

Madras Nambudri Act, 1932

21 of 1933

[01 August 1933]

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PREAMBLE

An Act to define and amend in certain respects the law relating to family management, marriage, guardianship, intestate succession and partition applicable to Nambudri Brahmans and certain other communities, not governed by the Marumakkattayam law of inheritance.

Whereas it is expedient to define and amend in certain respects the law relating to family management, marriage, guardianship, intestate succession and partition applicable to Nambudri Brahmans and certain other communities, not 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, pages 224-225.

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 Nambudri Act, 1932.

(2) It shall apply--

(a) to all Nambudri Brahmans in the Presidency of Madras who are

not governed by the Marumakkattayam law of inheritance; and
(b) to all Nambudri Brahmans outside the said Presidency, not governed by the law, in respect of immovable property situated within it.

2. Definitions :-

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

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

(b) illom means, all the members of a Nambudri joint family with community of property and includes a mana;

Explanation.--A female shall on her marriage cease to be a member of the illom in which she was born and become a member of the illom of her husband;

(c) karnavan means the oldest male member of an illom in whom the right; to management of its properties vest or in the absence of a male member the senior female member;

Explanation.--The seniority as between two or more females, who become members of the illom by marriage, shall be determined according to the dates of their marriages;

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

(e) minor means a person who has not attained eighteen years of age.

CHAPTER 2 ILLOM AND ITS MANAGEMENT

3. Proprietary right of members in illom properties :-

(1) Every member of an illom, whether male or female, shall have an equal proprietary interest in its properties.

(2) Such proprietary interest shall not in any manner be impaired or affected by reason of the deviation of such member from any orthodox custom or usage.

4. Duty of karnavan to keep accounts :-

The karnavan shall keep true and correct accounts of the income and expenditure of the illom. The accounts of each year shall be available for inspection at the illom 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.

5. Validation of sales, mortgages and leases :-

¹[(1) No sale or mortgage of any immovable property of an illom 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 illom necessity or benefit, and with the written consent of the majority of the major members of the illom.

(2) No lease of any immovable property of an illom 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 (Madras Act XIV of 1930), confers fixity of tenure on the lessee, unless also the written consent of the majority of the major members of the illom, 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 1960 in accordance with the law in force at the time of such execution.]

1. This section was substituted for the original section by section 48 of the Malabar Tenancy (Amendment) Act, 1951 (Madras Act XXXIII of 1951).

6. Debt contracted by karnavan when binding on illom :-

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

7. aintenance of members of illom :-

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

8. Relinquishment of karnavanship :-

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

CHAPTER 3 MARRIAGE

9. Right of Nambudri male to marry in his community :-

¹ Notwithstanding any custom or usage to the contrary every major male Nambudri shall, subject to the provisions of section 5 of the Madras Marumakkattayam Act, 1932, and any other law for the time being in force, be at liberty to marry in his own community.

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, vide section 4(b) thereof, in so far as that law is inconsistent with any of the provisions contained in that Act.

10. Right of major Nambudri female to have her marriage performed and recovered the marriage expenses and dowry :-

(1) Any unmarried major female member of an illom who marries or has her marriage with a male belonging to her community performed with her consent by her father or any other member of her illom shall be entitled to recover from the illom properties, the reasonable expenses of such marriage as well as her dowry:

Provided that not less than three months previous notice in writing of the marriage shall be given to the karnavan.

(2) The amount recoverable under sub-section (1) shall not exceed one-third of the value of the share which would fall to such female member if a division per capita of the properties of the illom were made among all the members thereof living on the date of the marriage, or rupees ten thousand, whichever is less:

Provided that where an illom consists of females only, the amount recoverable under this sub-section may extend to the full value of her share.

11. [Omitted] :-

¹[*****]

1. Sections 11 and 12 were repealed by section 8 of the Madras Hindu (Bigamy Prevention and Divorce) Act, 1949 (Madras Act VI of 1949).

12. [Omitted] :-

¹[*****]

1. Sections 11 and 12 were repealed by section 8 of the Madras Hindu (Bigamy Prevention and Divorce) Act, 1949 (Madras Act VI of 1949).

13. Dowry to be separate property of Nambudri female :-

The dowry given to a Nambudri female or recovered by her under section 10 shall be her separate property.

CHAPTER 4 GUARDIANSHIP

14. Guardianship of minors :-

¹ (1) Subject to the provisions of sub-section (2), the following persons in the order named shall be the legal guardian of a minor, male or female, in respect of his or her person and separate property, namely, father, mother, full brothers in the order of seniority, paternal grandfather, paternal uncles in the order of seniority, fathers mother and consanguine brothers in the order of seniority.

(2) The husband shall be the legal guardian of his minor wife in respect of her person and separate property.

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 that law is inconsistent with any of the provisions contained in that Act.

15. Saving of the operation of Guardians and Wards Act, 1890 :-

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

CHAPTER 5 INTESTATE SUCCESSION

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

¹ 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.

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 that law is inconsistent with any of the provisions of that Act.

17. Devolution of property left by Nambudri male intestate
:-

On the death intestate of a Nambudri male, his property which is self-acquired or separate shall, subject to the provisions of section 30 of the Madras Marumakkattayam Act, 1932 (Madras Act XXII of 1933), devolve in the order and according to the rules contained in sections 18, 19 and 20.

