

Tamil Nadu Occupants of Kudiyruppu (Protection From Eviction) Act, 1961

TAMILNADU

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Act 38 of 1961

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Tamil Nadu Occupants of Kudiyruppu (Protection From Eviction) Act, 1961(Tamil Nadu Act 38 of 1961)Statement of Objects and Reasons - Tamil Nadu Occupants of Kudiyruppu (Protection from Eviction) Act, 1961(Tamil Nadu Act 38 of 1961). - It was brought to the notice of the Government that, in anticipation of legislation for the imposition of ceiling on agricultural land holdings, land owners were disposing of their lands, on a large scale, and that, in order to facilitate such disposal, they were also evicting from their kudiyruppus, the agriculturists and agricultural labourers occupying them. The Government considered that such large scale eviction would lead to agrarian unrest and should be put an end to. They, accordingly, included provisions in the Madras Land Reforms (Fixation of Ceiling on Land) Bill, 1960 (L.A. Bill No. 8 of 1960), for giving temporary protection from eviction to occupants of kudiyruppu. The Joint Select Committee, to which the said Bill was referred, however, considered that the provisions relating to kudiyruppus should be omitted from the said Bill, that a separate Bill giving protection from eviction to occupants of kudiyruppu for a period of three years should be brought forward immediately and that a comprehensive legislation in regard to occupants of kudiyruppus should be undertaken later, after a detailed examination as to what permanent rights should be conferred on them. The provisions relating to kudiyruppu have, accordingly, been omitted from the Madras Land Reforms (Fixation of Ceiling on Land) Bill, 1960 (L.A. Bill No. 8 of 1960). Pending the comprehensive legislation aforesaid, it is proposed to give temporary protection from eviction to persons who were occupying kudiyruppu on the 31st March 1959. In cases, where such persons have already been evicted or are evicted hereafter, the Bill seeks to give them a right to restoration of possession of the kudiyruppu.This Bill does not affect the application of the Travancore-Cochin Prevention of Eviction of Kudikidappukars Act, 1955 (Travancore-Cochin Act XIII of 1955), as in force in the Kanyakumari district and the Shencottah taluk of the Tirunelveli district to a kudikidappukaran as defined in section 2 (c) of that Act.The proposed Act will be in force for a period of three years only.Received the assent of the President on the 10th November 1961 and first published in the Fort

