

Fifteenth Kerala Legislative Assembly

Bill No. 200

THE KERALA REVENUE RECOVERY (AMENDMENT) BILL, 2024

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BILL

further to amend the Kerala Revenue Recovery Act, 1968

Preamble.—WHEREAS, it is expedient further to amend the Kerala Revenue Recovery Act, 1968 for the purposes hereinafter appearing;

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

1. Short title and commencement.—(1) This Act may be called the Kerala Revenue Recovery (Amendment) Act, 2024.

(2) It shall come into force at once.

2. Amendment of section 2.—In section 2 of the Kerala Revenue Recovery Act, 1968 (15 of 1968) (hereinafter referred to as the principal Act),—

(i) after clause (b), the following clauses shall be inserted, namely:—

“(ba) “bought-in-land” means and includes any immovable property purchased by the Government under sub-section (2) of section 50 of this Act;

(bb) “collection charges” means and includes any amount payable by the defaulter to the Government, at such rate as may be prescribed by the Government in this behalf, for the realisation of amount under the provisions of this Act;”;

(ii) in item (ii) of clause (d) after the words “any property attached”, the words “and service of the notice under postage” shall be inserted;

(iii) after clause (f), the following clause shall be inserted, namely:—

“(fa) “e-auction” means an auction conducted through online;”;

(iv) after clause (i), the following clause shall be inserted, namely:—

“(ia) “processing charge” means the amount payable to the Government by an institution notified under section 71 of this Act, at such rate as may be prescribed by the Government in this behalf, in the instances of realisation of arrears directly by the requisition authority after the initiation of revenue recovery proceedings;”.

3. *Amendment of section 6.*—In section 6 of the principal Act,—

(i) for the words “ twelve per cent” , the words “ nine per cent” shall be substituted;

(ii) after the existing provision, the following proviso shall be added, namely:—

“Provided that such interest shall not exceed the contractual rate of interest, if any, entered into between the defaulter and the institution, in cases where the recovery is initiated upon the application of the institution notified under section 71 of this Act.”.

4. *Amendment of section 12.*—In sub-section (1) of section 12 of the principal Act,—

(i) after the words “public auction”, the words “which may include e-auction” shall be inserted;

(ii) after the words “notice shall also be published”, the words “in a newspaper having circulation in the area in which the attachment or sale takes place or both and in the website of the District Administration concerned” shall be inserted.

5. *Amendment of section 36.*— In section 36 of the principal Act, after sub-section (2), the following sub-section shall be added, namely:—

“(3) The attachment of immovable property shall be proportionate to the amount of arrear. The Collector shall fix the value of the property in accordance with the provisions contained in clause (b) of sub-section (1) of section 26, sections 27, 28 and 29 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013).”.

6. *Amendment of section 44.*—In section 44 of the principal Act, after sub-section (3) the following sub-section shall be inserted, namely :—

“(4) Notwithstanding anything contained in this Act, the defaulter may be permitted to make an agreement for sale of the immovable property attached wholly or in part after getting permission from the Collector upon an application jointly submitted by the defaulter and the purchaser of the property. The purchaser shall, before executing the sale deed, remit the revenue recovery dues with interest and other charges out of the sale consideration as per the said agreement at the Village office or at the treasury through challan and the original receipt shall be produced before the Collector.”.

7. *Amendment of section 49.*—In section 49 of the principal Act,—

(i) in item (1) after the words “public auction”, the words and symbol “including e-auction” shall be inserted;

(ii) in item (2) after the words “duly served and published”, the words “in a newspaper having circulation in the area in which the attachment or sale takes place or both and in the website of the District Administration concerned” shall be inserted.

