THE TAMIL NADU PRIVATE FORESTS

(ASSUMPTION OF MANAGEMENT) ACT (LV OF 1961)

In Act to provide for the taking over of the management of private forests in certain areas in the State of Tamil Nadu.

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Whereas it is expedient to provide for the talking over by the Government, for a limited period, of the management of private forests in certain areas in the State of Tamil Nadu in the public interest or in order to secure proper management of such forest;

Be it enacted in the Twenty year of the Republic of India as follows:-

Short title, application and commencement

1. (1) This Act may be called The [1](Tamil Nadu) Private Forests (Assumption of Management) Act, 1961.

(2) It applies to private forests situated in the Gudalur and Ootacamund Taluk of the Nilgiris district.

(3) It shall come into force on such date as the Government may, by notification, appoint 2.

2. In this Act, unless the context otherwise requires,

(1) "Collector" means the Collector of the Nilgiris district.
(2) 'forests' includes waste or arable land containing

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trees and shrubs, pasture and land any other class of land declared by the Government to be a forest by notification issued in this behalf.

Provided that in computing the period of limitation for a suit, or any application for the execution of a decree, the time during which such proceeding, attachment injunction, order or claim the enforcement of which is barred under this sub-section shall be excluded.

(3) The Government shall receive all rents and profits (including the income from forest produce) accruing from the management of the private forest and shall incur the whole expenditure in the management of the private forest.

Explanation:- A forest shall not cease to be such by reason only of the fact that, in a portion hereof, trees or shrubs are felled with or without the permission of the Collector, or lands are cultivated, or rocks, tanks, rivers, or like exist.

(4) 'forest produce' shall have the meaning assigned to it in section2 of the [1](Tamil Nadu) Forest Act, 1882 (Tamil Nadu Act V of 1882);

(5) 'Government' means the State Government;

(6) 'owner' in relation to a forest includes a mortgagee, lessee or other person having right to possession and enjoyment of the forest;

(7) 'person' includes a Hindu undivided family, a Marumakkattayan tarwad or tavazhi and an Aliyasantana family or branch

(8) 'private forest' means a forest other than a reserved forest constituted under the (Tamil Nadu) Forest Act, 1882 (Tamil Nadu Act V of 1882), but does not include land at the disposalof Government as defined in that Act.

Taking over of management of private forests

3. (1) Whenever it appears to the Government that it is necessary to take over the management of any private forest in the public interest or in order to secure the proper management of it, they may publish a notice to that effect in the Fort St. George Gazette. Such notice shall state within that any objections or suggestions which may be received by the Government within a period to be specified in the notice will be considered by them. Copies of the notice shall served on the owner or any other person in possession of the private forest.

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(2) After expiry of the period specified in the notice under sub-section (1) and after considering such objections and suggestions as may be received before such expiry, the Government may, by notification, declare that the management of the private forest shall be taken over by the Government from such date, and for such period not exceeding ten years, as may be specified in the notification

(3) On and from the date specified in the notification under sub-section (2), the management of the private forest shall vest in the Government and the Collector or any officer authorized by him in this behalf may, after removing any obstruction that may be offered, forthwith enter upon and take possession of the private forest and all accounts, registers, maps, plans and other documents relating to the private forest which the Government may require for the management thereof.

(4) Copies of the notification under sub-section (2) shall be served in such manner as may be prescribed on the owner or any other person in possession of the private forest.

Certain consequences of taking over of management by Government

4.(1) Where the management of any private forest has been taken over under section 3, so long as such management remains vested in the Government-

(a) All rights and interests created in or over the private forest by the owner or any person interested in the private forest shall not be enforceable against the Government;

(b) The owner or any person interested in the private forest any person having any claim against the private forest or the forest produce shall not be entailed to the rents and profits (including the forest produce) accruing there from during the period of such management but shall be entitled only to the compensation as provided in section 7;

(c) Such private forest shall not be liable to be proceeded against in any manner whatsoever in execution of any decree or order of any Court or other authority and any attachment or Injunction or order for the appointment of a receiver in respect of such private forest subsisting on the date of taking over of such management shall cases to have effect; and

No claim of any person in respect of such private forest shall be enforced by any court whether in execution of decree or otherwise against the Government or against any person holding such private forest under the Government;

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Power of the Government

5. (1) Subject to such rules as may be made in this behalf, the Government may take such measures as they consider necessary or expedient for the purpose of securing, administering, preserving and managing any private forest, the management of such has been taken over under section 3.