St. George Gazette, dated the 29th November 1961. Statement of Objects and Reasons - Tamil Nadu Kudiyruppu (Conferment of Ownership) Act, 1970 (Tamil Nadu Act 1 of 1971). - According to section 3 of the Tamil Nadu Occupants of Kudiyruppu (Conferment of Ownership) Act, 1971 (Tamil Nadu Act 40 of 1971), any agriculturist or agricultural labourer who was occupying any kudiyruppu on the 19th June 1971 either as tenant or as licensee shall, with effect from the date of the commencement of the said Act, be the owner of such kudiyruppu and such kudiyruppu shall vest in him absolutely free from all encumbrances. 2. According to section 5 of the Tamil Nadu Rural Artisans (Conferment of Ownership of Kudiyruppu) Act, 1976 (Presidents Act 38 of 1976), any rural artisan who was occupying any kudiyruppu on the 1st day of July 1975, either as tenant or as licensee, shall, with effect from the commencement of the said Act, be the owner of such kudiyruppu and such kudiyruppu shall vest in him absolutely free from all encumbrances. 3. It has been brought to the notice of the Government that a number of agriculturists, agricultural labourers and rural artisans have applied for extension of the benefit conferred under the said Acts. The Government have, therefore, decided to amend the aforesaid Acts to the effect that in addition to the agriculturists and agricultural labourers and rural artisans, who were occupying any kudiyruppu of the respective dates referred to above, the agriculturists and agricultural labourers and rural artisans, who were occupying any kudiyruppu on the 1st day of April 1990 are eligible for the benefit under the said Acts. 4. The Bill seeks to achieve the above objects. Published in Part IV - Section 3 of the Tamil Nadu Government Gazette Extraordinary, dated the 28th November 1970. Statement of Objects and Reasons - Tamil Nadu Occupants of Kudiyruppu (Protection from Eviction) Amendment Act, 1971 (Tamil Nadu Act 20 of 1971). - Under section 3(1) of the Tamil Nadu Occupants of Kudiyruppu (Protection from Eviction) Act, 1961 (Tamil Nadu Act 38 of 1961), no person occupying any kudiyruppu on the 31st March 1959, can be evicted from such Kudiyruppu except in accordance with the provisions of that Act. The said Act came into force on the 29th November 1961. Section 4 of the said Act gives a right of restoration to persons who were occupying the kudiyruppu on the 31st March 1959 and who were evicted from such kudiyruppu after that date, but before the 29th November 1961 and also to persons who were in occupation of the kudiyruppu on the 31st March 1959 and who were evicted after the 29th November 1961. The Government, after careful consideration, have decided that the right to protection from eviction should be given to all persons who were occupying the kudiyruppu irrespective of the date of such occupation. It has also been decided that the right of restoration should be given to any person who was evicted from such kudiyruppu on or after the 1st February 1969, but before the date of the publication of the proposed legislation in the Tamil Nadu Government Gazette or who is evicted from such kudiyruppu after the date of such publication. The existing right of restoration given to persons who were occupying the kudiyruppu on the 31st March 1959 and who were evicted subsequently is also retained. Provision has also been made in the Bill empowering the Government to make rules for the preparation of the record of persons occupying kudiyruppu and also for appeal and revision. 2. Section 13 of the Act gives power to the Government to remove any difficulty which arises in giving effect to the provisions of the Act by issuing orders thereunder. The Supreme Court in *Messrs. Jalan Trading Company v. Mill Mazdoor Sabha* ([1967] 1 SCJ 189) has observed that the power to remove any doubt or difficulty by altering the provisions of the Act would, in substance, amount to exercise of legislative authority and that it cannot be delegated to an executive authority. It is, therefore, proposed to avail of this opportunity to omit section 13 and to make consequential amendments in section 14 of the Act. 3. The Bill seeks to achieve the above objects. Published in Part

IV - Section 3 of the Tamil Nadu Government Gazette Extraordinary, dated the 25th June 1971. Received the assent of the President on the 10th November 1961 and first published in the Fort St. George Gazette, dated 29th November 1961. An Act to provide for the protection from eviction of persons occupying kudiyruppu in the [State of Tamil Nadu] [Substituted for the expression 'State of Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.]. Whereas it is necessary to provide for the protection from eviction of persons occupying kudiyruppu in the [State of Tamil Nadu] [Substituted for the expression 'State of Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.]; Be it enacted in the Twelfth Year of the Republic of India as follows : -

1. [Short title and extent] [This marginal heading was substituted for the heading 'Short title, extent and duration' by section 2(1)(a) of the Tamil Nadu Occupants of Kudiyruppu (Protection from Eviction) Re-enacting Act, 1975 (Tamil Nadu Act 23 of 1975), which was deemed to have come into force on the 29th November 1973.]

(1) This Act may be called the [Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.] Occupants of Kudiyruppu (Protection from Eviction) Act, 1961. (2) It extends to the whole of the [State of Tamil Nadu] [Substituted for the expression 'State of Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.]. (3) [Omitted by the Tamil Nadu Occupants of Kudiyruppu (Protection from Eviction) Re-enacting Act, 1975 (Tamil Nadu Act 23 of 1975)]

2. Definitions.

- In this Act, unless the context otherwise requires, -(1) "agricultural labourer" means a person whose principal means of livelihood is the income he gets as wages for his manual labour on agricultural land; (2) "agricultural land" means any land used for any of the following purposes, namely : -(a) horticulture; (b) the raising of crops, grass or garden produce; (c) grazing; (d) the raising of manure crops; (e) dairy farming; (f) poultry farming; (g) livestock breeding; (h) growing of trees; and (i) includes any land used for any purpose subservient to the above purposes, any forest land, pasture land, plantation, orchard and tope; but (ii) does not include house-site or land used exclusively for non-agricultural purposes; (3) "agriculturist" means a person who cultivates agricultural land by the contribution of his own manual labour or of the manual labour of any member of his family; (4) "authorised officer" means any Gazetted Officer authorised by the Government by notification to exercise the powers conferred on, and to discharge the duties imposed upon, the authorised officer under this Act for such area as may be specified in the notification; (5) "Government" means the State Government; (6) "Kudiyruppu" means the site of any dwelling house or hut occupied, either as tenant or as licensee, by any agriculturist or agricultural labourer and includes such other area adjacent to the dwelling house or hut as may be necessary for the convenient enjoyment of such dwelling house or hut. Explanation. - It shall be presumed that any

