

Rajasthan Vexatious Litigation (Prevention) Act, 2015

RAJASTHAN

India

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Act 36 of 2015

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Rajasthan Vexatious Litigation (Prevention) Act, 2015(Act No. 36 of 2015)Statement of Objects and Reasons. - It has been experienced since long that tendency of filing vexatious litigation is increasing. The Courts have also shown their anguish on the tendency by imposing heavy cost on vexatious litigants. Vexatious litigants persistently file baseless cases and misuse the process of law in the quest of settling their matters on their whims. Vexatious litigation not only harasses, mentally and economically, the innocent and law-abiding people but also strains already overburdened judicial system. These unwarranted and baseless cases consume valuable time of the courts which otherwise could be utilized to hear and decide genuine matters. Thus, vexatious litigation is also a cause of delay in imparting justice.The Law Commission of India, in its 189th Report, suggested that a law on the lines of the Madras Vexatious Litigation (Prevention) Act, 1949 should be enacted to deter vexatious litigation. In its 192nd Report, the Law Commission of India again considered the issue of vexatious litigation and after studying the provisions of the Madras Vexatious Litigation (Prevention) Act, 1949 and the Maharashtra Vexatious Litigation (Prevention) Act, 1971 as well as of laws enacted in different Commonwealth Countries to prevent vexatious litigation, recommended a draft legislation to be enacted by the Parliament. The Commission also considered the legislative competence to enact such a law and found that the subject matter of the law is relatable to Entries 2, 11-A, 13 and 46 of List III (Concurrent List) of the Seventh Schedule to the Constitution of India. The above 192nd Report was circulated by the Union Government to the States including the State of Rajasthan to ascertain their views in 2006. We had endorsed the recommendation of the Law Commission and promptly conveyed our views to the Union Government. However, a national law as recommended by the Law Commission is yet to be enacted.Based on the draft legislation recommended by the Law Commission, the Legislature of the State of Goa has enacted its law in 2007 and recently, the Legislature of the State of Madhya Pradesh has also enacted similar law in August 2015.Recently, the Advocate General, Rajasthan has also expressed his concerns about the increasing tendency of filing litigations which are without reasonable grounds and for ulterior motives and has stressed the need for a law to prevent such litigation.The State Government having regard to the Reports of the Law Commission of India and taking note of the concerns of the learned Advocate General considers it appropriate that a law on the lines of the draft suggested by the Law Commission of India in its 192nd Report should be enacted to combat the menace of vexatious

litigation. The Bill seeks to achieve the aforesaid objective. Hence the Bill. [Dated 20.10.2015.] [Received the assent of the Governor on the 15th day of October, 2015] An Act to prevent the institution or continuance of vexatious proceedings, civil and criminal, in the High Court and Courts subordinate thereto. Whereas, it is expedient to prevent the institution or continuance of vexatious proceedings, civil and criminal, in the High Court and in the courts subordinate to the High Court; Be it enacted by the Rajasthan State Legislature in the Sixty-sixth Year of the Republic of India as follows: -

1. Short title, extent and commencement.

(1) This Act may be called the Rajasthan Vexatious Litigation (Prevention) Act, 2015. (2) It extends to the whole of the State of Rajasthan. (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Declaration of a person as a vexatious litigant.

(1) An application for declaring a person as a vexatious litigant may be filed before the High Court - (a) by the Advocate General; or (b) by the Registrar General of the High Court; or (c) with the leave of the High Court, by a person against whom another person has instituted or conducted proceedings, civil or criminal. (2) If, on an application filed under sub-Section (1), the High Court is satisfied that any person has habitually and without any reasonable ground instituted vexatious proceedings, civil or criminal, in any court whether against the same person or against different persons, the High Court may, after giving the person who has instituted such proceedings, an opportunity of being heard, declare that person as a vexatious litigant. (3) When an application is filed by any person referred to in clause (b) or clause (c) of sub-Section (1), the Advocate General shall also be heard on the application. (4) Application filed under sub-Section (1) shall be heard and decided by a Division Bench of the High Court.

3. Leave of Court necessary for vexatious litigant to institute or continue any civil or criminal proceedings.

(1) Subject to the provisions of sub-Section (2), when the High Court declares a person as a vexatious litigant under sub-Section (2) of Section 2, it shall also order that - (a) no proceedings, civil or criminal, shall be instituted by the said person in the High Court or any other court subordinate to the High Court; and (b) no proceedings, civil or criminal, if already instituted by the said person in the High Court or any other court subordinate to the High Court, shall be continued by him, without obtaining leave of the appropriate Court or the appropriate Judge. (2) It shall not be necessary for the person declared as a vexatious litigant to obtain leave in the following cases: - (a) where such person is instituting a proceeding in the appropriate Court or before appropriate Judge for the purpose of obtaining leave; (b) where, in any matter instituted against him, such person proposes to file or take appropriate proceedings to defend himself; (c) where, in a proceeding instituted or continued by such person after obtaining leave from the appropriate Court or the appropriate Judge, the said person proposes to file or take appropriate further proceedings. (3) Leave shall not be granted unless the

appropriate Court or the appropriate Judge, as the case may be, is satisfied that the proceedings are not an abuse of the process of the Court and that there is prima facie ground in the proceedings proposed to be instituted or continued by the person declared as a vexatious litigant. Explanation. - In this section and Section 5, -(a) the "appropriate Court or appropriate Judge" means -(i) the High Court, in the case of a proceeding proposed to be filed or continued by the person declared as a vexatious litigant in the High Court; (ii) the District and Sessions Judge, in the case of proceeding proposed to be filed or continued by the person declared as a vexatious litigant in any other Court subordinate to the High Court; (b) "institution or continuation of criminal proceedings" means the commencement or institution or continuation of a proceeding seeking prosecution by filing a complaint before a Criminal Court; (c) institution or continuation of civil or criminal proceedings does not include proceedings instituted or continued under Article 226 of the Constitution of India.

4. Publication and Communication of Order.

(1) A copy of every order made under sub-Section (1) of Section 3 shall be published in the Official Gazette and may also be published in such other manner as the High Court may direct. (2) Every order referred in sub-Section (1) shall also be communicated to all the courts subordinate to the High Court in such other manner as the High Court may direct.

5. Proceedings, civil or criminal, instituted or continued without leave of the appropriate Court to be dismissed and other consequences.

(1) Any proceedings, civil or criminal, instituted or continued in any court by a person against whom an order under sub-Section (1) of Section 3 has been made, without obtaining the leave referred to in that sub-section, shall be dismissed by the said court. (2) While dismissing the proceedings under sub-Section (1), the court shall also direct such vexatious litigant to pay costs.

6. Power to make Rules.

- The High Court may make rules for the purpose of implementing the provisions of this Act.

7. Saving.

- The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law providing for striking out vexatious pleadings or prevention of abuse of process of law, or which require consent, sanction or approval in any form of any other authority for the institution or continuance of any civil or criminal proceeding.