(2) Without prejudice to the generality of the provision contained in sub-section (1), such powers shall include the power

a) to cut and remove trees in the private forest:
b) to sell by auction or otherwise the timber and other forest produce:
c) to enter into contracts for cutting and removing trees:
d) to carry on cultivation:
e) to improve the private forest by planting or otherwise; and
f) to prevent trespass and unauthorised removal of any forest produce in the private forest or to prevent the commission of any act of waste in the private forest.

Release from management of private forest

6. (1) On the expiration of the period specified in the notification under sub-section (2) of section 3, or earlier if the Government consider that it is no longer necessary to continue in management of the private forest taken over under section 3, the Government shall release from their management the private forest in as good a condition as it was when 3 and shall restore the private forest in as good a condition as it was when possession thereof was" taken subject only to the changes caused in the ordinary course of management or husbandry and by irresistible force.

1) Where any private forest is to be released form management by the Government, the Government shall, after making an enquiry in the prescribed manner, by notification, specify the date on which and the person to whom possession of such private forest shall be given;

Provided that no notification under this sub-section specifying any person other than the person from whom possession of the private forest was taken shall be published unless notice has been given to owner of the private forest, or if he is dead, to his heirs or legal representatives and his or their representations, if any, have been considered by the Government.

2) On the date specified in the notification

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under sub-section (2) possession of the private forest shall be deemed to have been given by the Government.

The delivery of possession of the private forest to the person specified in the notification under sub-section (2) shall be a full discharge of the Government from all liability in respect of the private forest, which any other person may be entitled by due process of law, enforce against the person to whom possession the private forest is given.

Compensation for period of possession

7. (1) Where the management of any private forest has been taken over under section 3, on completion of every twelve months from the date of such taking over until the date specified in the notification under sub-section (2) of section 6, the Collector shall after the expiry of thirty days from the date of such completion, by order, determine the compensation payable in respect of the private forest, in accordance with the principles set out in sub-section (4) and apportion such compensation in the manner specified in sub-section (3).

(2) Every person claiming the compensation or any portion thereof shall apply to the Collector within the period of thirty days referred to in sub-section (1) or within such further period not exceeding thirty days as the Collector may in his discretion, allow.

(3) The Collector shall, after giving notice to all persons who have applied under sub-section (2) and to any others whom he considers to be interested and after making such enquiry as may be prescribed, apportion the compensation among the owner, the persons interested in the private forest and other person having claim against the private forest (including the forest produce) as far as possible in accordance with the value of their respective interest or claims.

(4) The amount of compensation payable for the private forest for any completed twelve months shall be-

(a) a sum calculated on the total area of the private forest at the rate of one rupee annum per acre: and

(b) the net profits, if any, accruing from the management of the private forest by the Government during the said twelve months.

(5) For the purpose of calculating the net profits, the total expenditure incurred on the management of the private forest (including the pay and allowances of the officers and staff appointed for the purpose and the amount of any tax, public charges and other dues paid in respect of the private forest) shall be adjusted against the total income from the management up to the date of account and the

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amount of any deficit shall be carried forward with interest at the prescribed rate from year to year till such amount is made up and surplus is affected.

(6) For the purpose of sub-section (5)-

(a) the total expenditure shall include the sum paid by the government under clause (a) of sub-section (4) but shall not include the capital expenditure incurred by the Government on improvements, the value of which is payable to the Government under section 8; and

(b) the total income shall not include the profits accruing from the private forest as a result of such improvements.

(7) The amount of compensation determine under sub-section (1) shall be paid by the Government to the person or persons entitled thereof in such from and manner, and at such time or times, and in one or more instalments, as may be prescribed.

Value of improvement to be paid to Government on release from management by Government

8. Where any private forest is released from management by Government, the owner and any person interested in the private forest or in possession thereof be liable to pay to Government a sum equal to so much of the value of the private forest as is attributable to anything done on the improvement of the private forest for the purpose of enabling the forest to be properly farmed or of securing increased efficiency in the farming of the private forest. The Collector shall, by order, determine such sum which shall be payable by such owner or person within one month from the date of a demand made on writing by the Collector in this behalf.

