

Madras Marumakkattayam Act, 1932

22 of 1933

[01 August 1933]

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SCHEDULE 1 :- SCHEDULE

Madras Marumakkattayam Act, 1932

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PREAMBLE

An Act to define and amend in certain respects the law relating to marriage, guardianship, intestate succession, family management and partition applicable to persons governed by the Marumakkattayam law of inheritance.

Whereas it is expedient to define and amend in certain respects the law relating to marriage, guardianship, intestate succession, family management and partition applicable to persons governed by the Marumakkattayam law of inheritance;

And whereas the previous sanction of the Governor-General has been obtained to the passing of this Act;

It is hereby enacted as follows:--

1. For Statement of Objects and Reasons, see Fort St. George Gazette, dated 18th August 1931--Part IV, page 248. Also see Madras Act XXXII of 1955.

This Act was extended to the merged State of Pudukkottai by section 3 of, and the First Schedule to, the Madras Merged States (Laws) Act, 1949 (Madras Act XXXV of 1949).

CHAPTER 1 PRELIMINARY

1. Short title and application :-

(1) This Act may be called the Madras Marumakkattayam Act, 1932.

(2) It shall apply--

(a) to all Hindus in the Presidency of Madras who are governed by the Marumakkattayam law of inheritance;

(b) to all Hindus outside the said Presidency governed by the said law, in respect of properties within it; and

(c) to all Hindu males, whether governed by the said law or not, who have contracted or may contract marital alliances with Hindu females governed by the said law.

2. Repeal of Madras Act IV of 1896 :-

The Malabar Marriage Act, 1896, in so far as it is applicable to Hindus following the Marumakkattayam law of inheritance, is hereby repealed.

3. Definitions :-

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

(a) anandravan means any member of a tarwad other than the karnavan;

¹[(b) Collector means the Collector of the district in which any property of a tarwad is situated and includes any Revenue Divisional Officer who is authorized by the Collector to perform his functions under this Act;]

(c) karnavan means the oldest 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 a male member, the oldest female member or where by custom or family usage the right to such management vests in the oldest female member, such female member;

(d) major means a person who has attained eighteen years of age;

(e) marumakkattayam 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 Aliya-santana;

(f) marumakkattayi means a person governed by the Marumakkattayam law of inheritance;

(g) minor means a person who has not attained eighteen years of age;

(h) prescribed means prescribed by rules made under this Act;

(i) tarwad means the group of persons forming a joint family with community of property governed by the Marumakkattayam law of inheritance;

(j) (i) tavazhi used in relation to a female means the group of persons consisting of that female, her children and all her descendants in the female line; and

(ii) tavazhi used in relation to a male means the tavazhi of the mother of that male.

1. This clause was substituted for original clause (b) by clause 3 of, and the Schedule to, the Madras Adaptation of Laws Order, 1957.

CHAPTER 2 MARRIAGE AND ITS DISSOLUTION

4. Marriages valid under the Act :-

¹(1) Save as provided in section 5, the conjugal union of a marumakkattayi female with--

- (i) a male belonging to the name community as such female, or
- (ii) a male not belonging to such community and whether a marumakkattayi or not,

shall be deemed for all purposes to be a legal marriage if--

(a) the parties to the union are not related to each other in such degree of consanguinity or affinity that conjugal union between them is prohibited by any custom or usage of the community to which they belong or either of them belongs; and

(b) the union--

(i) was openly solemnized in accordance with the customary ceremonies, if any, prevailing in the community to which the parties belong or either of them belongs, before the date on which this Act comes into force ²(.....,.....); or

(ii) is so solemnized in accordance with such ceremonies on or after the date on which this Act comes into force and, where either or both the parties are minors, with the consent of the guardian or guardians of such minor or minors; or

(iii) was registered as a marriage under the Malabar Marriage Act, 1896(Madras Act IV of 1896), before the date on which this Act comes into force ²(.....)

(2) A conjugal union between minors or between a minor and a major which would otherwise be a valid marriage under sub-section (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.

