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SUPPLEMENT

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PARTITION (AMENDMENT)

A

BILL

to amend the Partition Law, No. 21 of 1977

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STATEMENT OF LEGAL EFFECT

Clause 2 : This clause amends section 15 of the Partition Law, No. 21 of 1977 (hereinafter referred to as the “principal enactment”) by making provisions for the public announcement on the partition action by way of exhibiting a banner and using a loudspeaker to enable all persons having interest in the land to be partitioned, to become aware of such partition action.

Clause 3 : This clause amends section 16 of the principal enactment which enables the court to issue further commissions to any surveyor referred to in section 73 either on its own motion or at the instance of any party to the action for the adjudication of the action.

Clause 4 : This clause amends section 17 of the principal enactment and is consequential to the amendment made to section 15 of the principal enactment by clause 2.

Clause 5 : This clause amends section 18 of the principal enactment by requiring the surveyor to state in the affidavit the nature of the claim made by the parties to the action who were present at the survey.

Clause 6 : This clause amends section 23 of the principal enactment by providing for a time period to file a list of documents to a party who intervenes after the first date fixed for trial.

Clause 7 : This clause amends section 27 of the principal enactment by enabling the court to issue the commission for the division of the land in to lots to the surveyor who made preliminary survey or any surveyor whose name is in the list referred to in section 73 or any other surveyor upon agreement of all parties who have been awarded any right by the interlocutory decree entered under section 26 of the principal enactment.

Clause 8 : This clause amends section 30 of the principal enactment and is consequential to the amendment made to section 15 of the principal enactment by clause 2.

Clause 9 : This clause replaces section 36A of the principal enactment by providing a person dissatisfied with an order made under section 36 to prefer an application for leave to appeal to the Court of Appeal against such order.

Clause 10 : This clause amends section 45A of the principal enactment by rectifying an error occurred in that section in making a wrong reference inadvertently to sections 36A and 45A.

Clause 11 : This clause amends section 48 of the principal enactment in line with Article 169 of the Constitution.

Clause 12 : This clause amends section 52 of the principal enactment by providing for a time period to file a motion to obtain an order for the delivery of possession of the land.

Clause 13 : This clause amends section 57 of the principal enactment and is consequential to the amendment made to section 15 of the principal enactment by clause 2.

Clause 14 : This clause amends section 67 of the principal enactment in line with Article 169 of the Constitution and makes provisions to prevent the alteration to the character of the land being done during the pendency of the determination of the appeal.

Clause 15 : This clause amends the forms which bear the title “REPORT BY GRAMA NILADHARI” and “ FORM OF SURVEYOR’S REPOR” in the Second Schedule to the principal enactment and is consequential to the amendment made to section 15 and section 18 of the principal enactment by clause 2 and clause 5.

Partition (Amendment)

L.D.-O. 68/2021

AN ACT TO AMEND THE PARTITION LAW, NO. 21 OF 1977

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:-

1. This Act may be cited as the Partition (Amendment) Act, No. of 2024. Short title

5 2. Section 15 of the Partition Law, No. 21 of 1977 (hereinafter referred to as the “principal enactment”) is hereby amended as follows: - Amendment of section 15 of Law, No. 21 of 1977

10 (1) by the repeal of subsections (2) and (3) thereof, and the substitution therefor of the following subsections:-

15 “(2) Every Grama Niladhari to whom a copy of such notice and a copy of a translation thereof are sent by registered post under subsection (1) of this section shall cause the contents of the notice, including the Schedule of the land or lands, as the case may be, to be exhibited in a banner displayed, in the manner as may be prescribed by regulations, in a conspicuous place in his office or close to his office for a period of not less than thirty days, and shall forward to the court a report to that effect substantially in the form set out in the Second Schedule.

20 (3) The Grama Niladhari shall also cause the contents of the notice sent to him under subsection (1) of this section, including the Schedule of the land or lands, as the case may be,

25 (a) to be exhibited in a banner, in a conspicuous position in the land or lands, as the case may be, in the manners as may be prescribed by regulations; and

30

(b) to be orally proclaimed by way of public announcement made using a loudspeaker at such land or each of such lands and at any public place close to such land or each of such lands, as the case may be,

and shall forward to the court a report to that effect substantially in the form set out in the Second Schedule.”; and

(2) by the addition, at the end of that section of the following new subsection:-

“(4) The cost of the publication done under subsections (2) and (3) of this section shall be borne by the plaintiff in the first instance and shall be recoverable “*pro rata*”. The Grama Niladhari shall forward an affidavit to the court affirming the execution of the publications referred to in subsections (2) and (3) of this section along with the reports referred to in subsections (2) and (3) of this section within two months from the date of receipt of such notice.”.

3. Section 16 of the principal enactment is hereby amended by the repeal of subsection (2) thereof, and the substitution therefor of the following subsection:-

Amendment
of section 16
of the
principal
enactment

“(2) (a) The commission issued to a surveyor under subsection (1) of this section shall be substantially in the form set out in the Second Schedule and shall have attached thereto a copy of the plaint certified as a true copy by the registered attorney for the plaintiff.

(b) The court may, upon transmit to it under section 18, the plan prepared by the surveyor in the execution of the commission issued under subsection (1), order to issue a further commission, on its own motion or at the instance of any party to the action, authorizing-

(i) the surveyor referred to in subsection (1) or any other surveyor whose name is specified in the list of surveyors referred to in section 73, to survey any larger or smaller portion of the land that was surveyed under the commission issued under subsection (1); or

(ii) any surveyor other than the surveyor referred to in subsection (1) and whose name is specified in the list of surveyors referred to in section 73, to resurvey the land that was surveyed under the commission issued under subsection (1),

and the court may also direct the surveyor who executes the further commission to superimpose the plan prepared under the further commission on the plan prepared in the execution of the commission issued under subsection (1) or to carry out any other similar matter necessary for the adjudication of the action.

