

Kerala Forest (Amendment) Act, 1975

28 of 1975

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An Act further to amend the Kerala Forest Act, 1961 WHEREAS it is expedient further to amend the Kerala Forest Act, 1961, for the purposes hereinafter appearing; BE it enacted in the Twenty-sixth Year of the Republic of India as follows:-

1. Short Title :-

This Act may be called the Kerala Forest (Amendment) Act, 1975.

2. Amendment Of Section 52 :-

In section 52 of the Kerala Forest Act, 1961 (4 of 1962) (hereinafter referred to as the principal Act), in the Explanation to sub-section (1), for the words and figures "section 53 and section 55", the words, figures and letters section 55, section 61A and section 61B", shall be substituted.

3. Insertion Of New Sections 61A To 61F :-

After section 61 of the principal Act, the following sections shall be inserted; namely:

61A. Confiscation by Forest Officers in certain cases .-(1) Notwithstanding anything contained in the foregoing provisions of this Chapter, where a forest offence is believed to have been committed in respect of timber, charcoal, firewood or ivory which is the property of the Government, the officer seizing the property under sub-section (1) or section 52 shall without any unreasonable

delay, produce it, together with all tools, ropes, chains, boats, vehicles and cattle used in committing such offence, before an officer authorised by the Government in this behalf by notification in the Gazette, not being below the rank of an Assistant Conservator of Forests (hereinafter referred to as the authorised officer).

(2) Where an authorised officer seizes under section (1) of section 52 any timber, charcoal, firewood or ivory which is the property of the Government, or where any such property is produced before an authorised officer under sub-section (1) of this section and he is satisfied that a forest offence has been committed in respect of such property, such authorised officer may, whether or not a prosecution is instituted for the commission of such forest offence, order confiscation of the property so seized together with all tools, ropes, chains, boats, vehicles and cattle used in committing such offence.

61B. Issue of show cause notice before confiscation under section

61A.-(1) No order confiscating any timber, charcoal , firewood, ivory, tools, ropes, chains, boats, vehicles or cattle shall be made under section 61A unless the person from whom the same is seized (a) is given a notice in writing informing him of the grounds on which it is proposed to confiscate such timber, charcoal, firewood, ivory, tools, ropes, chains, boats, vehicles or cattle;

(b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation; and

(c) is given a reasonable opportunity of being heard in the matter.

(2) Without prejudice to the provisions of sub-section (1), no order confiscating any tool, rope, chain, boat, vehicle or cattle shall be made under section 61A if the owner of the tool, rope , chain, boat, vehicle or cattle proves to the satisfaction of the authorised officer that it was used in carrying the timber, charcoal, firewood or ivory without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the tool, rope, chain, boat, vehicle or cattle and that each of them had taken all reasonable and necessary precautions against such use.

61 C . Revision .-Any Forest Officer not below the rank of Conservator of Forests authorised by the Government in the behalf by notification in the Gazette may, before the expiry of thirty days from the date of the order of the authorised officer under section 61A, suo motu call for and examine the record of that order and may make such inquiry or cause such inquiry to be made and may

pass such order as he deems fit:

Provided that no order prejudicial to a person shall be passed under this section without giving him an opportunity of being heard.

61D . Appeal .-(1) Any person aggrieved by any order passed under section 61A or section 61C may, within thirty days from the date of communication to him of such order appeal to the District Judge having jurisdiction over the area in which the property to which the order relates has been seized and the District Judge shall, after giving an opportunity to the appellant to be heard, pass such order as he may think fit confirming, modifying or annulling the order appealed against.

(2) An order of the District Judge under sub-section (1) shall be final.

61E. Award of confiscation not to interfere with other punishments .-The award of any confiscation under section 61A or section 61C shall not prevent the infliction of any punishment to which the person affected thereby is liable under this Act.

61F . Property confiscated when to vest in Government .-When an order for confiscation of any property has been passed under section 61A or section 61C and such order has become final in respect of the whole or any portion of such property, such property or portion thereof, as the case may be, shall vest in the Government free from all encumbrances.

4. Repeal And Saving :-

(1) The Kerala Forest (Amendment) Ordinance, 1975 (5 of 1975) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act as if this Act had come into force on the 21 st day of June, 1975.