18. Where the intestate has left widow, children or lineal descendants :-

Where the intestate has left surviving him by a marriage or marriages in his own community one or more of the following relations, namely:--

- (a) a widow or widows,
 - (b) a son or sons,
 - (c) an unmarried daughter or unmarried daughters, and
 - (d) a lineal descendant or descendants (other than married females) in the male line through a deceased son or sons,
- the whole of the property shall belong to such surviving relation or relations.

19. Rules of distribution in cases falling under section 18 :-

The distribution of the property among the heirs referred to in section 18 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 son or unmarried daughter.
- (ii) Every son or unmarried daughter shall be entitled to an equal share:

Provided that if a son has pre-deceased the intestate his lineal descendants in the male line (other than married females) shall be entitled to the share which such son would have taken had he survived the intestate.

- (iii) The sons and unmarried daughters of a deceased son shall be

entitled in equal shares to what their father would have taken had he survived the intestate;

Provided that if a sons son has pre-deceased the intestate, his lineal descendants in the male line (other than married females) shall be entitled to the share which such sons son would have taken had he survived the intestate.

(iv) In like manner, the property shall go to the surviving lineal descendants of the intestate in the male line (other than married females) where such descendants are in the degree of great-grandchildren or in a more remote degree.

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

20. Devolution of property where the intestate has not left any of the heirs mentioned in section 18 :-

(1) Where the intestate has not left surviving him any of the heirs mentioned in section 18, the property shall devolve on the relations and in the order specified below:--

- (1) Father;
- (2) Mother;
- (3) Brothers and sisters;
- (4) Sons and unmarried daughters of brothers;
- (5) Fathers father;
- (6) Paternal uncles;
- (7) Sons of paternal uncles;
- (8) Sisters children;
- (9) Fathers paternal grandfather;
- (10) Fathers paternal grandfathers descendants in the male line, the nearer excluding the more remote; and
- (11) Fathers remoter ascendants in the male line and their descendants, the nearer ascendant and his descendants excluding the more remote ascendant and his descendants and among the descendants of the same ascendant, the nearer excluding the more remote.

(2) Property devolving on two or more heirs under sub-section (1) shall be divisible among them equally.

21. Devolution of property left by a married Nambudri female intestate :-

(1) On the death intestate of a married Nambudri female, her property which is self-acquired or separate shall devolve on the relations and in the order specified below:--

- (1) Sons and daughters;
- (2) Children of deceased sons;
- (3) Sons of deceased daughters;
- (4) Husband;
- (5) Father;
- (6) Mother;
- (7) Brothers and sisters;
- (8) Brothers and sisters children;
- (9) Relations of her husband mentioned in section 18 and not included in clauses (1) and (2); and
- (10) Relations of her husband mentioned in sub-section (1) of section 20 in the order specified therein.

(2) Property devolving on two or more heirs under sub-section (1) shall be divisible among them equally:

Provided that where the property devolves on the relations of the husband referred to in clause (9) of sub-section (1), it shall be divisible among them in accordance with the rules laid down in section 19.

22. Devolution of property left by an unmarried Nambudri female intestate :-

On the death intestate of an unmarried Nambudri female, the whole of her property which is self-acquired or separate shall devolve on her parents. In the absence of her parents, it shall devolve on her brothers and sisters in equal shares and in their absence it shall devolve on her illom.

CHAPTER 6 PARTITION

23. Right of member to claim partition :-

(1) Any member of an illom, male or female, may claim to take his or her share of all the properties of the illom over which it has power of disposal and separate from the illom:

Provided that where a male member of an illom whose wife is also a member thereof claims to separate from the illom, he shall do so on behalf of himself and his wife and the shares of the husband and wife shall be allotted to them jointly; and save as provided in section 24, neither the husband nor the wife shall be entitled to

claim partition from the other.

(2) (a) A member of an illom separating from it under sub-section (1) shall be entitled to such share of the illom properties as would fall to him or her if a division per capita were made among all the members of the illom then living.

(b) A husband and wife separating from an illom under the proviso to sub-section (1) shall be entitled to such share of the illom properties as would fall to them if a division per capita were made among all the members of the illom then living.

(3) No claim to separate from an illom made on behalf of a minor member shall be allowed by any court unless it is satisfied that such separation would be to the benefit of such minor.

24. Partition on change of religion :-

(1) Any member of an illom who has changed his or her religion may claim, or be compelled by any other member of the illom, to take his or her share of the illom properties and separate from the illom.

(2) The member who claims or is compelled to divide from the illom under sub-section (1) shall be entitled to such share of the illom properties as would fall to him or her if a division per capita were made among all the members of the illom then living.

25. Character of property taken on partition :-

The share obtained by any member separating from an illom under sub-section (1) of section 23 or under section 24 shall be the separate property of such member:

Provided that the share obtained by a husband and wife separating jointly under the proviso to sub-section (1) of section 23 shall be taken by them with the incidents of illom property.

CHAPTER 7 MISCELLANEOUS

26. Saving :-

Nothing contained in this Act shall be deemed to affect any law, custom or usage applicable to Nambudri Brahmans except to the extent expressly laid down in this Act.

27. Application of the Act to certain communities :-

The provisions of this Act shall also apply to the following

communities in the Malabar district who are not governed by the Marumakkattayam law of inheritance and who follow customs and usages similar to those of the Nambudris, namely, Adigal, Elayads, Moosads, Pitarans and Numbissans.