

## **MAPPILLA MARUMAKKATTAYAM ACT, 1939**

**17 of 1939**

**[18th July, 1939]**

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## **MAPPILLA MARUMAKKATTAYAM ACT, 1939**

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Whereas it is expedient to define and amend in certain respects the law relating to family management, partition and succession among the Mappillas following the Marumakkattayam Law; It is hereby enacted as follows

### CHAPTER 1

Preliminary

#### **1. Short title :-**

(a) This Act may be called the Mappilla Marumakkattayam Act, 1939.

(b) Extent:- It shall apply to all Mappillas following in the Marumakkattayam Law, who are either domiciled in the Andhra area of the State of Andhra Pradesh or have property situate within the Andhra area of the State of Andhra Pradesh.

#### **2. Definitions :-**

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

(a) "Anandravan" means any member of a tarwad or tavazhi, as the case may be, other than the karnavan.

(b) "Karnavan" means the oldest major male member of a tarwad or tavazhi, as the case may be, in whom the right to management of its properties vests or in the absence of such a male member, the oldest major female member, or where by custom or family usage, the right to such management vests in the oldest major female member, such female member.

(c) "Major" means a person who has attained eighteen years of age.

(d) "Marumakkattayam" means the system of inheritance in which descent is traced in the female line.

(e) "Minor" means a person who has not attained eighteen years of

age.

(f) "Tarwad" means a joint family which includes all its members with community of property governed by the Marumakkattayam Law.

(g) "Tavazhi" means a branch of a tarwad consisting female, her children and all her descendants in the female line.

## CHAPTER 2

### Tarwad and its Management

#### **3. Duty of the karnavan to maintain an inventory :-**

The karnavan shall maintain a true and correct inventory of all the movable and immovable properties belonging to the tarwad.

#### **4. Duty of the karnavan to keep accounts :-**

The karnavan shall keep true and correct accounts of the income and expenditure of the tarwad.

#### **5. Right of anandravans to inspect inventory and accounts :-**

(1) The inventory and the accounts of each year of the Malabar Era shall be available for inspection at the tarwad house by the major anandravans throughout the month of Vrischikam following such year, and any such anandravan may take copies of or extracts from the same.

(2) If the inventory or accounts are not made available for inspection as provided for in sub section (1), the Court of a District Munsif having jurisdiction over the place where the tarwad house is situated may, on application by any major anandravan, and after notice the karnavan, pass an order causing the inventory or accounts to be produced in court and allowing the anandravan to inspect, or to take copies of or extracts from, such inventory or accounts.

#### **6. Right of every member for maintenance :-**

Every member of a tarwad whether living in the tarwad house or not, shall be entitled to maintenance consistent with the income and the circumstances of the Tarwad.

#### **7. Investment of surplus income :-**

Any surplus left out of the income of tarwad after providing for the customary or legitimate expenses of the tarwad including charges pertaining to the education, marriage, or death of the members of

the tarwad, and the charges necessary for zakat and the proper maintenance or upkeep of the tarward properties, shall be applied by the karnavan in the purchase of immovable property for the tarwad or otherwise invested to the best advantage of the tarwad.

**8. Alienation of immovable property by karnavan :-**

(1) Except for consideration and for tarwad necessity or benefit and with the written consent of the majority of the major members of the tarwad, no karnavan shall sell immovable property of the tarwad or mortgage with possession or lease such property for a period exceeding twelve years.

(2) No mortgage with possession or lease with premium returnable wholly or in part of any such property executed by a karnavan for a period not exceeding twelve years, shall be valid, unless such mortgage or lease is for consideration and for tarwad necessity or benefit.

(3) Nothing contained in this section shall be deemed to restrict the power of the karnavan to grant in the usual course of management, for a period not exceeding twelve years, any lease without premium returnable wholly or in part or the renewal of an existing kanom,

**9. Debt contracted by karnavan when binding on tarwad :-**

No debt contracted or mortgage without possession executed by a karnavan shall bind the tarwad unless the debt is contracted or the mortgage is executed for tarwad necessity.

**10. Immovable property when liable for attachment or sale for maintenance :-**

No immovable property of the tarwad shall be liable to attachment or sale in execution of any decree obtained by an anandravan for maintenance until after the decree holder has exhausted his remedies, if any, against the personal property of the karnavan or the income of the tarwad property.

**11. Right to remove karnavan by suit :-**

An anandravan may institute a suit in a civil court for the removal of a karnavan

(i) for any malfeasance, misfeasance, breach of trust or neglect of duty in respect of the tarwad;

(ii) for any misappropriation or improper dealing with the income or the properties of the tarwad;

(iii) for unsoundness of mind or any physical or mental infirmity which unfits him for discharging the function of a karnavan;

(iv) for persistent default in the maintenance of the inventory referred to in Section 3 or the accounts referred to in Section 4 or in making them available for inspection by the anandravans under Section 5: or

(v) for any other sufficient cause which in the opinion of the court, makes his continuances as karnavan injurious to the interests of the tarwad.

