

Kerala Forest (Vesting And Management Of Ecologically Fragile Lands) Amendment Act, 2009

32 of 2009

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An Act to amend the Kerala Forest (Vesting and Management of Ecologically Fragile Lands) Act, 2003. WHEREAS, it is expedient to amend the Kerala Forest (Vesting and Management of Ecologically Fragile Lands) Act, 2003 for the purposes hereinafter appearing; BE it enacted in the Sixtieth Year of the Republic of India as follows:-

1. Short Title And Commencement :-

(1) This Ordinance may be called the Kerala Forest (Vesting and Management of Ecologically Fragile Lands) Amendment Act, 2009.

(2) It shall be deemed to have come into force on the 20th day of August, 2009.

2. Insertion Of New Sections 10A And 10B :-

In the Kerala Forest (Vesting and Management of Ecologically Fragile Lands) Act, 2003 (21 of 2005) (hereinafter referred to as the principal Act), after section 10, the following sections shall be inserted, namely:-

"10A. Dispute Redressal in respect of lands having an extent of not more than two hectares.-(1) Notwithstanding anything contained in section 10, if any owner of the land which has been notified under section 3 and having an extent of not more than two hectares as on 2nd day of June, 2000 has any dispute as to whether such land is an ecologically fragile land or not, may file an application before the

Principal Chief Conservator of Forests for the settlement of such dispute:

Provided that no dispute in respect of any land which was already been decided by the Tribunal under section 10 shall be re-opened under sub-section (1).

(2) On receipt of an application under sub-section (1), the Principal Chief Conservator of Forests shall refer the dispute to the Ecologically Fragile Land Claim Dispute Redressal Committee constituted under section 10B and shall if any proceedings pertaining to the land referred to in the said application is pending before any Tribunal, communicate the fact to the said Tribunal and on such communication further proceedings in respect of such land before the Tribunal shall stand suspended.

(3) On such reference under section (2), the Ecologically Fragile Land Claim Dispute Redressal Committee shall after inspecting the land in dispute furnish a detailed report within six 3 months from the date of receipt of the application to the Principal Chief Conservator of Forests regarding the nature of the land, trees and other vegetation on the land.

(4) Immediately on receipt of the report under sub-section (3), the Principal Chief Conservator of Forests shall forward the same with his recommendations to Government and the decision of the Government thereon shall be final.

(5) If the decision under sub-section (4) is that any land or portion thereof is an ecologically fragile land, the Tribunal shall at the option exercised by the applicant, within such time as may be prescribed, continue the proceedings suspended temporarily under sub-section (2) in respect of such land.

(6) If the decision under sub-section (4) is that any land or portion thereof is not an ecologically fragile land, the custodian shall, as soon as may be, return the possession of such land or portion thereof, as the case may be, to the owner of such land and that the said land shall not be purported to have been vested in the Government at any time under the provisions of this Act, and in respect of the land which is returned, the Tribunal shall put an end to the proceedings which is pending before the Tribunal and suspended temporarily under sub-section (2) and pass orders thereon.

(7) No application for settlement of dispute under this section shall be filed after the expiry of six months, as the case may be, from the date of publication of the Kerala Forest (Vesting and Management of Ecologically Fragile Lands) Amendment Act, 2009

or from the date of notification declaring such land as ecologically fragile land under section 3.

(8) The form, the manner and fees for preferring an application under sub-section (1) shall be such as may be prescribed.

10B. Constitution of the Ecologically Fragile Land Claim Dispute Redressal Committee.-(1) The Government may, by notification in the Gazette constitute committees in each forest division by name "The Ecologically Fragile Land Claim Dispute Redressal Committee" as soon as may be after the commencement of the Kerala Forest (Vesting and Management of Ecologically Fragile Lands) Amendment Act, 2009 for the settlement of disputes under section 10A.

(2) The Committee shall consist of the following members, namely:-

(i) Local Divisional Forest Officer/Wildlife Warden, who shall be the Chairman of the Committee;

(ii) Working Plan Officer, who shall be the Convener of the Committee;

(iii) Two Scientists from the distinct Research Institutes coming under the Kerala State Science, Technology and Environment Council;

(iv) The Member of the Legislative Assembly of the area comprising the place which is subjected to inspection;

(v) The President of the Village Panchayat of the area comprising the place which is subjected to inspection;

(vi) The Agriculture Officer not below the rank of a Deputy Director or a person nominated by him of the area comprising the place which is subjected to inspection;

(vii) Revenue officer not below the rank of a Revenue Divisional Officer or a person nominated by him of the area comprising the place which is subjected to inspection.

(3) The rules for the functioning of the Committee shall be such as may be prescribed."

3. Repeal And Saving :-

(1) The Kerala Forest (Vesting and Management of Ecologically Fragile lands) Amendment Ordinance, 2009 (20 of 2009) 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.