Legislative (1898) Department.

ORDINARY PRINTED.

G.O., No. 59.

Dated 11.8.98

[Despatch Abstract.]

The Malabar wills act, 1898

Communicating to the Public Department the assent of His Excellency the Viceroy and Governor General to the ——— and directing the publication of the Act in English and in the Malayalam and Tamil languages

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Government {1898} of Madras.

LEGISLATIVE.

Read. — *Enclosures*

1898.

Regd. — *Spare copies*

G.O., No. 59, 11th August 1898.

AUGUST.

The Malabar Wills Act, 1898.

Communicating to the Public Department the assent of His Excellency the Viceroy and Governor-General to —, and directing the publication of the Act in English and in the Malayalam and Canarese vernaculars.

GOVERNMENT OF MADRAS.

LEGISLATIVE DEPARTMENT.

Read—the following paper:—

From J. M. MACPHERSON, Esq., C.S.I., Secretary to the Government of India, Legislative Department, to the Secretary to the Government of Madras, Legislative Department, dated Simla, 4th August 1898, No. 1123.

I am directed to return, herewith, with the assent of His Excellency the Viceroy and Governor-General signified thereon, the authentic copy of the Law noted on the margin, which was received with your letter, No. 47, dated the 16th July 1898, to the address of the Secretary to the Government of India in the Home Department.

To declare the testamentary power of persons governed by the Marumakkatayam or the Aliyasantana law of inheritance, and to provide rules for the execution, attestation, revocation and revival of the wills of such persons.

Order—No. 59, Legislative, dated 11th August 1898.

The assent of His Excellency the Viceroy and Governor-General will be communicated to the Public Department, and the Act published in the *Fort St. George Gazette* in English, and in the Malayalam and Canarese vernaculars.

(True Extract.)

H. TREMENHEERE,
Secretary to Government.

To the Public Department,
" Superintendent, Government Press,
" Malayalam Translator to Government,
" Canarese " " } with copies of Act.

Rad. A. F. Eccleston.

[L. / 15]
150—29-7-96.

Legislative (189) Department.

CURRENT No. 291

From The Legve Dept Govt of India

No. 1123

Dated 4. 8.
Received 10. } 8. 98
Registered 11 }
Enclosures one.
Spare copies.

Order No 59 Legve dy 11. 8. 98
P.S.

The assent of His Excellency the Viceroy and Governor-General will be communicated to the Public department, and the Act published in the Fort St George Gazette in English, and in the Malayalam and Canarese vernaculars.

ale 11/8/98

To

The Public Dept
" Supdt Govt Press.
" Malayalam } Translator to Government } with Copies of Act
" Canarese }

Sent 20 8 98

CRV 11/8

SUBJECT.

Rets with the assent of HE the Viceroy the Malabar wills act 1898 passed into law at the Legve Council meeting of 13. 6. 98

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

MADRAS ACT No. OF 1898.

An Act to declare the testamentary power of persons governed by the Marumakkatayam or the Aliyasantana law of inheritance, and to provide rules for the execution, attestation, revocation and revival of the wills of such persons.

Preamble.

WHEREAS doubts have arisen regarding the testamentary power of persons governed by the Marumakkatayam or the Aliyasantana law of inheritance; and whereas it is expedient to remove such doubts, and to provide rules for the execution, attestation, revocation and revival of the wills of such persons; It is hereby enacted as follows:—

PART I.

Preliminary.

Short title.

1. (1) This Act may be called "The Malabar Wills Act, 1898."

Local extent.

(2) It extends to the whole of the Presidency of Madras; and

Commencement.

(3) It shall come into force on such date as the Local Government by notification shall appoint in this behalf.

Provided that nothing in this Act shall be deemed to affect the Hindu Wills Act, 1870.

Interpretation clause.

2. In this Act unless there be something repugnant in the subject or context,

"Minor."

(1) "Minor" means any person who shall not have completed the age of 18 years.

"Will."

(2) "Will" means any legal declaration of the intentions of the testator with respect to his property which he desires to be carried into effect after his death.

"Codicil."

(3) "Codicil" means an instrument made in relation to a will and explaining, altering or adding to its dispositions. It is considered as forming an additional part of the will.

PART II.

Of Wills.

Persons to whom this part shall apply.

3. This part shall apply to persons domiciled in the Presidency of Madras who are governed by the Marumakkatayam or the Aliyasantana law of inheritance.

Persons capable of making wills.

4. Every person of sound mind and not a minor may by will dispose of property which he could legally alienate by gift *inter vivos* and shall be deemed to have been always competent so to dispose of such property.

Explanation I.—Persons who are deaf or dumb or blind are not thereby incapacitated for making a will, if they are able to know what they do by it.

