sixty-third Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Stamp (Amendment) Act, 2012.

(2) It shall be deemed to have come into force on the 1st day of April, 2010.

2. *Amendment of section 28A.*—In the Kerala Stamp Act, 1959 (17 of 1959) (hereinafter referred to as the principal Act), in sub-section (4) of section 28A,—

(a) for the words “thirty days”, the words “one year” shall be substituted;

(b) to the existing provision, the following proviso shall be added, namely:—

“Provided that the Collector may admit an appeal preferred after the said period of one year if he is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period.”.

3. *Validation.*—Notwithstanding anything contained in the principal Act or in any judgment, decree or order of any court or authority, all appeals filed or deemed to have been filed by any person under sub-section (4) of section 28A of the principal Act during the period on and from the 1st day of April, 2010 to the 25th day of October, 2010, the date of publication of the Kerala Stamp (Amendment) Ordinance, 2010 (54 of 2010) and any action taken or deemed to have been taken by any authority in respect of such appeal, not inconsistent with the provisions of the principal Act as amended by this Act, shall be deemed to have been validly filed or taken under the principal Act as amended by this Act.

4. *Repeal and saving.*—(1) The Kerala Stamp (Amendment) Ordinance, 2012 (47 of 2012) is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

Sub-section (1) of section 28A of the Kerala Stamp Act, 1959 (17 of 1959) empowers the Revenue Divisional Officer to fix the fair value of the lands situate within the area of his jurisdiction for the purpose of determining the duty chargeable at the time of registration of instruments involving lands. Accordingly, twenty one Revenue Divisional Officers in the State have fixed the fair value of lands in the State and necessary Gazette notification was published in the Kerala Gazette Extraordinary No. 515 dated 6th March, 2010.

2. Sub-section (4) of the said section provides that any person aggrieved by the fixation of fair value under sub-section (1), may within thirty days of its publication under sub-section (3), appeal to the Collector. As it was found necessary to provide further time to the persons aggrieved by fixation of fair value to file appeal, Government decided to extend the time limit for filing appeal under sub-section (4) of section 28A from thirty days to ninety days. As the Gazette notification fixing fair value of land was published on 6th March, 2010, in order to carry out the purpose, the Government consider it necessary to give retrospective effect to the amendment from the 1st day of April, 2010.

3. As the Legislative Assembly was not in session and as the above proposals had to be given effect to immediately, the Governor of Kerala had promulgated the Kerala Stamp (Amendment) Ordinance, 2010 on the 26th day of May, 2010 and the same was published as Ordinance No. 20 of 2010 in the Kerala Gazette Extraordinary No. 1223 dated 27th May, 2010.

4. A Bill to replace the Kerala Stamp (Amendment) Ordinance, 2010 (20 of 2010) by an Act of the State Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 28th day of June, 2010 and ended on the 29th day of July, 2010. Therefore, in order to keep alive the provisions of the said Ordinance, the Kerala Stamp (Amendment) Ordinance, 2010 was promulgated by the Governor of Kerala on the 8th day of August, 2010 and the same was published as Ordinance No. 39 of 2010 in the Kerala Gazette Extraordinary No. 1819 dated 8th August, 2010.

5. Since the Gazette notification fixing fair value of land was published on 6th March, 2010 and the appeal period extended to ninety days by Ordinance No. 39 of 2010, expired on 4th June, 2010. The Government have examined the matter again in detail and found it necessary to further extend the time limit for filing appeal to one year from the date of publication of notification fixing the fair value of land and to empower the District Collector to admit appeal even after the period of one year, if he is satisfied that the appellant had sufficient cause for not preferring the appeal within the stipulated period.

6. As the Legislative Assembly was not in session and the above proposals had to be given effect to immediately, the Kerala Stamp (Amendment) Ordinance, 2010 repealing the Kerala Stamp (Amendment) Ordinance, 2010 (39 of 2010) and giving retrospective effect to the provisions of the Ordinance from the 1st day of April, 2010 and by validating all acts done or deemed to have been done during the period, was promulgated by the Governor of Kerala on the 22nd day of October, 2010 and the same was published as Ordinance No. 54 of 2010 in the Kerala Gazette Extraordinary No. 2357 dated 25th October, 2010.

7. A Bill to replace the Kerala Stamp (Amendment) Ordinance, 2010 (54 of 2010) by an Act of the State Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 21st day of December, 2010 and ended on the 3rd day of January, 2011. Therefore, in order to keep alive the provisions of the said Ordinance, the Kerala Stamp (Amendment) Ordinance, 2011 was promulgated by the Governor of Kerala on the 22nd day of January 2011 and the same was published as Ordinance No. 5 of 2011 in the Kerala Gazette Extraordinary No. 151 dated 23rd January, 2011.

