
**REPORT OF THE SELECT COMMITTEE
ON
THE STHANAM PROPERTIES (ASSUMPTION OF TEMPORARY
MANAGEMENT AND CONTROL) AND HINDU
SUCCESSION (AMENDMENT) BILL, 1957
AND
THE BILL AS REPORTED BY THE SELECT COMMITTEE**

**STHANAM PROPERTIES (ASSUMPTION OF TEMPORARY
MANAGEMENT AND CONTROL) AND HINDU
SUCCESSION (AMENDMENT) BILL, 1957.**

(Report of the Select Committee.)

The Select Committee to which the Sthanam Properties (Assumption of Temporary Management and Control) and Hindu Succession (Amendment) Bill, 1957 was referred have considered the Bill clause by clause and now submit this, their Report with the Bill as reported by the Committee annexed thereto.

2. The Bill was published in the Gazette Extraordinary dated 30th August 1957.

3. The Bill was introduced in the Legislative Assembly on 2nd September 1957 and the motion for reference to a select committee was adopted on the same day.

4. *Clause 2.* The Committee decided to include a definition of the term "prescribed" since some of the clauses in the Bill require certain matters to be prescribed.

5. *Clause 4.* The Committee considered that the provision in the Bill that the application for assumption of management should be made by one third of the adult members of the family and heirs of Sthanamdar may work hardship in case of Sthanams which may consist of a large number of members. It is considered that application for assumption of management may be made by one fifth of the adult members and heirs or ten adult members thereof whichever is less. The clause has been modified accordingly.

6. *Clause 5.* The Committee considered that outer limit of ten years provided for the continuance of management by the Collector is too much and reduced it to five years. The Committee considered that the provision in the Bill for making such further orders in connection with assumption of management is superfluous and decided to delete the words "and make such further orders as appear to them to be necessary or expedient in connection with such assumption". The clause has been modified accordingly.

7. *Clause 7.* The Committee wanted to make it clear that the Collector shall not have powers for taking possession of Sthanam properties if such taking possession of properties will be in derogation of the provisions of any other law. Therefore the words "subject to the provision of any other laws in force for the time being" were added at the beginning of that clause.

8. *Clause 8.* The Committee considered it better to specify that the Collector is to use force when necessary only in cases where he has to take possession of buildings and other movables belonging to the Sthanam. So the words "such property" have been substituted by "buildings or other movables belonging to the Sthanamdar",

9. *Collector to do everything for the due administration.*—

(1) Subject to the provisions of any rules that may be made in this behalf, the Collector may take such measures as he considers necessary or expedient for the purpose of securing, administering, possessing and managing any sthanam property and generally for the purpose of enabling him satisfactorily to discharge any of the duties imposed on him by or under this Act, and may, for any such purposes aforesaid, do all acts and incur all expenses necessary or incidental thereto.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the Collector may, for any of the purposes aforesaid,—

(a) appoint any officer who is not below the rank of a Revenue Divisional Officer or a person who is qualified to be appointed as a Munsiff as manager for the sthanam properties and authorise the manager to exercise the powers of the Collector under this section, subject to the approval of the Board of Revenue.

(b) enter, or authorise any other person to enter any land or premises to inspect any sthanam property ;

(c) take all such measures as may be necessary to keep any sthanam property in good repair;

(d) complete any building which requires to be completed;

(e) require any person to furnish such returns, accounts or other information in relation to any property and to produce such documents in his possession as the Collector considers necessary for the discharge of his duties under this Act;

(f) search any building or place in which the Collector after such enquiry as he deems fit to make has reason to believe that any sthanam property is being kept or concealed, and take possession thereof ;

(g) take such action as may be necessary for the recovery of any debt due to the sthanam;

(h) institute, defend or continue any legal proceeding in any civil or revenue court on behalf of the sthanam or refer any dispute to arbitration or compromise any claims, debts, or liabilities on behalf of the sthanam;

(i) raise on the security of the sthanam property such loans as may be necessary;

(j) incur any expenditure, including the payment of taxes, duties, cesses and rates to Government or to any local authority or for the discharge of any liabilities;

(k) make interim payments on a written request by a member or heir entitled to share of the sthanam property, at a rate not exceeding Rs. 100 per mensem and adjust such payments against the share of such member or heir; and

(l) invest money in any of the securities referred to in Section 20 of the Indian Trust Act, 1882.

