

Fourteenth Kerala Legislative Assembly

Bill No. 250

**THE KERALA PRIVATE FORESTS (VESTING AND
ASSIGNMENT) (AMENDMENT) BILL, 2020**

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(AMENDMENT) BILL, 2020

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further to amend the Kerala Private Forests (Vesting and Assignment) Act, 1971.

Preamble.—WHEREAS, it is expedient further to amend the Kerala Private Forests (Vesting and Assignment) Act, 1971 for the purposes hereinafter appearing;

BE it enacted in the Seventy-first Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Private Forests (Vesting and Assignment) (Amendment) Act, 2020.

(2) It shall be deemed to have come into force on the 10th day of May, 1971.

2. *Amendment of section 3.*—In section 3 of the Kerala Private Forests (Vesting and Assignment) Act, 1971 (26 of 1971), after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) Notwithstanding anything contained in any other law for the time being in force or in any judgment, decree or order of any Court or Tribunal, a certificate of purchase issued under sub-section (1) of section 72K of the Kerala Land Reforms Act, 1963 (1 of 1964) shall only be a relevant document but not a conclusive proof for the purpose of this Act for proving that the land held by a person was under the personal cultivation as on the date of commencement of this Act.”.

STATEMENT OF OBJECTS AND REASONS

The Kerala Private Forests (Vesting and Assignment) Act, 1971 (26 of 1971) provides for vesting in the Government of private forests in the State and for the assignment thereof to agriculturists and agricultural labourers for cultivation.

As per sub-section (2) of section 72K of the Kerala Land Reforms Act, 1963, (1 of 1964) the certificate of purchase issued under sub-section (1) shall be conclusive proof of the assignment to the tenant of the right, title and interest of the landowner and the intermediaries, if any, over the holding or portion thereof to which the assignment relates. The Hon'ble Supreme Court in State of Kerala V. Mohammed Basheer [2019 (1) KLT-386 (SC)] has held that the certificate of purchase issued under sub-section 2 of section 72K of the Kerala Land Reforms Act, 1963 (1 of 1964) is also a conclusive proof that the respondent has been in possession of the land as a cultivating tenant and the land is exempted from vesting under sub-section 2 of section 3 of the Kerala Private Forests (Vesting and Assignment) Act, 1971(26 of 1971). The said judgment will have far reaching consequences in respect of forest lands in the State and would cause heavy loss of pristine forests in the State. If this situation prevails, 90% of the pending cases before the Hon'ble High Court of Kerala under the Kerala Private Forests (Vesting and Assignment) Act, 1971(26 of 1971), are likely to be decided against the State. This will create devastating and sweeping effects in the private forest litigations. Hence the Government have decided to amend section 3 of the Kerala Private Forests (Vesting and Assignment) Act, 1971(26 of 1971).

The Bill is intended to achieve the above objects.

FINANCIAL MEMORANDUM

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

K. RAJU.

EXTRACT FROM THE KERALA PRIVATE FORESTS
(VESTING AND ASSIGNMENT) ACT, 1971

(26 OF 1971)

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3. *Private forests to vest in Government.*—(1) Notwithstanding anything contained in any other law for the time being in force, or in any contract or other document, but subject to the provisions of sub-sections (2) and (3), with effect on and from the appointed day, the ownership and possession of all private forests in the State of Kerala shall by virtue of this Act, stand transferred to and vested in the Government free from all encumbrances, and the right, title and interest of the owner or any other person in any private forest shall stand extinguished.

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(4) Notwithstanding anything contained in the Kerala Land Reforms Act, 1963, private forests shall for the purposes of sub-section (2) or sub-section (3), be deemed to be lands to which Chapter III of the said Act is applicable and for the purposes of calculating the ceiling limit applicable to an owner private forests shall be deemed to be "other dry lands" specified in Schedule II to the said Act.

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