

## THE KERALA VEXATIOUS LITIGATION (PREVENTION) BILL

A BILL to prevent the institution or continuance of vexatious proceedings, civil, criminal and constitutional in the High Courts and courts subordinate thereto.

WHEREAS, it is expedient to prevent the institution or continuance of vexatious proceedings, civil criminal and constitutional in the High Courts and in the courts subordinate to the High Court's;

BE, it enacted in the Fifty Ninth Year of the Republic of India as follows:—

*1. Short title, extent and commencement.*—(1) This Act may be called the Kerala Vexatious Litigation (Prevention) Act,—

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette specify.

*2. Declaration of a person as a vexatious litigant.*—(1) An application under sub-section (2) for declaring a person as a vexatious litigant, may be filed,—

(a) By the Advocate General or in his absence by a Senior Advocate nominated by the Advocate General in this behalf; or

(b) By the Registrar of the High Court; or

(c) By a non-governmental organization recognized by the Government or by the Legal Services Authority, the object of which is to promote social justice;

(d) With the leave of the High Court, by a person against whom another person has instituted or conducted proceedings, civil, criminal, or constitutional.

(2) If, on an application filed under sub-section (1), the High Court is satisfied that any person has habitually and without any reasonable ground instituted vexatious proceedings, civil, criminal or constitutional in any court whether against the same person or against different persons, the High Court may, after giving the person who has instituted such proceedings, an opportunity of being heard, declare that person as a vexatious litigant and shall also order as stated under sub-section (1) of Section 3.

(3) When an application is filed by any person referred to in clause (b) or (c) or (d) of sub-section (1), the Advocate General or in his absence a Senior Advocate nominated by the High Court in this behalf, as the case may be, shall also be heard on the application.

(4) Application filed under sub-section (1) shall be heard by a Division Bench of the High Court.

*3. Leave of Court necessary for vexatious litigant to institute or continue any civil, criminal or constitutional proceedings.*—(1) Subject to the provisions of sub-section (2), when the High Court under sub-section (2) of Section 2 or under sub-section (2) of Section 6 declares a person as a vexatious litigant, it shall also order that—

(a) No proceeding, civil, criminal or constitutional shall be instituted by the said person in the High Court or any other court subordinate to the High Court; and

(b) No proceeding, civil, criminal or constitutional if already instituted by the said person in the High Court or any other court subordinate to that High Court, shall be continued by him, without obtaining leave of the appropriate Court or Judge referred to in sub-section (3).

(2) It shall not be necessary for the person declared as a vexatious litigant to obtain leave in the following cases;

(a) Where such person is instituting a proceeding in the appropriate Court or before the appropriate Judge for the purpose of obtaining leave;

(b) Where, in any matter instituted against him, such person proposes to file or take appropriate proceedings to defend himself;

(c) Where, in a proceeding instituted or continued by such person after obtaining leave from the appropriate Court or the Judge, the said person proposes to file or take appropriate further proceedings.

(3) In this Section and in section 5, the “appropriate Court” or “appropriate Judge” means—

(a) The High Court, in the case of a proceeding proposed to be filed or continued by the person declared as a vexatious litigant in the High Court;

(b) The District & Sessions Judge, in the case of proceeding in any other Court subordinate to the High Court.

(4) Leave shall not be granted unless the appropriate Court or the appropriate Judge, as the case may be, is satisfied that the proceedings are not an abuse of the process of the Court and that there is *prima facie* ground in the proceedings proposed to be instituted or continued by the person declared as a vexatious litigant.

(5) The appropriate Court or Judge may refer the matter to any non-Government organization recognized by Government, the object of which is to promote social justice or the Legal Services Authority for enquiry and report.

*4. Publication and Communication of Order.*—(1) A copy of every order made,—

Under sub-section (2) of Section 2, declaring any person as a vexatious litigant, shall be published in the Official Gazette and may also be published in such other manner as the High Court may direct.

(2) Every order referred in sub-section (1) shall also be communicated to all the Courts subordinate to the High Court which passed such order.

*5. Proceedings, civil, criminal or constitutional, instituted or continued without leave of the appropriate Court to be dismissed and other consequences.—*(1) Any proceedings, civil, criminal or constitutional instituted or continued in any court by a person against whom an order under sub-section (1) of Section 3 has been made without obtaining the leave required to be obtained from the appropriate Court or appropriate Judge, shall be dismissed by the said Court.

(2) The Court while dismissing the proceedings under sub-section (1) shall, in addition, further direct such vexatious litigant to pay costs.

(3) Every person referred to in sub-section (1) who has instituted or continued any proceedings without leave as aforesaid, may also be liable for punishment for contempt of the High Court which had passed the order under sub-section (1) of Section 3.

*6. Declaration and order by more than one High Court.—*(1) Where any person against whom an order under sub-section (1) of Section 3 has been made by a High Court, institutes or continues any proceedings, civil, criminal or constitutional in another High Court or in a Court subordinate to such High Court, then the persons referred to in sub-section (1) of Section 2 may make an application to such High Court for declaring such person as a vexatious litigant.

(2) If, on an application filed under sub-section (1), the High Court is satisfied that any person has been declared as a vexatious litigant under sub-section (2) of Section 2, by another High Court, the High Court may after giving an opportunity of being heard to the person who has instituted or continued any proceeding, civil, criminal or constitutional declare that person as a vexatious litigant and shall also order as stated under sub-section (1) of Section 3.

(3) Where an application under sub-section (1) is filed, the provisions of sub-sections (3) and (4) of Section 2, and Sections 3, 4 and 5 shall apply in relation to such application.

*7. Power to make Rules.—*The High Court may frame rules for the purpose of implementing the provisions of this Act.

*8. Saving.—* The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law providing for striking out vexatious pleadings or prevention of abuse of process of law, or which require consent, sanction or approval in any form of any other authority for the institution or continuance of any civil or criminal proceeding.

#### ***Statement of Objects and Reasons***

The object of the Bill is to prevent or at least strictly control the institution and/or continuation of vexatious proceedings whether civil, criminal or constitutional before the courts including the High Court. At present, there is no enactment dealing with the matter in question. That is one of the reasons for recommending the Bill. The other reason is that vexatious litigation wasting the valuable time and energy of the courts are on the increase. Accordingly the Commission has included in the Bill provisions empowering the High Court anybody as a vexatious litigant on an application filed by persons specified in the provisions of a person is declared as a vexatious litigant he may not be thereafter entitled to institute any proceedings in any court without the leave of the court.