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GOVERNMENT OF KERALA

Revenue (F) Department

NOTIFICATION

G. O. (P) No. 300 /2023/RD.
S. R. O. No. 1299/2023

Dated, Thiruvananthapuram, 24th November, 2023.

In exercise of the powers conferred by section 109 of the Waqf Act, 1995 (Central Act 43 of 1995), the Government of Kerala hereby make the following rules further to amend the Kerala State Waqf Rules, 2019, issued under G.O. (Ms.) No. 8/2019/RD dated the 7th January, 2019 and published as S.R.O. No. 18/2019 in the Kerala Gazette



Extraordinary No. 66 dated 10th January, 2019, namely:-

RULES

1. *Short title and commencement.* - (1) These rules may be called the Kerala State Waqf (Amendment) Rules, 2023.

(2) They shall come into force at once.

2. *Amendment of the Rules.* - In the Kerala State Waqf Rules, 2019,-

(1) in sub rule (3) of rule 79, after the words "created in pursuance to such transfer" the following words shall be inserted at the end namely:-

"within a period of one month from the date of receipt of the requisition".

(2) in rule 83,-

(i) in the marginal heading, for the words "District Magistrate" the words "Executive Magistrate" shall be substituted;

(ii) in sub-rule (1),-

(a) for the words "District Magistrate" the words "Executive Magistrate" shall be substituted;

(b) after the words " under sub-section (5) of section 54 of the Act", the words "with such police assistance" shall be inserted;

(iii) in clause (b) of sub-rule (3), for the words "Sub-Divisional Magistrate", the words "Executive Magistrate" shall be substituted;

(iv) in sub-rule (4), for the words "Executive (Sub-Divisional) Magistrate", the words "Executive Magistrate" shall be substituted.

(3) after rule 83, the following rule shall be inserted, namely:-

"83A.-*Procedure for determination of Fair rent/Market rent.*- (1) Whenever the Board considers whether on receiving an application or on its own motion that the rent



fixed or being paid for any waqf property is less than the market rent, it may make such inquiry through the Chief Executive Officer as it thinks fit and fix the fair rent for such waqf property.

(2) In fixing the fair rent, the Board shall take into consideration, the commercial importance of the locality, latest rent fixed for adjacent properties, the present building tax in case of buildings, the fittings and fixtures available in the property and the rent being paid by the tenant.

(3) The Chief Executive Officer, while making such inquiry, shall issue a notice to the Mutawalli of the waqf as well as the tenants of such property and they shall be provided with an opportunity of being heard.

(4) The rent, market value and fair value can be fixed only after getting a certificate from an officer authorized in this behalf by the Government.

(5) After making such inquiry, the Chief Executive Officer shall draw up a report specifying the market rent of the waqf property. The report shall also contain the reasons for such determination. The report shall be submitted for the approval of the Board, who after considering the report, make an order fixing the market rent of the waqf property and the date from which such rent shall come to effect.

(6) Copy of the order of the Board issued under sub rule (4) shall be served to the tenant and the Mutawalli of the waqf".

(4) for rule 137, the following rule shall be substituted, namely:-

"137.-Powers of Tribunal to assess rent arrears or damages or both and to impose penalties against tenants or unauthorized occupants or persons committing waste in waqf property. - (1) The Board, the Chief Executive Officer or the Mutawalli of a waqf, may file an application before the Tribunal for assessment and recovery of rent arrears or damages or both, as the case may be and to impose penalties on tenants defaulting rent payments or against unauthorized occupants or persons committing waste in the waqf property.



Provided that any person interested in a waqf may file an application before the Tribunal for assessing damages by unauthorized occupation of waqf property and to penalize such unauthorized occupants for their illegal occupation of the waqf property as provided under sub- section (6) of section 7 of the Act.

(2) The Tribunal shall have the powers for assessment of rent arrears or damages or both, as the case may be, and to impose penalties on tenants or against unauthorised occupants or persons committing waste in waqf property and to issue orders against such persons to pay the amount to the waqf and in case of failure to pay the amount, to recover such amount as arrears of land revenue through the Collector.

(3) Before passing an order as per sub-rule (2), the Tribunal shall afford an opportunity of being heard for the applicant and the person against whom the order may be passed".

(5) after rule 137, the following rule shall be inserted, namely:

"137A- Powers of Tribunal to impose fine on public servant who fails in his lawful duty to prevent or remove encroachments from waqf property.—(1) Any person interested in a waqf, the Mutawalli of the waqf, the Board or the Chief Executive Officer may file an application before the Tribunal to penalize any public servant who fails in his lawful duty to prevent or remove encroachment in waqf property.

(2) Whosoever being a public servant, fails in his lawful duty to prevent or remove an encroachment, in spite of the specific order of the Board or the Tribunal, shall on conviction be punishable with fine which may extent to fifteen thousand rupees for each such offence.

(3) Before passing an order as per sub-rule (2), the Tribunal shall afford an opportunity of being heard for both the applicant and the person against whom the order may be passed."

By Order of the Governor,

A. P. M. MOHAMMED HANISH
Principal Secretary to Government.



Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.)

The Government have issued the Kerala State Waqf Rules, 2019 by notification issued under G. O. (Ms.) No.8/2019/RD dated 7th January, 2019 and published as S.R.O. No. 18/2019 in the Kerala Gazette Extraordinary No.66 dated 10th January, 2019. In order to ensure that the waqfs under the superintendence of the Kerala State Waqf Board are properly maintained, controlled, administered and the income thereof is duly applied to the objects for which such waqfs are created or intended, as per the law, the Government have decided to amend the said Rules suitably.

This notification is intended to achieve the above object.

