
**The Madras Marumakkattayam
(Amendment) Bill, 1957**

THE MADRAS MARUMAKKATTAYAM (AMENDMENT)
BILL, 1957.

A
BILL

further to amend the Madras Marumakkattayam Act, 1932.

Preamble.—WHEREAS it is necessary and expedient further to amend the Madras Marumakkattayam Act, 1932 (Madras Act XXII of 1933), for the purposes hereinafter appearing;

Be it enacted in the Eighth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Madras Marumakkattayam (Amendment) Act, 1957.

(2) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. *Amendment of section 14, Madras Act XXII of 1933.*—In the Madras Marumakkattayam Act, 1932 (Madras Act XXII of 1933) (hereinafter referred to as the principal Act), in section 14, the second proviso shall be omitted.

3. *Substitution of new section for section 38 in Madras Act XXII of 1933.*—For section 38 of the principal Act, the following section shall be substituted, namely:—

“38. *Right of member of tarwad or tavazhi to claim partition.*—Any member of a tarwad or tavazhi may claim to take his or her share of all the properties of the tarwad or tavazhi over which the tarwad or tavazhi has power of disposal, and separate from the tarwad or tavazhi.

Explanation 1.—Nothing in this section shall be a bar for two or more members belonging to the same tarwad or tavazhi claiming their shares of the properties and enjoying the same jointly with all the incidents of tarwad property.

Explanation 2.—The member or members who claim partition under this section or section 39 shall be entitled to such share or shares of the tarwad or tavazhi properties as would fall to such member or members, if a division *per capita* were made among the members of the tarwad or tavazhi then living.”

4. *Substitution of new section for section 39 in Madras Act XXII of 1933.*—For section 39 of the principal Act, the following section shall be substituted, namely:—

“39. *Partition on change of religion.*—Any member of a tarwad or tavazhi who has changed his or her religion may

claim or be compelled by any other member of the tarwad or tavazhi, to take his or her share of all the tarwad or tavazhi properties over which the tarwad or tavazhi has power of disposal and separate from the tarwad or tavazhi."

5. *Omission of sections 40 and 41 in Madras Act XXII of 1933.*—Sections 40 and 41 of the principal Act shall be omitted.

6. *Omission of Chapter VII of, and the schedule to, Madras Act XXII of 1933.*—The headings "Chapter VII" and "Impartible Tarwads" occurring before section 42, and sections 42 to 47 of, and the Schedule to, the principal Act shall be omitted.

7. *Amendment of section 49, Madras Act XXII of 1933.*—In section 49, sub-section (2), of the principal Act, clause (b), the brackets and letter "(a)" at the beginning, and the word "and" at the end of clause (a) shall be omitted.

STATEMENT OF OBJECTS AND REASONS.

The Madras Marumakkattayam Act, 1932 (Act XXII of 1933) in force in the Malabar area of the State provides only for tavazhi partition so as to keep up the Marumakkattayam set up. This idea has undergone considerable changes in recent times and the modern trend of opinion is in favour of individual partition. Government consider that members of a tarwad or tavazhi should be entitled to claim individual partition. The Bill seeks to achieve this purpose.

V. R. KRISHNA IYER.

Extracts from the Madras Marumakkattayam Act, 1932.

CHAPTER III.

MAINTENANCE AND GUARDIANSHIP.

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14. *Guardianship of minor wife and children.*—The husband shall be the guardian of his minor wife in respect of her person and property and subject to the provisions of Section 15, the father shall be the guardian of his minor children, other than married minor daughters under the guardianship of their husbands, in respect of their person and property:

Provided that such guardianship shall not extend to the right and interest of the wife or children in respect of their tarwad or tavazhi properties:

Provided further that nothing contained in this section shall apply to a female member of any of the tarwads included in the Schedule or her children, where such female member resides in her own tarwad house and not with her husband.

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CHAPTER VI.

PARTITION.

38. *Right of tavazhi to claim partition.*—(1) Any tavazhi represented by the majority of its major members may claim to take its share of all the properties of the tarwad over which it has power of disposal and separate from the tarwad:

Provided that no tavazhi shall claim to be divided from the tarwad during the lifetime of an ancestress common to such tavazhi and to any other tavazhi or tavazhis of the tarwad, except with the consent of such ancestress, if she is a member of the tarwad.

(2) The share obtained by the tavazhi shall be taken by it with the incidents of tarward property.

Explanation.—For the purposes of this Chapter, a male member of a tarwad or a female member thereof without any living child or descendant in the female line, shall be deemed to be a tavazhi if he or she has no living female ascendant who is a member of the tarwad.

39. *Partition on change of religion.*—Notwithstanding anything contained in Section 38, any member of a tarwad who has changed his or her religion may claim or be compelled by any other member of the tarwad, to take his or her share of all the tarward properties over which it has power of disposal and separate from the tarwad.

40. *Ascertainment of shares at partition.*—(1) In the case referred to in Section 38, the tavazhi shall be entitled to such share of the tarwad properties as would fall to the tavazhi if a division *per capita* were made among all the members of the tarwad then living.