**12. Relinquishment of right of management by karnavan :-**

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

**CHAPTER 3**

**Partition**

**13. Right of individual members to claim partition :-**

Any individual member of a tarwad may claim to take his or her share of the properties of the tarwad over which the tarwad has power of disposal and separate from the tarwad.

**14. Right of tavazhi to claim partition :-**

Two or more members belonging to the same tavazhi may claim to take their share of the properties of the tarwad over which the tarwad has power of disposal, separate from the tarwad, and enjoy the same jointly, with all the incidents of tarwad property.

**15. Representation of minor in claim to partition :-**

For purposes of Sections 13 and 14, a minor member of a tarwad shall be represented by his or her mother and in the absence of the mother, by his or her guardian under the Islamic Law.

**16. Partition of tarwad hence :-**

In a partition of tarwad properties, unless two thirds of the members of the tarwad desire to the contrary, the tarwad house including the site or sites of any building appurtenant thereto and such other land as is necessary for the convenient enjoyment of the tarwad house shall be kept undivided for the common use of all the members of the tarwad, in which case, the charges of upkeep and maintenance of the tarwad house shall be borne by the member or members that live in the house:

Provided that where such house is no longer used or required for

purposes of residence or is continually neglected, such house, sites or site and land may be divided among the members of the tarwad entitled thereto.

**17. Ascertainment of share at partition :-**

In case of a division under Section 13 or Section 14, the individual member, or the members of the tavazhi as the case may be, shall be entitled to such share or shares of the tarwad properties as would fall to such individual member of such members, if a division per capita were made among all the members of the tarwad then existing.

**18. Subsequent devolution of the property :-**

Succession to the property obtained by an individual member on partition shall be governed by the Islamic Law of inheritance.

**19. Exemption of Arakkal family from partition :-**

The provisions of this chapter shall not apply to the Arakkal family or to the stanom properties of the Ali Rajas of Cannanore.

**CHAPTER 4**

**Registration of Tarwads**

**20. Registration as impartible tarwad :-**

If within a year from the passing of this Act not less than two thirds of the major member of a tarwad present a petition to the Collector of the district in such form and with such particulars as may be prescribed he shall, after satisfying himself that not less than two thirds of the major members of the taward consent and desire the registration of the tarwad as impartible, register the tarwad as impartible.

(2) On such registration the provisions of Chapter III shall not apply to such tarwad unless and until the registration is cancelled under Section 21.

(3) During the pendency of a petition under sub section (1) of this section, all proceedings in court, if any, under Chapter III shall be stayed.

**21. Cancellation of registration :-**

(1) If at any time after the registration of a tarwad as impartible, not less than two thirds of the members of the tarwad present a petition to the Collector in such form and with such particulars as may be prescribed for the cancellation of such registration the

Collector shall, after satisfying himself that no less than two thirds of the major members of the tarwad consent and desire the cancellation of the registration, cancel such registration.

(2) On such cancellation the provisions of Chapter III shall apply to such tarwad.

**22. Collectors powers :-**

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 (Central Act 5 of 1908) , when trying a suit in respect of the following matters, namely:

(a) enforcing of 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 wetness; and any proceeding before the Collector under this chapter shall be deemed to be a judicial proceeding.

**23. Collectors order to be final :-**

The order of the Collector registering a tarwad as impartiable under Section 20 or cancelling such registration under Section 21, shall be final and shall not be questioned in any civil court.

**24. Collector to maintain a register :-**

The Collector shall keep a register of all petitions presented to him under Sections 20 and 21 and of all orders passed by him on such petitions and shall on payment of the prescribed fee, give a copy certified under his hand, of any entry therein.

**CHAPTER 5**

**General**

**25. Chapters II and III to apply to tavazhi :-**

The Provisions of Chapters II and III shall apply to every tavazhi possessing separate properties as if it were a tarwad.

**26. State Government to make rules :-**

The State Government may make rules consistent with this Act to carry out the provisions thereof and these rules shall have effect as if enacted in this Act from the date of publication of the same in the Andhra Pradesh Gazette.

**27. Savings :-**

Nothing contained in this Act shall be deemed to affect the provisions of the Mapilla Succession Act, 1918, (Act 1 of 1918), or of the Mapilla Wills Act, 1928, (Act VII of 1928), or of any law or custom or usage except to the extent expressly laid down in this Act.