

**ANDHRA PRADESH (ANDHRA AREA) ALIYASANTANA ACT,
1949**

9 of 1949

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An Act to define and amend in certain respects the law relating to marriage, maintenance, guardianship, intestate succession, family management and partition applicable to persons governed by the Aliyasantana Law of inheritance. WHEREAS it is expedient to define and amend in certain respects the law relating to marriage, maintenance, guardianship, intestate succession, family management and partition applicable to persons governed by the Aliyasantana Law of inheritance ; it is hereby enacted as follows :

CHAPTER 1 Preliminary

1. Short title, application and commencement :-

- (1) This Act may be called *[the Andhra Pradesh (Andhra Area)

Aliyasantana Act, 1949.]

(2) It shall apply (a) to all Hindus and Jains who are governed by the Aliyasantana Law of inheritance ; and (b) to all Hindu and Jain males, whether governed by the said Law or not, who have contracted or may contract marital alliances with Hindu and Jain females governed by the said law : Provided that the provisions of Chapter IV shall not apply to Jains.

(3) It shall come into force at once.

2. Repeal of Madras Act IV of 1896 and III of 1929 :-

The Malabar Marriage Act, 1896, in so far as it has not been already repealed, and section 6 of the Jaina Succession Act, 1928, are hereby repealed.

3. Definitions :-

In this Act, unless there is anything repugnant in subject or context

(a) "Aliyasantana" means the system of inheritance in which descent is traced in the female line, but does not include the system of inheritance known as the Marumakkattayam ;

CHAPTER 2

Marriage and its dissolution

4. Marriages valid under the Act :-

(2) A conjugal union between minors or between a minor and a major which would otherwise be a valid marriage under subsection (1) shall not be deemed to be invalid merely on the ground that the consent of the guardians or guardian of such minors or minor was not obtained to the union.

(3) Notice of every marriage contracted on or after the date on which this Act comes into force shall be given by such person, to such authority, in such form, and within such time, as may be prescribed. Failure to give such notice shall be punishable with fine which may extend to fifty rupees, but such failure shall not invalidate the marriage or affect the legal rights of the parties to, or the issue of, such marriage.

5. Marriage during continuance of prior marriage void :-

During the continuance of a prior marriage which is valid under section 4, any marriage contracted by either of the parties thereto on or after the date on which this Act comes into force shall be void.

6. Dissolution of marriage :-

A marriage which is valid under section 4 may be dissolved on or after the date on which this Act comes into force-

(a) by a registered instrument of dissolution executed by the parties thereto ; or

(b) by an order of dissolution as hereinafter provided : Provided that if either or both the parties is or are minors, the marriage shall not be dissolved until after the party has become a major or both the parties have become majors, as the case may be. Nothing contained in this section shall be deemed to invalidate any dissolution of the marriage effected before the date on which this Act comes into force in accordance with the custom prevailing in the community to which the parties belong.

7. Rights of children of marriage, etc. not affected by dissolution of marriage :-

The dissolution of a marriage which is valid under section 4, whether by death or otherwise and whether before or after the commencement of this Act, shall not affect in any way the legal status or rights under this Act of the children of such marriage or of their descendants.

8. Petition for dissolution :-

(2) The petition shall specify the place where, and the date on which, the marriage was contracted and if the respondent was a minor at the time of the marriage, the name and address of the guardian, if any, with whose consent the marriage was contracted.

9. Notice of petition :-

A copy of such petition shall be served on the respondent at the cost of the petitioner.

10. Order of dissolution of marriage :-

(1) On the motion of the petitioner made not earlier than six months, and not later than one year, after the service of the copy of the petition aforesaid, if the petition is not withdrawn in the meantime, the Court shall, on being satisfied after such inquiry as it thinks fit that a marriage which is valid under section 4 was contracted between the parties, by order in writing, declare the marriage dissolved.

(2) The dissolution shall take effect from the date of the order.

11. Application of Civil Procedure Code to petitions :-

The provisions of the Code of Civil Procedure, 1908 shall, so far as may be, apply to petitions under this Chapter.

12. Bar of suit for estitution of conjugal rights :-

No court shall entertain a suit for estitution of conjugal ights between the parties to a marriage which is valid under section 4.

CHAPTER 3

Maintenance and Guardianship

13. Maintenance of wife and minor children :-

(2) Nothing contained in subsection (1) shall affect the ight of any person to maintenance from his or her kutumba or kavaru properties.

(3) In awarding maintenance under subsection (1), the Court shall have due egard to the means and circumstances of the person against and by whom maintenance is claimed and to the easonable wants of the person claiming maintenance.