10. *Collector to receive payment.*—(1) Any amount due to the sthanam or in respect of any transaction entered into by the deceased sthanamdar shall be paid to the Collector by the person liable to pay the same.

(2) Any payment made otherwise than in accordance with sub-section (1) shall not discharge the person paying it from his obligation to pay the amount due and shall not affect the right of the Collector to enforce such obligation against any such person.

11. *Accounts and registers.*—(1) The Collector shall maintain a separate account of each sthanam property the management of which has been assumed, and shall cause to be made therein entries of all receipts and expenditure in respect thereof.

(2) The accounts shall be maintained in such form and in such manner as may be prescribed.

(3) Government shall cause the accounts maintained under this section to be inspected and audited at such intervals and by such persons as may be prescribed.

12. *Collector to be impleaded.*—(1) In every suit, appeal application or other proceeding concerning sthanam properties, the management of which has been assumed by the Government under this Act, the Collector shall be named as the representative of the Government for the purpose of the suit, appeal application or other proceeding and in every pending suit, appeal application or other proceeding concerning the said sthanam properties, the court may, upon application by the Collector, order that the plaint memorandum of appeal or application be amended impleading the Collector as the representative of Government.

(2) Any legal proceedings taken on behalf of or against the sthanam before the assumption of management of the sthanam properties by Government under this Act, may be continued by or against the Government after such assumption of management.

(3) No suit shall be instituted against a sthanam, the management of which has been assumed by Government under this Act, until the expiration of two months after a notice in writing has been delivered or left at the office of the Collector stating the cause of action, the relief sought and the name and place of abode of the intending plaintiff, and the plaint shall contain a statement that such notice has been so delivered or left.

13. *Revenue Recovery Act to apply.*—The Collector may, during the period of management of a sthanam recover all arrears of rent and all demands recoverable as rent in respect of such sthanam and all interest due on such arrears or demands together with all the costs incurred for realising the same as

arrears of land revenue under the provisions of the Revenue Recovery Act for the time being in force. If he is satisfied that the financial resources of the Sthanam are such that it may not be possible to meet the cost of regular litigation from out of the surplus funds available after meeting the obligatory expenditure connected with the administration of the Sthanam.

14. *Withdrawal from management.*—The Government may, at any time, by notification in the Gazette withdraw from management of any sthanam property, the management of which has been assumed by the Government under the provisions of this Act, and if any difficulty arises in connection with the restoration of the properties to any persons entitled thereto, the Government may, by order authorise the doing of any matter or thing which appears to them necessary to facilitate such restoration.

15. *Control and supervision of management of certain sthanams.*—Where during the lifetime of a sthanamdar upon a complaint received from *one fifth of the adult members and heirs or ten adult members thereof whichever is less* entitled to a share of the sthanam properties that the sthanamdar is guilty of gross neglect, wilful mismanagement or waste of the sthanam properties or that his actions are prejudicial to the sthanam, the Government may, after such preliminary enquiry as they may deem fit to make, cause a detailed enquiry to be conducted in regard to the management of the affairs of the sthanam.

16. *Detailed enquiry.*—(1) The Government may, for the purpose of enquiry into the affairs of the sthanam depute any officer not below the rank of a Revenue Divisional Officer. The officer so deputed may examine the properties movable and immovable and the accounts, registers and other records of the sthanam and submit a full report to the Collector on the result of such enquiry and inspection. The sthanamdar, and all other employees and servants of the sthanam shall furnish to the officer so deputed all information he may call for and shall assist him in the examination of the list of properties, accounts and registers. On receipt of the report, the Collector shall submit the same to the Government.

(2) If on a consideration of the report and after issuing notice to the sthanamdar to show cause why the Collector should not be ordered to exercise supervision and control over the management by the sthanamdar of the sthanam properties and after giving a reasonable opportunity for the sthanamdar to be heard, the Government are satisfied that the sthanamdar was guilty of neglect, mismanagement or waste of sthanam property, and if the Government consider that in the interest of the sthanam it is necessary so to do, they may by notified order direct that the administration of the sthanam properties by the sthanamdar shall be carried on under the supervision and control of the Collector and subject to such restrictions and conditions and directions, as the Collector may from time to time think fit to impose or give.

17. *Courts not to grant injunctions.*—Notwithstanding anything contained in the Code of Civil Procedure, 1908 or in any other law for the time being in force, no court shall grant any temporary injunction or make any interim order restraining the Collector from exercising supervision and control over the administration of the sthanam properties.