1. The Hindu Marriage Act, 1955 (Central Act 25 of 1955), has an overriding effect over any other law in force immediately before the commencement of that Act in so far as it is inconsistent with any of the provisions of that Act, vide section 4 (b) thereof. But under section 29 (2) of the Central Act nothing contained in that Act shall be deemed to affect any right recognised by custom or conferred by any special enactment to obtain the dissolution of a Hindu Marriage whether solemnised before or after the commencement of that Act.

2. The words "and is subsisting on such date" were omitted by

section 2 of the Madras Marumakkattayam (Amendment) Act, 1947 (Madras Act XXXII of 1947.)

5. Marriage during continuance of prior marriage void :-

(1) 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.

(2) On or after the said date, any marriage contracted by a male with a marumakkattayi female, during the continuance of a prior marriage of such male, shall be void, notwithstanding that his personal law permits of polygamy.

6. Dissolution of marriage :-

A marriage valid under section 4 may be dissolved ¹(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.

²[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 or either of them belongs.]

1. These words were inserted by section 3 (I) of the Madras Marumakkattayam (Amendment) Act, 1947 (Madras Act XXXII of 1947).

2. This paragraph was added by section 3 (2) of *ibid*.

6A. Rights of children of marriage, etc., not affected by dissolution of marriage :-

¹[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.]

1. This section was inserted by section 4, *ibid*.

7. Petition for dissolution :-

(1) A husband or wife may present a petition for dissolution of the marriage---

(i) if the place where the marriage was contracted or the respondent has a permanent dwelling or actually and voluntarily resides or carries on business or personally works for gain, at the time the petition is presented, is situated within the local limits of the jurisdiction of the Court of a District Munsif, in such court;

(ii) if such place is not situated within the local limits of the jurisdiction of the court of any District Munsif, in the court of the Subordinate Judge or if there is no such court, in the court of the District Judge, within the local limits of whose jurisdiction such place is situated; and

(iii) if such place is situated within the local limits for the time being of the ordinary original civil jurisdiction of the High Court of Madras, in the Madras City Civil Court.

(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.

8. Service of copy of petition on respondent :-

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

9. Order of dissolution :-

On the motion of the petitioner made not earlier than six months after the service of the copy as 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. The dissolution shall take effect from the date of such order.

10. Application of the Code of Civil Procedure, 1908, to Petitions :-

The provisions in the Code of Civil Procedure, 1908(Central Act V of

1908), shall, so far as may be, apply to petitions under this Chapter.

11. Bar of suit for restitution of rights :-

No Court shall entertain a suit for restitution of conjugal rights between the parties to a marriage valid under section 4.

12. Chapter not to apply to marriages of Nambudri women :-

Nothing contained in this Chapter shall apply to the marriage of any Nambudri woman following the Marumakkattayam law of inheritance.

CHAPTER 3 MAINTENANCE AND GUARDIANSHIP

13. Maintenance of wife and minor children :-

1(1) The wife and minor children other than married minor daughters under the guardianship of their husbands, shall be entitled to be maintained by the husband or the father, as the case may be:

Provided that the wife shall not be entitled to maintenance from the husband if she refuses to live with him without just cause.

(2) Nothing contained in sub-section (1) shall affect the right of any person to maintenance from his or her tarwad or tavazhi properties.

(3) In awarding maintenance under sub-section (1) the Court shall have due regard to the means and circumstances of the person against and by whom maintenance is claimed and to the reasonable wants of the person claiming maintenance.

1. The Hindu Minority and Guardianship Act, 1956 (Central Act 32 of 1956) has by virtue of section 5 (b) thereof an overriding effect over any other law in force immediately before the commencement of that Act in so far as it is inconsistent with any of the provisions contained in that Act.

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.

15. Guardianship of minor children by husband deceased or divorced :-

The mother shall be the guardian of the person and property of her minor children if their father is dead or the marriage of their parents is dissolved.