(c) In the execution of the further commission referred to in paragraph (b), the provisions of paragraph (a) of this subsection, the provisions of subsections (1), (3), (4), (5) and (6) of this section and the provisions of sections 17 and 18 shall *mutatis mutandis*, apply in respect thereof.”.

4. Section 17 of the principal enactment is hereby amended in subsection (2) thereof, by the substitution for the words “after beat of tom-tom,” of the words “by way of public announcement made using a loudspeaker,”.

Amendment
of section 17
of the
principal
enactment

5. Section 18 of the principal enactment is hereby amended in subparagraph (iv) of paragraph (a) of subsection (1) thereof, by the substitution for the words “the parties to the action who were present at the survey,” of the words “the parties to the action who were present at the survey, the nature of their claims”.

Amendment
of section 18
of the
principal
enactment

6. Section 23 of the principal enactment is hereby amended in subsection (1) thereof, by the substitution for all the words from “Every party to a partition action shall,” to “the contents of such documents.” of the words-

Amendment
of section 23
of the
principal
enactment

“Every party to a partition action shall, not less than thirty days before the date first fixed for the trial of the action, file or cause to be filed in the court a list of documents on which he relies to prove his right, share or interest to, of or in the land together with an abstract of the contents of such documents. Where a party is allowed to intervene after the date first fixed for trial, such party shall file a list of documents within thirty days of such intervention.”.

7. Section 27 of the principal enactment is hereby amended by the repeal of subsection (3) thereof, and the substitution therefor of the following subsection:-

Amendment
of section 27
of the
principal
enactment

“(3) Where the court decides that the land or any portion thereof shall be partitioned, the commission under subsection (2) of this section shall be issued to the surveyor who made the preliminary survey

under section 17 unless the court decides to issue it to any other surveyor whose name is specified in the list referred to in section 73 or where court deemed fit, notwithstanding anything to the contrary in section 73, to any other surveyor upon agreement of all parties who have been awarded any right by the interlocutory decree entered under section 26.”.

8. Section 30 of the principal enactment is hereby amended in subsection (3) thereof, by the substitution for the words “after beat of tom-tom,” of the words “by way of public announcement made using a loudspeaker,”.

Amendment of section 30 of the principal enactment

9. Section 36A of the principal enactment is hereby repealed and the following section is substituted therefor:-

36A. Any person dissatisfied with an order made by the court under section 36 may prefer an application for leave to appeal to the Court of Appeal in terms of subsection (2) of section 754 of the Civil Procedure Code (Chapter 101) against such order.”.

Replacement of section 36A of the principal enactment

10. Section 45A of the principal enactment is hereby amended in subsection (2) thereof, by the substitution for the words and figures “under sections 36A and 45A” of the words and figures “under sections 36 and 45”.

Amendment of section 45A of the principal enactment

11. Section 48 of the principal enactment is hereby amended in subsection (3) thereof, by the substitution for the words “The powers of the Supreme Court” of the words “The powers of the Court of Appeal”.

Amendment of section 48 of the principal enactment

12. Section 52 of the principal enactment is hereby amended in subsection (1) thereof, by the substitution for the words “by motion in that behalf,” of the words “by motion in that behalf, within ten years from the date of such final
5 decree or of the final decree, if any, on appeal affirming the same”.

Amendment
of section 52
of the
principal
enactment

13. Section 57 of the principal enactment is hereby amended by the repeal of paragraph (d) of subsection (1) thereof, and the substitution therefor of the following
10 paragraph:-

Amendment
of section 57
of the
principal
enactment

“(d) the cost incurred in the display of the banner and the proclamation made under section 15 and the cost incurred in the proclamation made under section 17;”.

14. Section 67 of the principal enactment is hereby amended as follows:-

Amendment
of section 67
of the
principal
enactment

(1) in subsection (1) thereof, by the substitution for the words “the Supreme Court” of the words “the Court of Appeal”; and

20 (2) in subsection (3) thereof, by the substitution for the words “damage to the land” of the words “damage to the land, or making any alteration to the character of the land,”.

15. The Second Schedule to the principal enactment is hereby amended as follows:-

Amendment
of the
Second
Schedule to
the principal
enactment

(1) in the Form prescribed under subsection (2) of section 15 which bears the title “REPORT BY GRAMA NILADHARI”-

- (a) by the substitution for the words and figures
“(Section 15(2))” of the words and figures
“(subsections (2) and (3) of section 15)”; and
- (b) by the substitution for the words “I have
exhibited the annexed notice with
translations on the notice board of my office”
of the following-
- “I have exhibited the contents of the notice,
including the Schedule of the land in a
banner displayed in a conspicuous place
in my office and in a conspicuous place in
the land and orally proclaimed by way of
public announcement made using a
loudspeaker at such land and at a public
place close to such land”; and
- (2) in the Form prescribed under subsection (1) of
section 18 which bears the title “FORM OF
SURVEYOR’S REPORT”, by the repeal of
paragraph (vi) thereof, and the substitution therefor
of the following:-
- “(vi) Parties present and the nature of their claims;”.

16. In the event of any inconsistency between the Sinhala
and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text
to prevail in
case of
inconsistency

