

MALABAR COMPENSATION FOR TENANTS IMPROVEMENTS ACT, 1899

(1899 : T.N. Act 111 [1900 : T.N. Act 1 "Compensation for Tenant's Improvement" renb. (4) for the custody, production and transfer of the registers and other records kept by registrars ; (5) for the correction of clerical errors which may be discovered in the registers of births or registers of deaths ; (6) generally to carry out the provisions of the Tamil Nadu (TAMIL NADU) ACT No. 1 OF 1900. (Tamil Nadu MALABAR COMPENSATION Act, 1899.) (Received the assent of the Governor on the 4th December 1899, and that of the Governor-general on the 3rd January 1900 ; the assent of the governor-general published in the Fort St. George Gazette 9th January 1900.) An Act to secure to tenants in [certain areas in the State of Tamil Nadu adjacent to the territory which immediately before the first day of November 1956 was comprised in the Malabar district] compensation for improvements, WHEREAS it is expedient to amend the compensation for improvements made by tenants in certain areas in the State of Tamil Nadu adjoining these words were substituted for the word " Madras " by the Tamil Nadu Adaptation of Laws Order, 1969, and amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969, which came into force on the 14th January 1969. For of Object and 8. 13th — be ; 189, p. 9 ; dated the 12th December 1899, p. 15, The words " certain areas in the State of Madras adjacent to the territory which immediately before the 1st day of November 1956 was comprised in the Malabar district " were substituted for the words " the Malabar district and certain neighbouring areas in the State of Madras " by the Madras Adaptation of Order, 1967 and for the expression " State of Madras " by the Tamil Nadu Adaptation of Laws Order, 1970, which came into force on the 14th January 1969. 1900 : T.N. Act 111 Compensation for Tenants Improvement to the territory which immediately before the 1st day of November 1956 was comprised in the Malabar district ; It is hereby enacted as follows :— 10. This Act may be called the Malabar Compensation for Tenants Improvements Act, 1899.] 2. [Repeal of Act I of 1887,] Repealed by the Repealing and Amending Act, 1901 (Central Act XI of 1901)

3. In this Act, unless there is something repugnant to the subject or context,—(1) "tenant," with its grammatical variations "tenants." cognate expressions, includes a person who as lessee, sub-lessee, mortgagee or sub-mortgagee or in good faith believing himself to be lessee, sub-lessee, mortgagee or sub-mortgagee of land is in possession thereof, or who, with the bona fide intention of attaining and paying the customary rent to the person entitled to cultivate or let waste-land, but without the permission of such person, brings such land under cultivation and is in occupation thereof as a tenant ; (2) "improvement" includes redemption or recovery of possession of land mortgaged. (3) "improvement" means any work or product, or improvement of a work which adds to the value of the holding, or is suitable to it and consistent with the purpose for which the holding was let, mortgaged or occupied : 4. Until the contrary is shown the following works or the products of such works shall be presumed to be improvements for the purposes of this Act— (a) the erection of dwelling houses, buildings appurtenant thereto, and farm buildings ; (b) the erection of any building or the construction of tanks, wells, channels, dams and other works for the storage or supply of water for agricultural or domestic purposes ; (c) the preparation of land for irrigation ; (d) the conversion of one-rop into two-rop land ; (e) the drainage, reclamation from rivers or other waters, or protection from flood, or from erosion or other damage by water, or land used for agricultural purposes, or of waste land which is cultivable ; (f) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes ; (g) the renewal or reconstruction of any of the foregoing works, or alterations therein or additions thereto ; (h) the planting or protection and maintenance of fruit-trees, timber-trees and other useful trees and plants. 5. (1) Every tenant shall on ejectment be entitled to compensation for improvements which have been effected on the land made by him, his predecessor in interest, or by any person not in occupation at the time of the ejectment, who derived title from either of them, and for which compensation has not already been paid ; and every tenant to whom compensation is so due shall, notwithstanding the determination of the tenancy or the payment or tender of the mortgage-money (if any), be entitled to remain in possession until ejectment in execution of a decree or order of (2) A tenant so continuing in possession shall during such continuance