16. Saying of the operation of the Guardians and Wards Act, 1890 :-

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

CHAPTER 4 INTESTATE SUCCESSION

17. Property as to which a person is considered to have died intestate :-

¹A 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.

Illustrations.

(i) A has left no will. He has died intestate in respect of the whole of his property.

(ii) A has left a will whereby he has appointed B his executor but the will contains no other provisions. A has died intestate in respect of the distribution of his property.

(iii) A has bequeathed his whole property for an illegal purpose. A has died intestate in respect of the distribution of his property.

(iv) A bequeathed Rs. 1,000 to B and Rs. 1,000 to the eldest son of C and made no other bequest and died leaving Rs. 2,000. C died before. A without over having had a son. A has died intestate in respect of the distribution of Rs. 1,000.

1. The Hindu Succession Act, 1956 (Central Act 30 of 1956) has by virtue of section 4 (b) thereof an overriding effect over any other law in force immediately before the commencement of that Act in so far as it is inconsistent with any of the provisions of that Act.

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

On the death intestate of a marumakkattayi male, his property, which is self-acquired or separate, shall devolve in the order and according to the rules contained in sections 19, 20, 21, 22, 23 and 24.

19. Where intestate has left mother, widow, children and lineal descendants :-

Where the intestate has left surviving him a child or children or a lineal descendant or descendants in the female line through a deceased daughter or daughters, or both, and also his mother or a widow or widows or both his mother and a widow or widows, the whole of the property shall belong to them. In the absence of the mother and widow, the whole of the property shall belong to the child or children and such lineal descendant or descendants; and in the absence of the mother, widow and child, the whole of the property shall belong to such lineal descendant or descendants.

20. Rules of distribution in cases falling under section 19 :-

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

- (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) Every child (son or daughter) shall be entitled to an equal share:

Provided that if a daughter has pre-deceased the intestate, the lineal descendants of such daughter in the female line shall be entitled to the share which such daughter would have taken had she survived the intestate.

- (iv) Grandchildren by a deceased daughter shall be entitled in equal shares to what their mother would have taken had she survived the intestate:

Provided, that if a granddaughter has pre-deceased the intestate,

the lineal descendants of such granddaughter in the female line shall be entitled to the share which such granddaughter would have taken had she survived the intestate.

(v) In like manner the property shall go to the surviving lineal descendants of the intestate in the female line where such descendants are in the degree of great grandchildren or in a more remote degree.

Explanation I.--The descendants of a daughter, daughters daughter or other female descendant in the female line shall not be entitled to any share in such property if such daughter, daughters daughter or other descendant is alive at the time of the death of the intestate.

Explanation II.--The descendants of a son who has pre-deceased the intestate shall not be entitled to any share in such property.

Illustrations.

(1) Z dies intestate leaving two widows A and B, his mother C, a son D, a daughter E, a granddaughter F by such daughter, the lineal descendants of a deceased daughter G and the lineal descendants of a deceased son H. A, B, C, D and E each gets one-sixth and the lineal descendants of G get one-sixth of the property. The granddaughter F and the lineal descendants of H do not get any share.

(2) Z dies intestate leaving no widow or mother, but leaving A a son, B a daughter, E and F a grandson and a granddaughter by a deceased daughter C, and a granddaughter G by a deceased daughter D and two great granddaughters H and J by a deceased daughter of D. A and B will each be entitled to one-fourth of Zs property, E and F will each be entitled to one-eighth, G will be entitled to one-eighth and H and J each to one-sixteenth.

(3) Z dies intestate leaving no mother, widow or child, but leaving three grandchildren, A, B and C by a daughter X who has pre-deceased him and two grandchildren D and E by a daughter Y who has also pre-deceased him. A, B and C will each be entitled to one-sixth, and D and E will each be entitled to one-fourth of Zs property.

21. Rules of distribution where intestate has left no child or lineal descendant but only mother or widow or both :-

Where the intestate has not left surviving him any child or lineal descendant in the female line through a deceased daughter but has left his mother and a widow or widows, one-half 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 belong to the mother.