Provided that the owner or the person by whom any sum is so payable may by notice in writing served on the Collector within the said one month, elect to pay the said sum together with interest thereon from the said date at the rate of six per cent, per annum, by such number of equal annual instalments not exceeding ten as may be specified in the notice, the first instalment of which shall be paid within one year from the said date.

Appeal

9. (1) Any person aggrieved by an order of the Collector under sub-section (1) of section 7 or under section 8 may appeal to the Board of Revenue within such period and in such manner as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), the Board of Revenue may admit an appeal preferred after the period specified therein if the Board of Revenue is satisfied that the appellant was prevented by sufficient cause from fifing the appeal in time.

(3) The order of the Board of Revenue on appeal under this section, or the order the Collector under sub-section

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(1) or under section 8 where no appeal is preferred under this section to the Board of Revenue, shall be final.

Penalties

10. If any owner or person believed to be the owner or the person in possession of the private forest or any other person resists or obstructs any officer in the exercise of any power conferred on, in the discharge of any duty imposed upon, or in the performance of any function entrusted to, such officer by or under this Act, or contravenes any provision of this Act, or any rule made there under or any order made or direction given under this Act, he shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

Amounts to be recovered as arrears of land revenue

11. All amounts payable to or recoverable by, the Government in respect of the private forest, the management of which has been taken over under section 3, may recovered as if they were arrears of land revenue.

Procedure and power at enquiries

12. Any authority having power to make an enquiry under this Act shall make the enquiry in the manner provided in the Tamil Nadu Revenue Enquiries Act, 1893 (Tamil Nadu Act V of 1893) and shall have all powers which are, or may be, vested in the revenue officers by that Act and by the Tamil Nadu Revenue Summonses Act, 1869 (Tamil Nadu Act III of 1869).

Power to enter upon private forest

13. The Collector or any officer authorized by him in writing in this behalf may enter upon any private forest with such other officers or persons as he considers necessary and so all acts necessary for carrying out the purposes of this Act.

Power to obtain information

14. The Government or the Collector may, with a view to carrying out the purpose of this Act, by order, require any person to furnish to such officer as may be specified in the order such information in his possession as may be specified relating to the private forest, the management of which is taken over or intended to be taken over under section 3.

Continuance of liability for land revenue, rates and cesses

15. The taking over of the management of a private forest under section 3 shall affect the liability of any person to pay land revenue, rate or cess in respect of such private forest for any period whether before or after the date of taking over of such management.

Operation of other laws not affected

16. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force relating to forests.

Protection of action taken in good faith

17. No suit, prosecution or other legal proceeding shall lie against any officer or other authority for anything which is in good faith done or intended to be done under this Act or

any rule or under made there under.

Bar of jurisdiction of civil Courts

18. No civil Court shall have jurisdiction in respect of any matter which the Collector or other authority is empowered by or under this Act to determine, and no injunction shall be granted by any Court or other authority in respect of any action taken in pursuance of any power conferred by or under this Act.

Power to make rule

19. (1) The Government may rules to carry out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the procedure to be followed in talking possession of private forests:

(b) the preservation, maintenance and management of the private forest:

(c) the manner of service of notice and others;

(d) the proper collection of the income of the private forest taken over by the Government and the incurring of the expenditure in the management of the private forest;

(e) the manner in which the accounts relating to the management of the private forest are to be maintained and audited;

(f) any other matter which has to be, or may be, prescribed.

(3) All rules made under this Act shall be published in the Fort St.George 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.

Every rule made under this Act shall, as soon as possible after it is made, be placed on the table of the Legislative Assembly, and if, before the expiry of the session in which it is so placed or the next session, the Legislative Assembly agrees in making any modification in any such rule or agrees that the rule should not be made, the rule shall thereafter have effect only in such modified from 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.

Power to remove difficulties

20. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order, do anything which appears to them necessary for the purpose or removing the difficulty.

(2) Every order made under sub-section (1)shall, as soon as possible after it is made, be placed on the table of the

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Legislative Assembly, and if, before the expiry of the session in which it is so placed or the next session, of the Legislative Assembly agrees in making any modification if any such order or the Legislative Assembly agrees that the order should not be made, the order shall thereafter have effect only in such modified from 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 order.

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