hold as tenant subject to the terms of his lease or of the mortgage, unless the lease be, 1900": . N; Act I] Tenants' Improvements 461 6. (1) In a suit for ejectment instituted against a Decree in tenant in which the plaintiff succeeds and the defendant establishes claim for compensation due under conditional contract of payment for improvements, the Court shall ascertain amount of compensation provided in sections 9 to 18 the amount of the compensation obtained under mortgage and shall pass a decree declaring the this Act or the amount so found due and ordering that, on payment of difference between the plaintiff into Court of the amount so found and the amount, if any, due also the mortgage money (if any), [on or adjudged before such date within six months from the date of plaintiff from the decree as the Court may fix] the defendant shall put the plaintiff into possession of the land with the improvements thereon, (2) If in such suit the Court finds any sum of money due by the defendant to the plaintiff for rent or otherwise in respect of the tenancy, the Court shall set-off such sum against the sum found due under sub-section (1), and shall pass a decree declaring as the amount payable to him on ejectment the amount (if any) remaining due to the defendant after such set-off : '[Provided that, where there are several defendants in suit, the court shall not set-off under this sub-section any sum of money due by any one of the defendants for rent or otherwise in respect of the tenancy against the sum due under sub-section (1) to any of the other defendants in that suit.] (3) The amount of compensation for improvements made subsequent to the date up to which for subsequent compensation for improvements has been adjudged improvements and revaluation, in the decree, and the revaluation of an improvement for which compensation has been so adjudged, improvements when and in so far as such re-valuation may be necessary at the time of ejectment, having reference to the condition of such improvement at the time of ejectment as well as any sum of money added by section 46 (iii) (a) of the Malabar (Amendment) Act, 1951 (Tamil Nadu Act XXXIII of 1951), which came into force on the 15th March 1952. (b) by section 46 (iii) (b), *ibid.* 462 Compensation for Tenants' Improvements [1900 : T.N. Act I] money accruing due to the plaintiff subsequent to the said date for rent or otherwise in respect of the tenancy, shall be determined by order of the executing the decree and the decree shall be varied in accordance with such order. (4) Every matter arising under sub-section (3) shall be deemed to be a question relating to the execution of decree within the meaning of clause (e) of section 244 of the Code of Civil Procedure.

7. Whenever Court passes a decree or order for Tenant may ejectment against a tenant and such tenant has remove building, works or trees, not erected any building, constructed any work or planted deemed in. any tree which the Court finds is not an improvement, for which compensation can be claimed, but which within time to the Court finds can be removed without substantial injury to the holding, such tenant may remove such building, work or tree within time to be fixed by the Court in its decree or order. Powers to make rules for 8. The Government may, from time to time, by notification in the Fort St. George and Extraordinary, etc., District Gazette make rules requiring the Court to associate with itself, for the purpose of estimating the compensation to be awarded under section 6 for an improvement, such number of assessors as the Government thinks fit, determining the qualifications of those assessors, the mode of selecting them, the fee payable to them, and the procedure to be followed in case of difference of opinion between the judge and one or more of such assessors. (1) When the improvement is not an improvement producing an increase in the value of the annual net produce See now section 47 of the Code of Civil Procedure, 1908 Act V of 1908). 8 The words "Local Government" by the Adaptation Order 1937 the word "State" was substituted for "Local Government" by the Adaptation Order of 1950. The word "Malabar" omitted by section 46 (iv) of the Malabar Tenancy (Amendment) Act, 1951 (Tamil Nadu Act XXXIII of 1951), into force on the 1900 : Act I] Compensation for Tenants' Improvements of the holding, the Court shall determine, as nearly as may be, the average net money value of such and the number of years during which such increase may reasonably be expected to continue, and shall then ascertain the present value, at 6 per cent of an annuity equal to such money value for such number of years, and also the cost of making the improvement determined in the manner prescribed in section 11. (2) If the present value of the annuity does not exceed the cost of making the improvement, the present value shall be the compensation to be awarded. (3) If the present value of the annuity exceeds the cost of making the improvement, the compensation to be awarded shall be the cost together with one-half of the excess. Definition.—The value of the net produce means the amount remaining after deducting from the

value of the gross produce, the cost of cultivation and the Government assessment and cesses. 10. When the improvement is not an improvement consisting of to which section 9 applies, but consists of timber trees or pleu or of other useful trees or plants spontaneously grown spontaneously during the period of the tenancy or sown or planted grown during tenancy or by any of the persons mentioned in section 5, the sown or plan compensation to be awarded shall be three-fourths of the sum which the trees or plants might reasonably be expected to realize, if sold by public auction to be cut and carried away

