

**Fifteenth Kerala Legislative Assembly**

**Bill No. 162**

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**THE KERALA PRIVATE FORESTS (VESTING AND  
ASSIGNMENT) AMENDMENT BILL , 2023**

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*BILL*

*further to amend the Kerala Private Forests (Vesting and Assignment) Act, 1971.*

*Preamble.*—WHEREAS, it is expedient further to amend the Kerala Private Forests (Vesting and Assignment) Act, 1971 (26 of 1971) for the purposes hereinafter appearing;

BE it enacted in the Seventy-fourth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Private Forests (Vesting and Assignment) Amendment Act, 2023.

(2) It shall be deemed to have come into force on the 10<sup>th</sup> day of May, 1971.

2. *Amendment of section 3.*—In section 3 of the Kerala Private Forests (Vesting and Assignment) Act, 1971 (26 of 1971) after sub-section (4), the following sub-sections shall be inserted, namely:—

“(5) Notwithstanding anything contained in the Kerala Land Reforms Act, 1963 (1 of 1964) or in any other law for the time being in force or in any judgment, decree or order of any court or tribunal, a certificate of purchase issued under sub-section (1) of section 72K of the said Act shall not be a conclusive proof for the purposes of this Act for proving that the land held by a person or owner is under his personal cultivation or was held with intention to cultivate as on the appointed day, but such certificate of purchase may be a relevant fact along with other facts, materials and documents for proving that the land was under his personal cultivation.

(6) Nothing contained in sub-section (1) shall apply in respect of private forests upto an extent of twenty ares with a house standing thereon, held by an owner for his residential purpose as on the appointed day.”.

## STATEMENT OF OBJECTS AND REASONS

The Kerala Private Forests (Vesting and Assignment) Act, 1971 (26 of 1971) provides for vesting in the Government of private forests in the State and for the assignment thereof to agriculturists and agricultural labourers for cultivation.

2. As per sub-section (2) of section 72K of the Kerala Land Reforms Act, 1963 (1 of 1964), the certificate of purchase issued under sub-section (1) shall be conclusive proof of the assignment to the tenant of the right, title and interest of the land owner and the intermediaries, if any, over the holding or portion thereof to which the assignment relates. Hence, the certificate of purchase is conclusive proof only in respect of assignments to the tenants as defined under clause (57) of section 2 of the Act 1 of 1964. Therefore, sub-section (2) of section 72K is applicable only to the assignments to the tenants under the said Act.

3. The vesting of right, title and interest of land owners and intermediaries in the Government under Act 1 of 1964 excludes private forests. The jurisdiction to determine whether a land is a private forest or not is exclusively vested in the Tribunal constituted under section 7 of the Act 26 of 1971.

4. The Hon'ble Supreme Court in State of Kerala V/s Mohammed Basheer [2019 (1) KLT 386 (SC)] has held that the certificate of purchase issued under sub-section (2) of section 72K of the Kerala Land Reforms Act, 1963 (1 of 1964) is also a conclusive proof that the respondent has been in possession of the land as a cultivating tenant and the said land is exempted from vesting under sub-section (2) of section 3 of the Kerala Private Forests (Vesting and Assignment) Act, 1971 (26 of 1971). The said judgment will have far reaching consequences in respect of forest lands in the State and would cause heavy loss of pristine

forests in the State. If this situation prevails, 90% of the pending cases before the Hon'ble High Court of Kerala in respect of the said provisions of the Kerala Private Forests (Vesting and Assignment) Act, 1971 are likely to be decided against the State. This will create devastating and sweeping effects in the private forest litigations.

5. In the above circumstances, the Government have decided to amend section 3 of the Kerala Private Forests (Vesting and Assignment) Act, 1971 (26 of 1971) with retrospective effect from the 10<sup>th</sup> day of May, 1971. The Government have also decided to exclude the private forests upto an extent of 20 ares with a house standing thereon, held by an owner for residential purpose as on the appointed day as a protective measure to such occupants.

### FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

A. K. SASEENDRAN

EXTRACT FROM THE KERALA PRIVATE FORESTS  
(VESTING AND ASSIGNMENT) ACT, 1971  
(26 OF 1971)

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3. *Private forests to vest in Government.*—(1) Notwithstanding anything contained in any other law for the time being in force, or in any contract or other document, but subject to the provisions of sub-sections (2) and (3), with effect on and from the appointed day, the ownership and possession of all private forests in the State of Kerala shall by virtue of this Act, stand transferred to and vested in the Government free from all encumbrances, and the right, title and interest of the owner or any other person in any private forest shall stand extinguished.

(2) Nothing contained in sub-section (1) shall apply in respect of so much extent of land comprised in private forest held by an owner under his personal cultivation as is within the ceiling limit applicable to him under the Kerala Land Reforms Act, 1963 (1 of 1964) or any building or structure standing thereon or appurtenant thereto.

Explanation.—For the purposes of this sub-section, “cultivation” includes cultivation of trees or plants of any species.

(3) Nothing contained in sub-section (1) shall apply in respect of so much extent of private forest held by an owner under a valid registered document of title executed before the appointed day and intended for cultivation by him which together with other lands held by him to which Chapter III of the Kerala Land Reforms Act, 1963, is applicable does not exceed the extent of the ceiling area applicable to him under section 82 of the said Act.

(4) Notwithstanding anything contained in the Kerala Land Reforms Act, 1963, private forests shall for the purposes of sub-section (2) or sub-section (3), be deemed to be lands to which Chapter III of the said Act is applicable and for the purposes of calculating the ceiling limit applicable to an owner, private forests shall be deemed to be “other dry lands” specified in Schedule II to the said Act.

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