Rules of distribution where intestate has left no child or lineal descendant but only mother or widow or both.

22. Rules of distribution where intestate has left only widow or mothers tavazhi or both :-

Where the intestate has not left surviving him his mother or any child or lineal descendant in the female line through a deceased daughter but has left a widow or widows and his mothers tavazhi, one-half of the property shall devolve on his widow or widows and the other half on his mothers tavazhi. In the absence of the mothers tavazhi the whole of the property shall belong to the widow or widows and in the absence of a widow, the whole of the property shall belong to the mothers tavazhi.

23. Rules of distribution where intestate has left only father and maternal grandmothers tavazhi :-

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 tavazhi, one-half of the property shall devolve on his father and the other half on his maternal grandmothers tavazhi. In the absence of the maternal grandmothers tavazhi, the whole of the property shall belong to the father and in the absence of the father, the whole of the property shall belong to the maternal grandmothers tavazhi.

24. Rules of distribution where intestate has not left any of the heirs mentioned in sections 19, 21, 22 and 23 :-

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

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

On the death intestate of a marumakkattayi female, her property which is self-acquired or separate shall devolve in the order and

according to the rules contained in sections 26, 27, 28 and 29.

26. Rules of distribution where intestate has left children and lineal descendants :-

Where the intestate has left surviving her, children or lineal descendants in the female line through deceased daughters or both, the whole of the property shall belong to them.

The provisions of clauses (iii), (iv) and (v) of section 20 and of Explanations I and II to that section shall apply to the distribution of the property among the children and lineal descendants of the intestate.

27. Rules of distribution where intestate has not left any child or lineal descendant :-

Where the intestate has not left surviving her any child or lineal descendant in the female line through a deceased daughter, the whole of the property shall devolve on her mothers tavazhi.

28. Rules of distribution where intestate has not left any of the heirs mentioned in sections 26 and 27, but has left husband and maternal grandmothers tavazhi :-

Where the intestate has not left surviving her any of the heirs mentioned in sections 26 and 27 but has left her husband and her maternal grandmothers tavazhi, one-half of the property shall devolve on her husband and the other half on her maternal grandmothers tavazhi. In the absence of the maternal grandmothers tavazhi the whole of the property shall belong to the husband, and in the absence of the husband, the whole of the property shall belong to the maternal grandmothers tavazhi.

29. Rules of distribution where intestate has not left any of the heirs mentioned in sections 26, 27 and 28 :-

Where the intestate has not left surviving her any of the heirs mentioned in sections 26, 27 and 28, the property shall devolve on the tavazhi of her mothers maternal grandmother or on the tavazhi of a more remote female ascendant in the female line, the nearer excluding the more remote.

30. Devolution of property left by non-marumakkattayi male intestate :-

(1) On the death intestate of a male not being a marumakkattayi

(i) who--

(a) has, before the date on which this Act comes into force, contracted a marriage with a marumakkattayi female which is valid under section 4; or

(b) has contracted on or after such date a marriage with a marumakkattayi female which is valid under that section; and

(ii) who has left surviving him by such marriage or marriages one or more of the following relations, namely:--

(a) a widow or widows,

(b) children,

(c) lineal descendants in the female line through deceased daughters,

such relation or relations shall be entitled, if the intestate has also left relations who are heirs according to the personal law by which he is governed, to one-half of his property which is separate or self-acquired and if the intestate has left no such heirs, to the whole of such property:

Provided that the reasonable funeral expenses of the intestate shall first be deducted from such separate or self-acquired property.

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

31. Possession and management of property until division :-

(1) The senior major male member among the children and other lineal descendants through deceased daughters of the intestate or in the absence of any such male member, the widow, or if there is more than one widow, the senior among such widows shall be entitled to possession and management of the property referred to in sections 19, 21, 22 and 26 until division is effected.

(2) In the case of the property referred to in section 30 if the intestate has left relations who are heirs according to the personal law by which he is governed, such heirs shall be entitled to possession and management of the property until division is effected.