11. When the improvement is not an improvement Other of to which section 9 or 10 applies, the compensation to be awarded shall be the cost of the labour, including supervision thereof, and of the materials, together with other expenditure, if any, which would at the time of the valuation be required to make the improvement, less a reasonable deduction on account of the deterioration, if any, which may have taken place thereon or otherwise. 464 Compensation for Tenants Improvement' [1900 : T.N. Act I 12. Notwithstanding anything contained in section 9, 10 and 11, the amount of compensation to be awarded for an improvement shall be ascertained in the way most favourable to the tenant, in the way prescribed by any of the said sections which is most favourable to the tenant, Illustration. (a) The compensation to be awarded for a jack tree as a fruit-tree is ascertained under section 9 to be Rs. 7, but for the same tree as a timber tree it is ascertained under section 10 to be Rs. 10. (b) The compensation to be awarded for an immature casuarina plantation is ascertained under section 10 to be Rs. 20, but under section 11 to be Rs.

100. In each case, the Court shall award the higher amount

13. When the improvement consists in the protection and maintenance of timber or fruit trees or of the protection and maintenance of other useful trees or plants not sown or planted by any of the persons mentioned in section 5, or of and plants not such trees or plants spontaneously grown prior to the sown or planted by tenants and commencement of the tenancy, the compensation to be awarded shall be the proper cost of such protection and maintenance ascertained as provided in section 11. The tables of maximum and minimum rates of the minimum rates of compensation to be awarded under this Act for any class of improvements, and when such tables have been published the amount awarded as compensation under sections 9, 10, 11 and 12 shall not, except where the Court is satisfied that the words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for by the Adaptation Order of 1950. These words were substituted for the words "for or any part of the district by section (v) of (Amendment) Act, 1951 (Tamil Nadu Act 19 of 1951)", into the Tamil Nadu Act 1900: T.N. Act I] Compensation for Tenants Improvements that there has been exceptional care, skill or enterprise on the part of the tenant, exceed such maximum rates, nor shall it in any case be less than such minimum rates. 406 •15. (1) For the purpose of determining the amount of compensation to be awarded under this Act, the Government may prepare tables for any district, the cost of 10081 area] showing all or any of the following matters : cultivating paddy, planting, protecting, and (a) the price of coconuts, arecanuts, 3[oranges, maintaining cashewnuts, graft mangoes, tamarind], pepper and trees and plants, paddy ; (b) the cost of— (i) cultivating and harvesting a crop of paddy ; (ii) planting, protecting and maintaining a coconut tree, an arecanut tree, a jack tree, 4[an orange tree, cashewnut tree, a graft mango tree, a tamarind tree] and a pepper vine until the tree or vine is in bearing ; (iii) protecting and maintaining a coconut tree, an arecanut tree, jack tree 4[an orange tree, a cashewnut tree, a graft mango tree, a tamarind tree] and a pepper vine for one year when in bearing. (2) The tables prepared under this section shall be presumptive on publication be receivable in evidence, and the evidence that rates and amounts therein specified shall be presumed to be the proper rates and amounts until the contrary costs therein mentioned are proved : Provided that, in so far as such tables correct. prescribe prices of products, the presumption shall not be rebuttable except by proof of the average price as provided in section 16. 1 The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" substituted for "Provincial" by the Adaptation Order of 1950. a These words were substituted for the words 'for the whole or any part of the Malabar district' by section 46 (vi) (a) of the Malabar Tenancy (Amendment) Act, 1951 (Tamil Nadu Act XXXIII of 1951), which came into force on the 15th March 1952. 8 These words were inserted by