8. *Amendment of section 50.*—In section 50 of the principal Act,—

(1) for the marginal heading, the following marginal heading shall be substituted, namely:—

“*Bidding on behalf of the Government or the institution notified under section 71 of this Act*”;

(2) in sub-section (2),—

(a) in item (i), for the words “on behalf of the Government for an amount of ten paise”, the words and figure “on behalf of the Government or the institution notified under section 71 of this Act for an amount of one rupee” shall be substituted;

(b) in item (ii),—

(i) for the words "on behalf of the Government for an amount higher than such bid by ten paise", the words, figure and symbols "on behalf of the Government or the institution notified under section 71 of this Act, as the case may be, for an amount higher than such bid by one rupee," shall be substituted;

(ii) after the words "in either case the Government", the words and figure "or the institution notified under section 71 of this Act" shall be inserted;

(3) in sub-section (3), after the words "on behalf of the Government", the words and figure "or the institution notified under section 71 of this Act" shall be inserted;

(4) in sub-section (4),—

(a) after the words "on behalf of the Government", the words and figure "or the institution notified under section 71 of this Act" shall be inserted;

(b) after the words "take possession of the property", the words figure and symbols "and if the property is purchased under this section on behalf of the institution notified under section 71, possession of the property shall be handed over to such institution and appropriate changes shall be effected in the revenue records, after realizing the collection or processing charges from such institution" shall be inserted;

(5) after sub-section (4), the following sub-sections shall be added, namely:—

"(5) When a property is purchased as bought-in-land, necessary changes are to be made in the village records and the same shall be intimated to the defaulter and to the Sub-registry office concerned in the prescribed form.

(6) When an immovable property is purchased on behalf of the Government or any institution notified under section 71 of this Act, the Collector shall fix the value of the property and it shall be deducted from the total amount of arrear with interest and other charges due to Government or the institution notified under section 71 of this Act. The Collector shall fix the value of the property in accordance with the provisions contained in clause (b) of sub-section (1) of

section 26, sections 27, 28 and 29 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013).”

9. *Insertion of new section 50A.*—After section 50 of the principal Act, the following section shall be inserted, namely:—

“50A. *Reconveyance of Bought-in-Land.*—(1) If the defaulter applies for re-conveyance of bought-in-land within a period of 5 years from the date of confirmation of sale, after remitting the entire revenue recovery dues with processing charge and interest till the date of application with the permission of the Collector, the Collector shall on the acceptance of the original receipt or treasury challan of such remittance and ensuring that the arrears are realized in full, order reconveyance of such bought-in-land in favour of the defaulter. In cases where the property is purchased as bought-in-land in favour of the institution notified under section 71, if the defaulter applies for reconveyance of bought-in-land within a period of 5 years from the date of confirmation of sale, after remitting the entire revenue recovery dues with processing charge and interest till the date of application with the permission of the Collector, the institution concerned on satisfaction of the same shall reconvey the bought-in-land in favour of the defaulter.

(2) No application for reconveyance of bought-in-land shall be entertained on expiry of five years from the date of confirmation of such sale.

(3) The Government or the institution notified under section 71 of this Act shall not transfer the land or set apart the land for any public purpose for the said period of five years and no changes shall be made on the property during such period.”

10. *Amendment of section 54.*—In section 54 of the principal Act, in the proviso after the words and symbols “which has been made and rejected, he may, after” the words “ giving the parties concerned a reasonable opportunity of being heard and” shall be inserted.

11. *Amendment of section 57.*—For sub-section (2) of section 57 of the principal Act, the following sub-section shall be substituted, namely:—

“(2) The certificate of sale issued under sub-section (1) shall be registered as per the provisions of the Indian Registration Act, 1908 (Central Act 16 of 1908).”.

12. *Amendment of section 69.*—In sub-section (2) of section 69 of the principal Act, after the words “certified by him”, the words “before the debt is barred by limitation under the Limitation Act, 1963 (Central Act 36 of 1963)” shall be inserted.