18. *Appeal to High Court.*—Any person aggrieved by an order passed by the Government under Section 16 may appeal to the High Court within two months of the date of the order, and the High Court may pass such orders on appeal as it thinks just and proper.

19. *Collector entitled to call for accounts etc.*—In exercising the powers of supervision and control under section 16 the Collector may call for accounts, report, or other information relating to administration or management of the sthanam and the sthanamdar shall be bound to furnish such accounts, reports or other information within such time as the Collector may specify.

20. *Registers etc., to be kept in prescribed manner.*—(1) Every sthanamdar in respect of the sthanam the management of which is under supervision and control of the Collector, shall maintain registers in such manner as may be prescribed, containing the following particulars, namely:—

(a) particulars of all immovable properties belonging to the sthanam ;

(b) particulars of all movable properties belonging to the sthanam with their estimated value and of all investments made by the sthanamdar ;

(c) particulars of all liabilities; and

(d) such other particulars as the Collector may from time to time prescribe.

(2) As soon as may be after the issue of an order under section 16 and within such time as may be specified by the Collector, the sthanamdar shall furnish to the Collector a statement containing the particulars specified in sub-section (1) duly signed and verified by the sthanamdar.

(3) Any sthanamdar who fails to furnish the statement under sub-section (2) or knowingly furnished a statement which is false or incorrect in any material particular, shall be punishable with fine which may extend to one hundred rupees.

21. *Transactions without sanction of Collector void.*—On and after the date of the order issued by the Government under section 16, any sale, mortgage, exchange, pledge, lease or other alienation of property of a sthanam executed or made or any debt contracted on its behalf shall be void unless it is executed, made or contracted with the previous sanction of the Collector, provided that no such sanction shall be necessary if an alienation is made or a debt is contracted under orders of a competent Civil or Revenue Court.

22. *Expenditure charge on sthanam.*—Any expenditure incurred by the Collector in the exercise of any power conferred by or under this Act and all expenditure incurred in connection with the management, control and supervision of any sthanam shall, in relation to the sthanam in respect of which it has been incurred be a charge on such sthanam property and shall have priority over all other charges on the property, and such expenditure may be met or recouped by the Collector out of the income accruing from such property or otherwise at such rates as may be prescribed from time to time.

23. *Protection of officers.*—No suit or other legal proceeding shall lie against any officer or person in respect of anything which is in good faith done or intended to be done under this Act.

24. *Supervision, control and review.*—(1) All orders and proceedings of the Collector in exercise of his functions under this Act shall be subject to the supervision and control of the Board of Revenue.

(2) All orders and proceedings of the Board of Revenue under this Act shall be subject to the supervision and control of the Government.

(3) The supervising authority in each case may of its own motion review, and if it thinks fit revise, modify or reverse any order or proceeding.

25. *Power to make rules.*—(1) The Government may make rules for carrying into effect the provisions of the Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide,—

- (a) the registers to be kept ;
- (b) the various accounts to be maintained ;
- (c) the expenditure that may be incurred ;
- (d) the form and the manner in which the notices are to be sent ;
- (e) for any other matter which has to be or may be prescribed ;
- (f) the Government may by notification in the Gazette direct that any power conferred on them under this Act, except the powers under sections 4 and 5, shall in such circumstances and under such conditions, if any, as may be specified in the notification, may be exercisable also by an officer, not being below the rank of a Collector.

(3) All rules made under this section shall be published in the Gazette and shall, on such publication, have effect as if enacted in this Act.

26. *Bar of limitation.*—For the purpose of any suit, appeal, or application by or on behalf of a sthanam, the management of which has been assumed under this Act in computing the period of limitation for any of the aforesaid purposes the

period from the date of death of the sthanamdar up to and including a period of two months after the date on which the Collector assumed charge of the management of the sthanam shall be excluded.

27. *Amendment of Hindu succession Act, 1956.*—In Section 7 of the Hindu Succession Act, 1956 in its application to the State of Kerala,—

(a) In sub-section (3) between the words “him” and “shall” the words “or her”, between the words “himself” and “and” the words “or herself” and between the words “his” and “family” in the two places where they occur the words “or her” shall be respectively inserted.

(b) In the explanation to sub-section (3) the word “male” shall be omitted.

V. KRISHNAMOORTHY,
Secretary,
Legislative Assembly.