person occupying the kudiyruppu is an agricultural labourer or an agriculturist, until the contrary is proved;(7)"tenant" means any person who has paid or has agreed to pay rent or other consideration for his being allowed by another to enjoy the land of the latter under a tenancy agreement, express or implied, and includes his heirs and legal representatives.

3. Persons occupying kudiyruppu not to be evicted.

- [(1) Save as otherwise provided in this Act, no person occupying any kudiyruppu shall be evicted from such kudiyruppu.] [[Substituted '(1) Subject to the provisions of sub-section (3), no person occupying any kudiyruppu on the 31st March 1959 shall be evicted from such kudiyruppu.(2)Subject to the provisions of sub-section (3), any person occupying any kudiyruppu on the 31st March 1959 shall be entitled to continue to occupy the kudiyruppu on the same terms and conditions as were applicable to him on such date.' for the following sub-sections (1)and(2) by section 2 of the Tamil Nadu Occupants of Kudiyruppu (Protection from Eviction) Amendment Act, 1971 (Tamil Nadu Act 20 of 1971).]](2)[Save as otherwise provided in this Act, any person occupying any kudiyruppu shall be entitled to continue to occupy the kudiyruppu on terms and conditions not less favourable than those applicable to him on the date on which he occupied such kudiyruppu.] [[Substituted '(1) Subject to the provisions of sub-section (3), no person occupying any kudiyruppu on the 31st March 1959 shall be evicted from such kudiyruppu.(2)Subject to the provisions of sub-section (3), any person occupying any kudiyruppu on the 31st March 1959 shall be entitled to continue to occupy the kudiyruppu on the same terms and conditions as were applicable to him on such date.' for the following sub-sections (1) and (2) by section 2 of the Tamil Nadu Occupants of Kudiyruppu (Protection from Eviction) Amendment Act, 1971 (Tamil Nadu Act 20 of 1971).]](3)[Sub-sections (1) and (2) shall not apply to any person occupying any kudiyruppu -(a)if he has done any act or has been guilty of any negligence which is destructive of, or injurious to, the property belonging to the owner of the kudiyruppu; or(b)if he has willfully denied the title of the owner of the kudiyruppu.Explanation. - A denial of the owner's title under a bona fide mistake of fact is not willful within the meaning of this clause.] [[Substituted '(1) Subject to the provisions of sub-section (3), no person occupying any kudiyruppu on the 31st March 1959 shall be evicted from such kudiyruppu.(2)Subject to the provisions of sub-section (3), any person occupying any kudiyruppu on the 31st March 1959 shall be entitled to continue to occupy the kudiyruppu on the same terms and conditions as were applicable to him on such date.Explanation. - A decree or order shall be deemed to be a decree or order for the eviction of a person occupying any kudiyruppu notwithstanding that any other relief is also granted by such decree or order.' for the following sub-sections (1)and (2) by section 2 of the Tamil Nadu Occupants of Kudiyruppu (Protection from Eviction) Amendment Act, 1971 (Tamil Nadu Act 20 of 1971).]](4)In computing the period of limitation prescribed for an application for the execution of a decree or order for the eviction of a person occupying any kudiyruppu, the time during which he was protected by sub-section (1) from eviction shall be excluded.

4. Right to restoration of possession of kudiyruppu.

- [(1) If any person who was occupying any kudiyruppu on the 31st March 1959 has been evicted from such kudiyruppu after such date, but before the date of the publication of this Act in the Fort.