(2) In the case referred to in Section 39, the member who claims or is compelled to divide from the tarwad, shall be entitled to such share of the tarwad properties as would fall to such member if a division *per capita* were made among all the members of the tarwad then living.

41. *Application of chapter to tavazhis.*—The provisions of this Chapter shall apply to every tavazhi possessing separate properties as if it were a tarwad.

CHAPTER VII.

IMPARTIBLE TARWADS.

42. *Certain tarwads to be impartible unless registered as partible.*—(1) Every tarwad included in the Schedule shall be an impartible tarwad and the provisions of Chapter VI shall not apply to such tarwad unless and until it is registered as a partible tarwad.

(2) Not less than two-thirds of the major members of a tarwad referred to in sub-section (1) may, at any time, present a petition to the Collector for the registration of the tarwad as partible.

(3) Such petition shall be in such form and contain such particulars as may be prescribed.

(4) If, after giving notice to all the major members of the tarwad and making such inquiry as he deems fit, the Collector is satisfied that not less than two-thirds of the major members of the tarwad have signed the petition with their free consent and desire the registration of the tarwad as partible, he shall register the tarwad as partible.

(5) On such registration, the provisions of Chapter VI shall apply to such tarwad.

43. *Registration of tarwads as impartible.*—(1) Not less than two-thirds of the major members of a tarwad may, at any time, present a petition to the Collector for the registration of the tarwad as impartible.

(2) Such petition shall be in such form and contain such particulars as may be prescribed.

(3) If, after giving notice to all the major members of the tarwad and making such inquiry as he deems fit, the Collector is satisfied that not less than two-thirds of the major members of the tarwad have signed the petition with their free consent and desire the registration of the tarwad as impartible, he shall register the tarwad as impartible.

(4) On such registration, the provisions of Chapter VI shall not apply to such tarwad unless and until the registration is cancelled under Section 44.

44. *Cancellation of such registration.*—(1) Not less than two-thirds of the major members of a tarwad registered as impartible under Section 43 may at any time present a petition to the Collector for the cancellation of such registration.

(2) Such petition shall be in such form and contain such particulars as may be prescribed.

(3) If, after giving notice to all the major members of the tarwad and making such inquiry as he deems fit, the Collector is satisfied that not less than two-thirds of the major members of the tarwad have signed the petition with their free consent and desire the cancellation of the registration, he shall cancel such registration.

45. *Powers of Collector to take evidence on etc.*—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:—

(a) enforcing the 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.

46. *Collector's order to be final.*—The order of the Collector registering a tarwad as partible under Section 42 or registering a tarwad as impartible under Section 43 or cancelling such registration under Section 44, shall be final and shall not be questioned in any civil court.

47. *Maintenance of register by Collector.*—The Collector shall keep a register of all petitions presented to him under Sections 42, 43 and 44 and of all orders passed by him on such petitions and shall, at all reasonable times, allow search to be made in such register and shall on payment of the prescribed fee, give a copy, certified under his hand, of any entry therein.

CHAPTER VIII.

MISCELLANEOUS.

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49. *Rules.*—(1) The State Government may make rules consistent with this Act to carry into effect the purposes thereof.

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

(a) all matters expressly required or allowed by this Act to be prescribed; and

(b) the procedure to be followed in respect of applications under Chapter VII.

SCHEDULE.

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LIST OF IMPARTIBLE TARWADS.

1. The Zamorin's family consisting of:—

(a) Puthia Kovilakom situate in Thiruvanoor, Calicut taluk,

(b) Patinhare Kovilakom situate in Mankav, Calicut taluk, and

(c) Kizhake Kovilakom situate at Kottakal, Ernad taluk.

2. The Chirakal Kovilakom, near Cannanore.

3. The Nilambur Kovilakom in Nilambur amsam, Ernad taluk.

4. The Kizhake Kovilakom of the Kottayam Raja's family, Kottayam taluk.

5. The Thekke Kovilakom of the Kottayam Raja's family, Kottayam taluk.

6. The Patinhare Kovilakom of Kottayam Raja's family in Kottayam taluk.

7. Ayancheri Kovilakom in Purameri amsam, Kurumbranad taluk.

8. The Edavalath Kovilakom in Purameri amsam, Kurumbranad taluk.

9. The Ayiranazhi Kovilakom of the Walluvanad Raja's family in the Walluvanad taluk.

10. The Kadannamana Kovilakom of the Walluvanad Raja's family in the Walluvanad taluk.

11. The Mankada Kovilakom of the Walluvanad Raja's family in the Walluvanad taluk.

12. The Aripura Kovilakom of the Walluvanad Raja's family in the Walluvanad taluk.

13. The tarwad from which the Kuthiravattath Nair attains stanom, situate in Pulapatta amsam, Walluvanad taluk.

14. The tarwad from which the Punnathur Raja attains stanom, situate in Kottapadi amsam, Ponnani taluk.

15. The Venganad Kovilakom of the Venganad or of Kollengode Valia Nambidi.

16. The Mayapadi Raja's family of Kasaragod taluk.

17. The Neleswar Raja's family of Kasaragod taluk.