13. *Amendment of section 74.*—In section 74 of the principal Act,—

(i) in item (a) the word “male” shall be omitted;

(ii) in item (b) after the word “by registered post” the words and symbol “or by e-mail” shall be inserted;

14. *Insertion of new sections 83A, 83B and 83C.*—After section 83 of the principal Act, the following sections shall be inserted, namely:—

“83A. *Special power of the Government to issue stay and instalments.*—Notwithstanding anything contained in this Act or rules made thereunder, after the service of a demand notice under section 7 or section 34, upon an application by the defaulter, the Government may postpone further proceedings under this Act for a specified period not exceeding one year and the Government or such other officer duly empowered by the Government may allow the defaulter to remit such arrear in instalments subject to such other conditions, as may be prescribed by the Government, except the cases of compensation under the Workmen Compensation Act, 1923 (Central Act 8 of 1923), gratuity benefits amount to be paid in compliance with the order of any Courts or Tribunals.

83B. *Power of the Government to issue Moratorium.*—Notwithstanding anything contained in this Act, the Government have the power to issue moratorium for the entire revenue recovery proceedings for a specific period subject to the conditions and guidelines, as may be prescribed by the Government, from time to time.

83C. Settlement Scheme.—The Government or requisition authority of the institutions notified under section 71 may introduce settlement scheme for the recovery of arrear amounts before the period stipulated under section 50A of this Act for the reconveyance of the bought-in-land. The settlement entered into between the defaulter and the requisition authority after initiation of revenue recovery proceedings shall be done under the prior intimation of the Collector or authorised officer concerned:

Provided that in such instances of settlement of arrears under the settlement scheme, the requisition authority concerned is liable to remit the expenses incurred in connection with the recovery proceedings till the date of such settlement along with the processing charges as prescribed under clause (ia) of section 2 before the Collector.”.

STATEMENT OF OBJECTS AND REASONS

Certain practical difficulties are being experienced by the Government while implementing certain provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968) regarding collection charge, processing charge, bought-in-land, and its reconveyance. As per the existing provisions of the Act, e-auction, modern method of service of notice such as e-mail are not provided. There is no provision in the Act which empower the Government to issue stay, instalments for dues, moratorium and to enable the defaulter to sell the property once the revenue recovery proceedings has been initiated. Provision has also incorporated to reconvey the property purchased by the Government or the institution notified under section 71 as bought-in-land within a period of five years if the defaulter settles the entire dues and charges connected therewith.

The Government have decided to incorporate the provisions for the above said purposes and to enable the defaulter to sell the property with the permission of the Collector and to make suitable amendments in the said Act.

FINANCIAL MEMORANDUM

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

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (bb) of section 2 which is proposed to be inserted in the principal Act by clause 2 of the Bill authorise the Government to prescribe the rate of collection charges payable by the defaulter to the Government.

Sub-clause (ia) of section 2 which is proposed to be inserted in the principal Act by clause 2 of the Bill authorise the Government to prescribe the rate of processing charge payable to the Government by an institution notified under section 71 of the Act.

Sub-section (5) of section 50 which is proposed to be inserted in the principal Act by clause 8 of the Bill authorise the Government to prescribe the form to intimate the defaulter and the Sub-registry office regarding changes in the village records when the property is purchased as bought-in-land.

Section 83A which is proposed to be inserted in the principal Act by clause 14 of the Bill authorise the Government to prescribe conditions to remit the revenue recovery arrear in instalments.

Section 83B which is proposed to be inserted in the principal Act by clause 14 of the Bill authorise the Government to prescribe conditions and guidelines to issue moratorium for the entire revenue recovery proceedings.

The matters in respect of which rules may be made or notifications may be issued are matters of procedure and are of routine or administrative nature. Further, the rules or notifications after they are made, are subject to scrutiny by the Legislative Assembly. The delegation of legislative power is, therefore, of a normal character.