14. Gurdianship of minor wife and children :-

The husband shall be the guardian of his minor wife in espect 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 daughters, in espect of their person and property;

Provided that such guardianship shall not extend to the ight and interest of the wife or children in espect of their kutumba or kavaru properties. Provided further that the custody of a minor child who has not completed the age of three years shall ordinarily be with the mother.

15. Mother to be guardian of minor children if father is dead or marriage is dissolved :-

The mother shall be the guardian of the person and property of her minor children if the father is dead or her marriage with him has been dissolved.

16. Saving :-

Nothing contained in sections 14 and 15 shall be deemed to affect the operation of the Guardians and Wards Act, 1890.

CHAPTER 4

Intestate Succession.

17. Property as to which a person is deemed to die

intestate :-

A person is deemed to die intestate in respect of all property of which he has not made a testamentary disposition which is capable of taking effect.

18. Devolution of property left by Aliyasantana male intestate :-

On the death intestate of an Aliyasantana male, his property which is selfacquired or separate, shall devolve in the order and according to the ules contained in Sections 19,20,21,22,23 and 24.

19. Devolution where intestate has left lineal descendant :-

(1) Where the intestate has left surviving him any lineal descendant or descendants and also his mother or a widow or widows or both his mother and a widow or widows, the whole of the property shall devolve on them.

(2) In the absence of the mother and any widow, the whole of the property shall devolve on the lineal descendant or descendants.

20. Rules of distribution in such cases :-

The distribution of the property among the heirs eferred to in section 19 shall be made in accordance with the following ules:-

(i) The widow, or if there is more than one widow, each of the widows, shall be entitled to a share equal to that of a child.

(ii) The mother shall be entitled to a share equal to that of a child.

(iii) (a) Each child (son or daughter) shall be entitled to an equal share. (b) Where a child has predeceased the intestate, the lineal descendants of such child shall, subject to the provisions of clause (vi) be entitled to the share which the child would have taken., had he or she survived the intestate.

(v) The property shall devolve in like manner on the emoter surviving lineal descendants of the intestate.

21. Devolution where intestate has left no lineal descendant but has left his mother :-

Where the intestate has not left surviving him any lineal descendant but has left his mother and a widow or widows, onehalf of the property shall devolve on his mother and the other half on his widow or widows in equal shares. In the absence of a widow, the whole of the property shall devolve on the mother.

22. Devolution where intestate has left only mothers kavaru or widow or both :-

(1) Where the intestate has not left surviving him any lineal descendant or his mother but has left his mothers kavaru and a widow or widows, onehalf of the property shall devolve on his mothers kavaru and the other half on his widow or widows in equal shares.

(2) In the absence of the mothers kavaru, the whole of the property shall devolve on the widow or widows in equal shares; and in the absence of any widow, the whole of the property shall devolve on the mothers kavaru.

23. Devolution where intestate has left only father or maternal grandmothers kavaru or both :-

(1) Where the intestate has not left surviving him any of the heirs mentioned in sections 19,21 and 22 but has left his father and his maternal grandmothers kavaru, onehalf of the property shall devolve on his father and the other half on his maternal grandmothers kavaru.

(2) In the absence of the maternal grandmothers kavaru, the whole of the property shall devolve on the father; and in the absence of the father, the whole of the property shall devolve on the maternal grandmothers kavaru.

24. Devolution in other cases :-

Where the intestate has not left surviving him any of the heirs mentioned in sections 19,21,22 and 23, the whole of the property shall devolve on the kavaru of his mothers maternal grandmother or other female ascendant in the female line, the nearer excluding the more remote.

25. Devolution of property left by Aliyasantana female intestate :-

On the death intestate of an Aliyasantana female, her property which is selfacquired or separate shall devolve as follows;

(1) The whole of the property shall devolve on her lineal descendants, distribution among such descendants being made in accordance with the rules laid down in section 20, clauses (iii) to (vi).

(3) In the absence of any of the relatives aforesaid, the property

shall devolve on the kavaru of the maternal grandmother or other female ascendant of the intestate, the nearer excluding the more remote.

26. Devolution of property left by nonAliyasantana male intestate :-

(2) The property devolving on the relations referred to in sub clauses (a), (b) and (c) of clause (ii) subsection (1) shall be distributed among them in accordance with the rules contained in clauses (i), (iii), (iv), (v) and (vi) of Section 20.

27. Possession and management of property until division is effected :-

(1) Where the whole of the property of any male or female intestate devolves under the foregoing provisions of this Chapter on any kavaru as such, the yajaman of the kavaru shall be entitled to the possession and management of such property until division thereof is effected.