Explanation II.—One who is ordinarily insane may make a will during an interval in which he is of sound mind.

Explanation III.—No person can make a will while he is in such a state of mind whether arising from drunkenness or from illness or from any other cause that he does not know what he is doing.

5. A will or any part of a will, the making of which has been caused by fraud or coercion, or by such importunity as takes away the free agency of the testator, is void. — Will obtained by fraud, coercion or importunity.

6. A will is liable to be revoked or altered by the maker of it at any time when he is competent to dispose of his property by will. — Will may be revoked or altered.

7. Nothing contained in section 4 shall, — Saving clause.

(*a*) affect any right established before the commencement of this Act by a final decree of a Court of competent jurisdiction.

(*b*) authorize a testator to deprive any persons of any right of maintenance of which, but for section 4, he could not deprive them by will.

(*c*) affect any law of intestate succession or authorize any testator to create in property any interest which he could not have created prior to this Act.

PART III.

Of the Execution, Attestation, Revocation, Alteration, and Revival of Wills.

8. This part shall apply to persons governed by the Marumakkatayam or the Aliyasantana law of inheritance whether they are domiciled in the Presidency of Madras or not. — Persons to whom this part shall apply.

9. All wills and codicils made on, or after the date of the commencement of this Act within the Presidency of Madras and all such wills and codicils made outside the said Presidency so far as relate to immovable property situated within the said Presidency must be executed according to the following rules:— — Execution of wills and codicils.

1*st*.—The testator shall sign or shall affix his mark to the will, or it shall be signed by some other person in his presence and by his direction.

2*nd*.—The signature or mark of the testator, or the signature of the person signing for him, shall be so placed, that it shall appear that it was intended thereby to give effect to the writing as a will.

3*rd*.—The will shall be attested by two or more witnesses, each of whom must have seen the testator sign or affix his mark to the will, or have seen some other person sign the will in the presence and by the direction of the testator, or have received from the testator a personal acknowledgment of his signature or mark, or of the signature of such other person; and each of the witnesses must sign the will in the presence of the testator, but it shall not be necessary that more than one witness be present at the same time, and no particular form of attestation shall be necessary.

10. If a testator, in a will or codicil duly attested, refers to any other document then actually written, as expressing any part of his intentions, such document shall be considered as forming a part of the will or codicil in which it is referred to. — Incorporation of papers by reference.

11. No person, by reason of interest in, or of his being an executor of, a will, is disqualified as a witness to prove the execution of the will or to prove the validity or invalidity thereof. — Witness not disqualified by interest or by being executor.

12. No will or codicil, nor any part thereof, shall be revoked otherwise than by another will or codicil, or by some writing declaring an intention to revoke the same and executed in the manner in which a will is hereinbefore required to be executed, or by the burning, tearing or otherwise destroying the same by the testator, or by some person in his presence and by his direction, with the intention of revoking the same. — Revocation of will or codicil.

13. No obliteration, interlineation or other alteration made in any will after the execution thereof, shall have any effect, except so far as the words or meaning of the will shall have been thereby rendered illegible or undiscernible, unless such alteration shall be executed in like manner as hereinbefore is required for the execution of the will; save that the will, as so altered, shall be deemed to be duly executed if the signature of the testator and the subscription of the witnesses be made in the margin or on some other part of the will opposite or near to such alteration, or at the foot or end of or opposite to a memorandum referring to such alteration, and written at the end or some other part of the will. — Effect of obliteration, interlineation or alteration in a will.

14. No will or codicil, nor any part thereof, which shall be in any manner revoked, shall be revived otherwise than by the re-execution thereof, or by a codicil executed in manner hereinbefore required, and showing an intention to revive the same; and when any will or codicil, which shall be partly revoked and afterwards wholly revoked, shall be revived, such revival shall not extend to so much thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the contrary shall be shown by the will or codicil. — Revival of a will or codicil.

15. No will or codicil made by a soldier employed in an expedition or engaged in actual warfare or by a mariner at sea and no revocation by such person of his will or codicil shall be deemed invalid by reason only of such will, codicil or revocation not being made in accordance with the provisions of this part. — Execution and revocation of will or codicil by soldiers or mariners.

I certify this to be a true copy and that the Act received the assent of His Excellency the Governor of Madras on the 9th instant.

H. T. Crumbie
Secretary to the Council

Ootacamund
16th July 1898

I assent to this Law.

Elgin
Viceroy & Governor General

Simla
The 3rd August 1898

First copy sent to Press. 1/5

Returned for signature. 1/5

Despatched in print.

Number of copies required. { Order complete. 2 3 7 1/2
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Order complete with letter.

Regulation G.G., No. 1914 dated

Current No. 291 A

Endorsement on D. No.

Name in Government

Letter to Government

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