St. George Gazette or is evicted from such kudiyruppu after the date of such publication, he may, within a period of six months after the date of publication of this Act in the [Fort. St. George Gazette] [Section 4 was re-numbered as sub-section (1) of that section and sub-section (2) was added to the section 4 by section 3 of the Tamil Nadu Occupants of Kudiyruppu (Protection from Eviction) Amendment Act, 1971 (Tamil Nadu Act 20 of 1971).] or after the date of eviction, as the case may be, apply to authorised officer within whose jurisdiction the kudiyruppu is situated in such form as may be prescribed for restoration to him of the possession of the kudiyruppu from which he was evicted, and to occupy it subject to the same terms and conditions, as far as may be, as were applicable to him on the 31st March 1959.](2)[If any person occupying any kudiyruppu, to whom sub-section (1) does not apply, has been evicted from such kudiyruppu on or after the 1st February 1969, but before the date of the publication of the Tamil Nadu Occupants of Kudiyruppu (Protection from Eviction) Amendment Act, 1971 (Tamil Nadu Act 20 of 1971), in the Tamil Nadu Government Gazette, or is evicted from such kudiyruppu after the date of such publication, he may within a period of six months after the date of such publication or after the date of eviction, as the case may be, apply to the authorised officer within whose jurisdiction the kudiyruppu is situated in such form as may be prescribed for restoration to him of the possession of the kudiyruppu from which he was evicted, and to occupy it subject to the same terms and conditions, as far as may be as were applicable to him on the date on which he was evicted.] [Section 4 was re-numbered as sub-section (1) of that section and sub-section (2) was added to the section 4 by section 3 of the Tamil Nadu Occupants of Kudiyruppu (Protection from Eviction) Amendment Act, 1971 (Tamil Nadu Act 20 of 1971).](3)[If any person who was occupying any kudiyruppu on the 28th November 1973 has been evicted from such kudiyruppu after such date, but before the date of the publication of the Tamil Nadu Occupants of Kudiyruppu (Protection from Eviction) Re-enacting Act, 1975 (Tamil Nadu Act 23 of 1975), in the Tamil Nadu Government Gazette, he may, within a period of six months after the date of such publication, apply to the authorised officer within whose jurisdiction the kudiyruppu is situated in such form as may be prescribed for restoration to him of the possession of the kudiyruppu from which he was evicted, and to occupy it subject to the same terms and conditions, as far as may be, as were applicable to him on the 28th November 1973.] [This sub-section was added by section 2(2) of the Tamil Nadu Occupants of Kudiyruppu (Protection from Eviction) Re-enacting Act, 1975 (Tamil Nadu Act 23 of 1975), which was deemed to have come into force on the 29th November 1973.]

5. Owner's right to apply to the authorised officer.

- Any owner of kudiyruppu seeking to evict for any of the reasons mentioned in sub-section (3) of section 3 any person occupying any kudiyruppu may, whether or not there is an order or decree of Court for the eviction of such person, make an application for such eviction to the authorised officer within whose jurisdiction the kudiyruppu is situated in such form and within such time as may be prescribed.

6. Authorised officer to hold summary enquiry.

- On receipt of the application under section 4 or section 5, the authorised officer shall, after giving a reasonable opportunity to the parties concerned to make their representations, hold a summary

enquiry into the matter and pass an order either allowing the application or dismissing it and shall communicate a copy of such order to the party concerned.

7. Appeals.

(1) Against any order passed by the authorised officer under section 6, any person aggrieved by such order may, within sixty days from the date of the order, appeal to the District Collector: Provided that the District Collector may admit an appeal presented after the expiry of the said period if he is satisfied that the party concerned had sufficient cause for not presenting it within the said period. Explanation. - For the purposes of this sub-section, "date of the order" means the date on which the order is communicated to the party concerned. (2) [The provisions of section 4 and of sub-sections (1) and (2) of section 12 of the Limitation Act, 1963 (Central Act 36 of 1963) shall, as far as may be, apply to any appeal under sub-section (1).] [[This sub-section was substituted for the following sub-section by section 3 of the Tamil Nadu Occupants of Kudiyruppu (Protection from Eviction) Amendment Act, 1964 (Tamil Nadu Act 24 of 1964):-] (2) The provisions of section 4 and of sub-sections (1) and (2) of section 12 of the Indian Limitation Act, 1908 (Central Act IX of 1908) shall, as far as may be, apply to any appeal under sub-section (1).]] (3) An appeal to the District Collector under sub-section (1) shall be in such form and shall be accompanied by such fee as may be prescribed. (4) The District Collector may, after giving the parties to the appeal, an opportunity of being heard, pass such order thereon as he thinks fit and shall communicate a copy of such order to the party concerned. (5) The District Collector may stay the execution of any order passed by the authorised officer pending the exercise of his powers of appeal under this section.

