

Malabar Tenancy (Amendment) Act, 1956

22 of 1956

[31 October 1956]

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PREAMBLE

An Act further to amend the Malabar Tenancy Act, 1929.

Whereas urgent amendment to clarify the intendment of the Legislature in regard to some of the provisions of Act VII of 1954 and Act XXXIII of 1951 have become necessary in view of some decisions of courts and whereas the protection sought to be conferred by Act VII of 1954 would be lost to the tenantry if immediate amendments are not carried out;

Be it enacted in the Seventh Year of the Republic of India as follows:--

1. For Statement of Objects and Reasons, see Fort St. George Gazette, Part IV-A, dated the 5th September 1956, pages 141-142.

1. Short title :-

This Act may be called the Malabar Tenancy (Amendment) Act, 1956.

2. xxx xxx xxx :-

XXX XXX XXX

3. xxx xxx xxx :-

XXX XXX XXX

4. xxx xxx xxx :-

XXX XXX XXX

[The amendments made by sections 2 to 4 have been carried out in the principal Act (Madras Act XIV of 1930)].

5. Repeal of section 4 of the Madras Act XXIV of 1945 and consequential provisions :-

(1) Section 4 of the Malabar Tenancy (Second Amendment) Act 1945 (Madras Act XXIV of 1945), is hereby repealed and shall be deemed to have been repealed as from the date of commencement of the Malabar Tenancy (Amendment) Act, 1951 (Madras Act XXXIII of 1951).

(2) Where before the commencement of the Malabar Tenancy (Amendment) Act, 1954 (Madras Act VII of 1954), a landlord has obtained possession of a holding in execution of a decree passed by a Court on or after the 1st July 1942 under clause (5) or clause (6) of section 14 or under clause (5) or clause (6) of section 20 of the Malabar Tenancy Act, 1929 (Madras Act XIV of 1930), and such decree would not have been passed if the principal Act as amended by the Malabar Tenancy (Second Amendment) Act, 1945 (Madras Act XXIV of 1945), the Malabar Tenancy (Amendment) Act, 1951 (Madras Act XXXIII of 1951), and this Act had been in force at that time the tenant shall be entitled to be restored to the possession of the holding with all the rights and subject to all the liabilities of a tenant if he makes an application in that behalf in the Court which passed the decree within twelve months of the commencement of this Act.

Provided that before such restoration is effected, the tenant shall be bound to return to the landlord, (i) the value, if any, paid by the landlord to the tenant for his improvements, (ii) the kanartham, if any, and (iii) the value of the Improvements, if any, effected bona fide by the landlord, between the date on which he obtained possession of the holding and the date on which possession thereof is restored to the tenant.

(3) If a landlord has obtained possession of a holding in the circumstances specified in sub-section (2), and if at the time he obtained such possession there were intermediaries between him and the tenant, then, the provisions of sub-section (2) of section 41 of the said Act shall apply to such intermediaries as they apply in relation to the intermediaries referred to in that sub-section.

(4) Nothing contained in this section shall affect the rights of any bona fide transferee from the landlord.

6. Section 6 :-

[The amendment made by section 6 has been carried out in the Malabar Tenancy (Amendment) Act, 1951 (Madras Act XXXIII of 1951).

7. Consequential provisions :-

(1) Where before the commencement of this Act any Court has passed a decree for rent against any tenant and a Rent Court has subsequently fixed fair rent under the provisions of the principal Act, any tenant may, within three months of the commencement of this Act, apply to the Court which passed the decree to amend the decree so as to give effect to the order of the Rent Court fixing fair rent and if as a consequence of such amendment, the decree is fully satisfied by giving credit to the payment already made, satisfaction of the decree shall be entered and only such amounts as may be outstanding after the decree has been so amended shall be recoverable from the tenant.

(2) Where before the commencement of this Act any Rent Court has fixed fair rent, the Rent Court shall on application by the tenant within three months of such commencement amend the order fixing fair rent by giving effect to the provisions of the principal Act as amended by this Act and the principal Act as amended by this Act shall also apply to petitions, appeals and other proceedings pending at such commencement.