section 46 (vi) (b), *ibid*, These words were inserted by section 46 (vi) (o), *ibid*, 126-19—30 466 . Compensation for Tenants Improvements [1900 : T.N. Act I Value to be •16. In respect of any product for which no table ascertained showing the price has been published, and whenever where no table has been prepar- the presumption under section 15 as to price is sought ed or the to be rebutted, the Court shall adopt as the money correctness of value, for the purpose of awarding compensation the price men- tioned in the under section 9, the average price as nearly as may be table is dispu- ascertainable, in the taluk where the land is situated, ted. for a period of ten years immediately preceding the institution of the suit

17. The tables prepared under this Aot shall be published l[in the Fort St.george and District gazettes in English and in such other language or languages as the State Government may by rules, prescribe] and shall be kept publicly posted in the Courts having jurisdiction over the oreo to whioh the tables apply. The 2[State Government] may by like publication concel or vary from time to time the tables so published. Compen.gation 18. When trees are planted in excess of the following may be refused where trees scale, the Court, if satisfied that, in the circumstances been over- planted. of the particular case, the •land is overplanted, may, notwithstanding anything hereinbefore contained, either refuse to grant any oompensotion, or may grant compensation at a lower rate, for so many of the trees as are in excess of the soalo and are im- mature Coconut trees Arecanut trees . , Jack trees 8 80 per acre, 480 40 These words were substituted for the wordg " in English and Malayalam intheFortSt. George and MalabæDistriot Guetteg" by section 46 (vii) of the Malabar Tenancy (Amendment) Act, 1951 (Tamil Nadu Act XXXIII of 1951), which into force on the 15th March 1952. 2 The words ' ' Provincial Government " were substituted for the words 'G Local Government " by the Adaptation Order of 1937 and the word " State " was for s' Provincial ' by the Adaptation Order of 1950. 8 These figures substituted for the figures 120, 720, 60 by section 46 (viii) (a) of the Malabar •Tenancy (Amendment) Aoi, 1951 (Tamil Nadu Aot XXXIII of 1951), which cane into force on the 15th Much 1952, T.N. Act 1] Compensation for - •Tenants Improvemeni8 467 In the oase of mixed garden each tree shal.l• be allowed o proportionate fraction of an acre according to the above scale. i[Provided that in respect of the trees planted 2LTamil Nadu] Act xxxlll before the commencement of the Malabar Tenancy of 1951. (Amendment) Aot, 1951, the scale aforesaid shall be read as if for the figures " 80 ", " 480 " and " 40 ", the figures 120 " 720 " and " 60 " were respectively substituted.] Contracts 19. Nothing in any contract made after the first affecting day of January, 1886, shall take away or limit the tenant's right to right Of a tenant to make improvements and to make improve. ment3. claim compensation for them in accordance with the provisions of this Aot : '[Tamil Nadu) 8[Nothing contained in any contract made before Act XXXIII the first day of January 1886, shall take away or of 1951, limit the right of tenant to make improvements after the commencement of the Malabar Tenancy (Amendment) Aot, 1951, and to claim compensation for them in accordance with the provisions of this Provided that nothing herein contained shall affect any agreement in writing registered made after the effecting of the improvements settling the amount of compensation due therefor at the date of such agreement. Saving olause, 20. Nothing in this Act shall be construed as toking away the right of any person who may be entitled by law or custom to claim compensation for any improvements other than those dealt with under the provisions of this Act. 1 This proviso wag added by section 46 (viii) (b) of the Malaba.r Tenancy (Amendment) Act, 1951 (Tamil Nadu Act XXXIII of 1951), which come into force on the 15th March 1952. 2 These words were substituted for the word ' ' Madras " by the Tamil Nadu Adaptation of Laws Order, 1969, ag by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969, which came into force on the 14th January 1969. 3 This paragraph was inserted by section 46 (ix) of the Malabar Tenancy. (Amendment) Act, 1961 (Tamil Nadu Act XXXIII• of 1951), which came into force on the 16th March 1952.