8. A Bill to replace the Kerala Stamp (Amendment) Ordinance, 2011 (5 of 2011) by an Act of the State Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 4th day of February, 2011 and ended on the 24th day of February, 2011. Therefore, in order to keep alive the provisions of the said Ordinance, the Kerala Stamp (Amendment) Ordinance, 2011 was promulgated by the Governor of Kerala on the 17th day of March, 2011 and the same was published as Ordinance No. 30 of 2011 in the Kerala Gazette Extraordinary No. 654 dated 18th March, 2011.

9. A Bill to replace the said Ordinance by an Act of the State Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 1st day of June, 2011 and ended on the 20th day of July, 2011.

10. As per the provisions of sub-clause (a) of clause 2 of article 213 of the Constitution of India, an Ordinance promulgated shall cease to operate at the expiration of six weeks from the re-assembly of the Legislature. Accordingly, the said Ordinance ceased to operate on the 13th day of July, 2011.

11. As the Legislative Assembly was not in session and the provisions of the said Ordinance had to be kept alive again and for validating anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the Kerala Stamp (Amendment) Ordinance, 2011 (30 of 2011) and also during the period from the 1st day of April, 2010 to the 25th day of October, 2010 in the matter of filing appeal under sub-section (4) of section 28A by any person and any action taken in furtherance thereof by any authority and anything done or any action taken after the cesser of operation of the Kerala Stamp (Amendment) Ordinance, 2011 (30 of 2011), the Kerala Stamp (Amendment) Ordinance, 2012 was promulgated by the Governor of Kerala on the 16th day of January, 2012 and the same was published as Ordinance No. 2 of 2012 in the Kerala Gazette Extraordinary No. 113 dated 17th day of January, 2012.

12. A Bill to replace the Kerala Stamp (Amendment) Ordinance, 2012 (2 of 2012) by an Act of the State Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 1st day of March, 2012 and ended on the 23rd day of March, 2012. Therefore, in order to keep alive the provisions of the said Ordinance, the Kerala Stamp (Amendment) Ordinance, 2012 was promulgated by the Governor of Kerala on the 11th day of April, 2012 and the same was published as Ordinance No. 28 of 2012 in the Kerala Gazette Extraordinary No. 730 dated 11th April, 2012.

13. Though a Bill to replace the Kerala Stamp (Amendment) Ordinance, 2012 (28 of 2012) by an Act of the State Legislature was published as Bill No. 98 of the Thirteenth Kerala Legislative Assembly, the same could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 11th day of June, 2012 and ended on the 25th day of July, 2012.

14. As per the provisions of sub-clause (a) of clause 2 of article 213 of the Constitution of India, an Ordinance promulgated shall cease to operate at the expiration of six weeks from the re-assembly of the Legislature. Accordingly the said Ordinance ceased to operate on the 23rd day of July, 2012.

15. As the Legislative Assembly was not in session and the provisions of the said Ordinance had to be kept alive again and for validating anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the Kerala Stamp (Amendment) Ordinance, 2012 (28 of 2012) and anything done or any action taken after the cesser of operation of the above said Ordinance, the Kerala Stamp (Amendment) Ordinance, 2012 was promulgated by the Governor of Kerala on the 11th day of August, 2012 and the same was published as Ordinance No. 47 of 2012 in the Kerala Gazette Extraordinary No. 1702 dated 13th August, 2012.

16. The Bill seeks to replace Ordinance No. 47 of 2012 by an Act of the State Legislature.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

ANOOP JACOB.

EXTRACT OF THE RELEVANT PORTIONS FROM
THE KERALA STAMP ACT, 1959
(17 OF 1959)

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28A. *Fixation of fair value of land.*—(1) Every Revenue Divisional Officer shall, subject to such rules as may be made by the Government in this behalf, fix the fair value of the lands situate within the area of his jurisdiction, for the purpose of determining the duty chargeable at the time of registration of instruments involving lands.

(2) The Revenue Division Officer shall, in fixing the fair value of a land under sub-section (1), have regard *inter alia* to the following matters, namely:—

(a) development of the area in which the land is situate such as the commercial importance, facilities for water supply, electricity, transport and communications ;

(b) proximity of the land to markets, bus stations, railway stations, factories, educational institutions or other institutions ;

(c) the geographical lie of the land, the nature of the land such as dry, waste, wet or garden land, fertility, nature of crop, yielding capacity and cost of cultivation ; and

(d) such other matters as may be provided under this Act.

(3) The fair value of the land fixed under sub-section (1) shall be published in such manner may be provided in the rules and under this Act.

(4) Any person aggrieved by the fixation of fair value under sub-section (1) may within thirty days of its publication under sub-section (3), appeal to the Collector.

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