8. Saving.

- Nothing contained in this Act shall be deemed to affect the application of the Travancore-Cochin Prevention of Eviction of Kudikidappukars Act, 1955 (Travancore-Cochin Act XIII of 1955), as in force in the Kanyakumari district and the Shencottah taluk of the Tirunelveli district, to a kudikidappukaran as defined in section 2(c) of that Act.

9. Act to override other laws, contracts, etc.

- Subject to the provisions of section 8, the provisions this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or any custom, usage or contract or decree or order of a Court or other authority.

10. Costs.

- The costs of, and incidental to, all proceedings before the authorised officer or the District Collector shall be in his discretion.

11. Bar of jurisdiction of Civil Courts.

- No Civil Court shall have jurisdiction in respect of any matter in which the authorised officer or the District Collector is empowered by or under this Act to decide and no injunction shall be granted by any Court in respect of any action taken or to be taken in exercise of any power conferred by or under this Act.

12. Indemnity.

- No suit, prosecution or other legal proceeding shall lie against the authorised officer or the District Collector for anything which is in good faith done or intended to be made done in pursuance of this Act or any rule or order made thereunder.

13.

[Section 13 was omitted by section 4 of the Tamil Nadu Occupants of Kudiyruppu (Protection from Eviction) Amendment Act, 1971 (Tamil Nadu Act 20 of 1971)].

14. Power to make rules.

(1)The Government may make rules to carry out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing power, such rules may provide for -(a)the form of application to be made to the authorised officer under section 4 or section 5;(b)the manner of holding summary enquiry under section 6;(c)the manner of communicating to the parties the order under section 6 or under sub-section (4) of section 7;(d)the form of appeal, and the fee payable, under sub-section (3) of section 7.[(2-A) The Government may make rules providing for the preparation of record of persons occupying kudiyruppu. Such rules may also provide for appeal and revision.] [Inserted by section 5(i) of the Tamil Nadu Occupants of Kudiyruppu (Protection from Eviction) Amendment Act, 1964 (Tamil Nadu Act 24 of 1964).](3)All rules made under this Act [***] [The words and figures 'and all orders made under section 13' were omitted by section 5(ii) of the Tamil Nadu Occupants of Kudiyruppu (Protection from Eviction) Amendment Act, 1964 (Tamil Nadu Act 24 of 1964).] shall be published in the [Fort St. George Gazette] [Now the Tamil Nadu Government Gazette.] and, unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.(4)Every rule made under this Act [*] **[The words and figures 'and every order made under section 13' were omitted by section 5(iii) of the Tamil Nadu Occupants of Kudiyruppu (Protection from Eviction) Amendment Act, 1971 (Tamil Nadu Act 20 of 1971).] shall, as soon as possible after it is made, be placed on the table of [the Legislative Assembly] [Substituted for the expression 'both Houses of Legislature' by paragraph 3(2) of the Tamil Nadu Adaptation of Laws Order, 1987.], and if, before the expiry of the session in which it is so placed or the next session, [the Legislative Assembly agrees] [Substituted for the expression 'both Houses agree' by paragraph 3(2) of the Tamil Nadu Adaptation of Laws Order, 1987.] in making any modification in any such rule [*] [The words 'or order'**

were omitted by section 5(iii) of the Tamil Nadu Adaptation of Laws Order, 1987.] or [the Legislative Assembly agrees] [Substituted for the expression 'both Houses agree' by paragraph 3(2) of the Tamil Nadu Adaptation of Laws Order, 1987.] that the rule [*] **[The words 'or order' were omitted by section 5(iii) of the Tamil Nadu Adaptation of Laws Order, 1987.] should not be made, the rule [*]** [The words 'or order' were omitted by section 5(iii) of the Tamil Nadu Adaptation of Laws Order, 1987.] shall, thereafter, have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule [***] [The words 'or order' were omitted by section 5(iii) of the Tamil Nadu Adaptation of Laws Order, 1987.].