(3) The karnavan of the tavazhi mentioned in sections 23, 24, 27, 28 and 29 shall be entitled to possession and management of the

property referred to therein until division is effected.

CHAPTER 5 TARWAD AND ITS MANAGEMENT

32. Duty of karnavan to keep accounts :-

¹The karnavan shall keep true and correct accounts of the income and expenditure of the tarwad. The accounts of each year shall be available for inspection at the tarwad house by the major anandravans once in a year throughout the month of Kanni following such year and any such anandravan may take copies of or extracts from such accounts.

1. The Madras Marumakkattayam (Removal of Doubts) Act, 1955 (Madras Act XXXII of 1955), has declared certain kinds of sthanam properties to be tarwad properties.

33. Validity of sales, mortgages and leases :-

¹[(1) No sale or mortgage of any immovable property of a tarwad and no lease of any such property either for a premium returnable wholly or in part or for a period exceeding twelve years shall be valid, unless it is executed by the karnavan for consideration, for tarwad necessity or benefit, and with the written consent of the majority of the major members of the tarwad.

(Madras Act XIV of 1930)

(2) No lease of any immovable property of a tarwad in cases not referred to in sub-section (1) shall be valid unless it is executed by the karnavan 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 tarwad has been obtained to the lease.

(3) Nothing contained in sub-section (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.]

1. This section was substituted for original section 33 by section 49 of the Malabar Tenancy (Amendment) Act, 1951 (Madras Act XXXIII of 1951.)

34. 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.

35. Maintenance of members of tarwad :-

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

36. Relinquishment of karnavanship :-

Any karnavan may, by a registered document, give up his rights as karnavan.

37. 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 6 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 tarwad 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 tarwad 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 7 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 oath, 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(Central Act V of 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. Collectors 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 8 MISCELLANEOUS

48. Construction of bequests, gifts, etc., to wife or wife and children :-

Where a person bequeaths or makes a gift of any property to, or purchases any property in the name of, his wife alone or his wife and one or more of his children by such wife together, such property shall, unless a contrary intention appears from the will or deed of gift or purchase or from the conduct of the parties, be taken as tavazhi property by the wife, her sons and daughters by such person and the lineal descendants of such daughters in the female line:

Provided that, in the event of partition of the property taking place under Chapter VI, the property shall be divided on the stirpital principle, the wife being entitled to a share equal to that of a son or a daughter.

49. Rules :-

(1) The ¹[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.

(3) All rules made under this section shall be published in the ²[Official Gazette] and on such publication shall have effect as if enacted in this Act.

1. The words "Provincial Government" were substituted for the

words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

2. These words were substituted for the words "Fort St. George Gazette" by the Adaptation Order of 1937.

50. Savings :-

Nothing contained in this Act shall ¹[. . . .] be deemed to affect ¹[. . . .] any rule of Marumakkattayam law, custom or usage, except to the extent expressly laid down in this Act.

1. Clause (a) and the brackets and letter "(b)" were omitted by section 5 of the Madras Marumakkattayam (Amendment) Act, 1947 (Madras Act XXXII of 1947).

SCHEDULE 1

SCHEDULE

(See the second proviso to section 14 and sub-section (1) of section 42.)

List of impartible tarwads.

I. The Zamorins family consisting of--

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

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

(c) Kizhako 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 Rajas family, Kottayam taluk.

5. The Thekke Kovilakom of the Kottayam Rajas family, Kottayam taluk.

6. The Patinhare Kovilakom of Kottayam Rajas 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 Rajas family in the Walluvanad taluk.

10. The Kadannamana Kovilakom of the Walluvanad Rajas family in the Walluvanad taluk.

11. The Mankada Kovilakom of the Walluvanad Rajas family in the Walluvanad taluk.

12. The Aripura Kovilakom of the Walluvanad Rajas 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 Rajas family of Kasaragod taluk.

17. The Neleswar Rajas family of Kasaragod taluk.