K. RAJAN.

**EXTRACT FROM THE KERALA REVENUE RECOVERY
ACT, 1968
(ACT 15 OF 1968)**

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

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(b) “authorised officer” referred to in any provision of this Act means the officer authorised by the Collector under section 73 to exercise the powers or perform the functions of the Collector under that provision;

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(d) “cost of process” includes—

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(ii) the expenses incurred in connection with the attachment of any property and the removal, storing and guarding of any property attached; and

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(f) “District Collector” or “Collector of the district” means the chief officer in charge of the revenue administration of a district and includes an acting or officiating District Collector;

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(i) “prescribed” means prescribed by rules made under this Act;

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6. Interest on arrears of public revenue due on land.-- Arrears of public revenue due on land shall bear interest at the rate of twelve per cent per annum or at such other rate as may be notified by the Government from time to time in the Gazette.

12. *Sale of attached property.*—(1) Subject to the provisions of sub-sections (2) and (3), the property attached may be sold in public auction. A copy of the list or inventory of the property to be sold, together with a notice under the signature of the Collector or the authorised officer specifying the place and the day and hour at which, and also the person by whom, the property will be sold, shall be served on the defaulter. A copy of the list or inventory of the property and a copy of the notice shall also be published.

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36. *Mode of attachment.*—(1) The attachment shall be effected by affixing a notice thereof to some conspicuous part of the immovable property to be attached and by serving a copy on the defaulter. The notice of attachment shall also be published. The notice shall specify the name of the defaulter, the amount of arrear of public revenue due on land, the interest thereon, the date on which such arrear became due and such other particulars as may be prescribed, and shall set forth that unless the arrear with the interest thereon and the cost of process be paid within the date therein mentioned, the immovable property concerned will be brought to sale in due course of law.

(2) The attachment of any immovable property shall become effective from the date on which the notice under sub-section (1) was affixed on the property.

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44. *Effect of engagements and transfers by the defaulter.*—(1) Any engagement entered into by the defaulter with anyone in respect of any immovable property after the service of the written demand on him shall not be binding upon the Government.

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(3) Where a defaulter transfers immovable property to a near relative or for grossly inadequate consideration after public revenue due on any land from him has fallen in arrear, it shall be presumed until the contrary is proved, that such transfer is made with intent to defeat or delay the recovery of such arrear, and the

Collector or the authorised officer may, subject to the order of a competent court, proceed to recover such arrear of public revenue by attachment and sale of the property so transferred, as if such transfer had not taken place:

Provided that, before proceeding to attach such property, the Collector or the authorised officer shall—

- (i) give the defaulter an opportunity of being heard; and
- (ii) record his reasons therefor in writing.

Explanation.—For the purposes of this section, “near relative” includes husband, wife, father, mother, brother, sister, son, daughter, step-son, step-daughter, uncle, aunt, son-in-law, daughter-in-law, brother-in-law, nephew or niece of the transferor.

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49. *Procedure for sale of immovable property.*—Immovable property attached under this Act may be sold in accordance with the following provisions, namely:—

(1) The sale shall be by public auction to the highest bidder. The time and place of sale shall be fixed by the Collector or the authorised officer having jurisdiction over the village in which the property is situate.

(2) Previous to the sale, the Collector or the authorised officer as the case may be, shall issue a notice thereof in English and in Malayalam and also in the language of the locality where such language is not Malayalam, specifying—

- (i) the name of the defaulter;
- (ii) the position and extent of the land and of his buildings and other known improvements thereon;
- (iii) the amount of revenue assessed on the land, or upon its different sections;
- (iv) the amount for the recovery of which the sale is ordered;

(v) the proportion of the public revenue due during the remainder of the current financial year; and

(vi) the time, place and conditions of sale.

The notice shall be duly served and published at least thirty days before the date of sale.

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50. *Bidding on behalf of Government.*—(1) When an immovable property is put up for sale at the time and place specified in the notice under clause (2) of section 49 for the recovery of arrears of public revenue due on land, if there be no bid or if the highest bid be insufficient to cover the said arrears and those subsequently accruing due up to the date of sale, together with interest and cost of process, the officer, conducting the sale shall postpone the sale to another date which shall not be later than sixty days from the date of the first sale and give notice of the subsequent sale as required under clause (4) of section 49.