(2) In all other cases, the oldest among the heirs of such intestate (including all the members of any kavaru on whom any portion of the property may have devolved) shall be entitled to the possession and management of such property until division thereof is effected.

CHAPTER 5

Kutumba and its Management

28. Yajaman to keep accounts and allow inspection, etc :-

(2) If the accounts are not made available for inspection as provided for in subsection (1), the civil court of the lowest grade having original jurisdiction over the place where the whole or any part of the immovable property of the kutumba is situated or where the yajaman resides may, on application by any major member of the kutumba and after notice to the yajaman, pass an order causing the accounts to be produced in court and allowing such member to inspect and also to take copies of, or extracts from, such accounts.

29. Validity of sales, mortgages with possession and leases :-

(1) No sale or mortgage of any immovable property of a kutumba, and no lease of any such property either for a premium returnable wholly or in part or for a period exceeding five years,

shall be valid, unless it is executed by the yajaman, for consideration, for kutumba necessity or benefit, and with the written consent of the majority of the major members of the kutumba.

(2) No lease of any immovable property of a kutumba in cases not referred to in subsection (1) shall be valid unless it is executed by the yajaman, and where the Malabar Tenancy Act, 1929, confers fixity of tenure on the lessee, unless also the written consent of the majority of the major members of the kutumba has been obtained to the lease.

(3) Nothing contained in subsection (1) or subsection (2) shall be deemed to affect the validity of any mortgage or lease executed on or before the 27th July 1950 in accordance with the law in force at the time of such execution.

30. Validity of mortgages without possession and debts :-

No mortgage without possession of any kutumba property and no debt shall bind the kutumba unless the mortgage is executed, or the debt is contracted, by the yajaman and for kutumba necessity.

31. Maintenance of members of kutumba :-

(2) The maintenance payable to a member of a kutumba shall be paid only out of the income realized from the kutumba properties and shall be a charge on such income.

(3) After this Act comes into force, no suit shall lie for arrears of maintenance for a period exceeding two years.

32. Right to remove yajaman by suit :-

(2) A court trying a suit under subsection (1) may, if it considers that it is not necessary to direct the removal of the yajaman, pass such orders as it thinks fit having regard to the welfare of the kutumba and the circumstances of the case.

33. Relinquishment of right of management by yajaman :-

Any yajaman may, by a registered document, give up his right of management.

34. Application of Chapter to kavarus :-

The provisions of this chapter shall apply to every kavaru possessing separate properties as if it were a kutumba.

35. Right of kavaru to claim partition :-

36. Ascertainment of shares at partition :-

(1) Any kavaru entitled to partition under section 35 shall be allotted a share of the kutumba properties in accordance with the provisions of subsection (2).

(3) If, at the time of the partition, any kavaru taking a share is a nissanthathi kavaru, it shall have only a life interest in the properties allotted to it, if the kutumba from which it separates has at least one female member who has not completed the age of fifty years, or where the kutumba breaks up into a number of kavarus at the partition, if at least one of such kavarus is a santhathi kavaru, and if there is no such female member or santhathi kavaru, the kavaru shall have an absolute interest in the properties allotted to it.

(4) In the case referred to in subsection (3) the life interest of the nissanthathi kavaru in the properties allotted to it at the partition shall become absolute, if the kutumba concerned ceases to have among its members a female who has not completed the age of fifty years or if all the kavarus into which the kutumba broke up, whether at the same or at a subsequent partition, become nissanthathi kavarus.

(5) The properties allotted to a nissanthathi kavaru at a partition and in which it had only a life interest at the time of the death of the last of its members, shall devolve upon the kutumba, or where the kutumba has broken up, at the same or at a subsequent partition, into a member of kavarus, upon the nearest santhathi kavaru or kavarus.

(6) A registered family settlement (by whatever name called) or an award, to which all the major members of a kutumba are parties and under which the whole of the kutumba properties have been or were intended to be distributed, or purport to have been distributed, among all the kavarus of the kutumba for their separate and absolute enjoyment in perpetuity, shall be deemed to be a partition of the kutumba properties notwithstanding any terms to the contrary in such settlement or award.

37. Application of Chapter to kavarus :-

The provisions of this chapter shall apply to every kavaru

possessing separate properties as if it were a kutumba.

CHAPTER 7

Miscellaneous

38. 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 all matters expressly required or allowed by this Act to be prescribed.

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

39. Saving :-

Nothing contained in this Act shall be deemed to affect any rule of Aliyasantana law, custom or usage, except to the extent expressly laid down in this Act.