(2) When the property is put up for sale on the date to which it was postponed under sub-section (1), at the time and place specified in the notice,—

(i) if there be no bid, the officer conducting the sale may purchase the property on behalf of the Government for an amount of ten paise;

and may apply to the Collector to set aside the sale.

(ii) if the highest bid be insufficient to cover the arrears referred to in sub-section (1) and those subsequently accruing due up to the date of the sale and interest and cost of process, such officer may bid on behalf of the Government for an amount higher than such bid by ten paise,

and in either case the Government shall acquire the property subject to the provisions of this Act.

(3) The provisions of clause (3) of section 49 and section 84 shall not apply to cases where immovable property is purchased on behalf of the Government under this section.

(4) Notwithstanding anything contained in this Act, after the confirmation of the sale, all the right, title and interest of the defaulter purchased on behalf of the Government shall be deemed to have vested in the Government from the date of purchase and if the defaulter is in actual possession of the property or if he is entitled to possession, the Collector or the authorised officer shall, immediately after the confirmation of the sale, take possession of the property. If the Collector or the authorised officer is opposed or impeded in taking possession, he shall, if a Magistrate, enforce the surrender of the land to himself and, if not a Magistrate, he shall apply to a Magistrate, and such Magistrate shall enforce the surrender of the land to the Collector or the authorised officer, as the case may be.

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54. *Order confirming or setting aside sale.*-- On the expiration of thirty days from the date of the sale, if no application to have the sale set aside is made under section 52 or section 53 or if any such application has been made and rejected, the Collector shall make an order confirming the sale:

Provided that if the Collector has reason to think that the sale ought to be set aside notwithstanding that no such application has been made or on grounds other than those alleged in any application which has been made and rejected, he may, after recording his reasons in writing, set aside the sale.

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57. *Name and title of such purchaser to be published.*—(1) Before the issue of the certificate referred to in sub-section (1) of section 56, the Collector or the authorised officer shall cause the publication of the name of the purchaser and the date of purchase, together with a declaration of the lawful succession of such purchaser to all the rights of the former land-holder in the said immovable property.

(2) The registration of the certificate of sale under the Indian Registration Act, 1908 (Central Act 16 of 1908), shall be insisted upon in case the purchaser requests that he may be put in possession of the land.

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69. Procedure for recovery of public revenue due on land when defaulter or surety resides outside the district and for the recovery of dues other than public revenue due on land.—(1) When public revenue due on land is in arrear and the defaulter or his surety resides or holds property outside the district wherein default has been made, the Collector of the district in which the arrear arose shall sign a certificate in the prescribed form specifying therein the amount of the demand, the name of the defaulter, and such other particulars as may be necessary for the identification of the defaulter or his surety or both and forward the certificate to the Collector of the district in which the defaulter or his surety resides or holds property.

(2) When any amount, other than public revenue due on land, which is recoverable under this Act, is due, the officer charged with its realisation may send to the Collector of the district in which the defaulter or his surety resides or holds property a written requisition in the prescribed form, duly verified, and certified by him.

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74. Service of notice.—Where any notice, demand or order has to be served under this Act, such service shall be made—

(a) by delivery of a copy of such notice, demand or order to the person concerned, or, where such delivery is not possible, to an adult male member of his family, or, where this is not also possible, by affixture of a copy of the notice, demand or order on the outer door of his usual place of residence; or

(b) by registered post.

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83. Power of revision of Commissioner of Land Revenue and Government.—(1) The Commissioner of Land Revenue may, either of its own motion or on an application by any person interested, call for any proceeding which has been taken by the Collector or the authorised officer under this Act and may make such

inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such orders as it thinks fit:

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Provided that the Commissioner of Land Revenue or the Government, as the case may be, may, if it or they is or are satisfied that the applicant was prevented by sufficient cause from making the application within that period, admit an application made after the expiry of that period.

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