



KERALA

Judicial Services Exam

CIVIL JUDGE

High Court of Kerala

Paper - 1

Volume - 2



KERALA JUDICIARY EXAM

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The Kerala Court Fees and Suits Valuation Act

THE KERALA COURT FEES AND SUITS VALUATION ACT, 1959

ACT 10 OF 1960

An act to amend and consolidate the law relating to court-fees and valuation of suits in the State of Kerala.

WHEREAS it is necessary and expedient to amend and consolidate the law relating to court-fees and valuation of suits in the State of Kerala;

BE it enacted in the Twenty Year of the Republic of India as follows:-

CHAPTER I PRELIMINARY

1. Short title, extent and commencement.

- (1) This Act may be called the Kerala Court -Fees and Suits Valuation Act, 1959.
- (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 Gazette, appoint.

2. Application of Act.

- (1) The provisions of this Act shall not apply to documents presented or to be presented before an officer serving under the Central Government.
- (2) Where any other law contains provisions relating to the levy of fee in respect of proceedings under such other law, the provisions of this Act relating to the levy of fee in respect of such proceedings shall apply subject to the said provisions of such other law.

3. Definitions.—In this Act, unless the context otherwise

Requires -

- (i) "appeal" includes a cross-objection;
 - (ii) "Court" means any Civil, Revenue, or Criminal Court and includes a Tribunal or other authority having jurisdiction under any special or local law to decide questions affecting the rights of parties;
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- (iii) "prescribed means prescribed by rules made under this Act; and
- (iv) expressions used and not defined in this Act or in the Interpretation and General Clauses Act, 1125 (Act VII of 1125), but defined in the Code of Civil Procedure, 1908 (Central Act V of 1908), shall have the meanings respectively assigned to them in the said Code.

CHAPTER II

LIABILITY TO PAY FEE

4. Levy of fee in Courts and public offices - No document which is chargeable with fee under this Act shall-

- (i) Be filed, exhibited or recorded in, or be acted on or furnished by, any Court including the High Court, or
- (ii) Be filed, exhibited or recorded in any public office or be acted on or furnished by any public officer, unless in respect of such document there be paid a fee of an amount not less than that indicated as chargeable under this Act:

Provided that, whenever the filing or exhibition in a Criminal Court of a document in respect of which the proper fee has not been paid is in the opinion of the Court necessary to prevent a failure of justice, nothing contained in this section shall be deemed to prohibit such filing or exhibition.

4A. Levy of fee at the time of institution of suit- Notwithstanding anything contained in any other provisions of this Act, the amount of fee to be paid on plaint at the time of institution of suit shall be one-tenth of the amount of fee chargeable under this Act and the balance amount shall be paid within such period, not later than fifteen days from the date of framing of issues or where framing of issues is not necessary, within such period not exceeding fifteen days as may be specified by the court:

Provided that the court may, for sufficient reasons to be recorded in writing, extend the period up to thirty days:

Provided further that if the parties settle the dispute within the period specified or extended by the court for the payment of the balance amount, the plaintiff shall not be called upon to pay such balance."]

5. Fees on documents inadvertently received -When a document on which the whole or any part of the fee prescribed by this Act has not been paid is produced or has, through mistake or inadvertence, been received in any Court or public office, the Court or the head of the office may, in its or his discretion at any time, allow the person by whom such fee is payable or any interested party to pay the fee or part thereof, as the case may be, within such time as may be fixed; and upon such payment, the document shall have the same force and effect as if the full fee had been paid in the first instance.

6. Multifarious suits

(1) In any suit in which separate and distinct reliefs are sought based on the same cause of action, the plaint shall be chargeable with a fee on the aggregate value of the reliefs:

Provided that, if a relief is sought only as ancillary to the main relief, the plaint shall be chargeable only on the value of the main relief.

(2) Where more reliefs than one based on the same cause of action are sought in the alternative in any suit, the plaint shall be chargeable with the highest of the fees leviable in respect of any one of the reliefs.

(3) Where a suit embraces two or more, distinct and different causes of action and separate reliefs are sought based on them, either alternatively or cumulatively, the plaint shall be chargeable with the aggregate amount of the fees with which plaints would be chargeable under this Act if separate suits were instituted in respect of the several causes of action:

Provided that, where the causes of action in respect of reliefs claimed alternatively against the same person arise out of the same transaction, the plaint shall be chargeable only with the highest of the fees chargeable on them.

Nothing in the sub-section shall be deemed to affect any power conferred upon a Court under rule 6 of Order II of the Code of Civil Procedure, 1908 (Central Act V of 1908).

(4) The provisions of this section shall apply mutatis mutandis to memoranda of appeals, applications, petitions and written statements.

Explanation.-For the purpose of this section, a suit for possession of immovable property and for mesne profits shall be deemed to be based on the same cause of action.

7. Determination of market value.

- (1) Save as otherwise provided, where the fee payable under this Act depends on the market value of any property, such value shall be determined as on the date of presentation of the plaint:
 - (2) The ["market value of agricultural land"] in suits falling under section 25 (a), 25 (b), 27 (a), 29, 30, 37 (1), 37 (3), 38, 45 or 48 shall be deemed to be ten times the annual gross profits of such land where it is capable of yielding annual profits minus the assessment if any made to the Government.
 - (3) The market value of the building shall in cases where its rental value has been entered in the registers of any local authority, be ten times such rental value and in other cases the actual market value of the building as on the date of the plaint.
 - (3A) The market value of any property other than agricultural land and building falling under sub-sections (2) and (3) shall be the value it will fetch on the date of institution of the suit.
 - (4) Where the subject-matter of the suit is only a restricted or fractional interest in a property, the market value of the property shall be deemed to be the value of the restricted or fractional interest and the value of the restricted or fractional interest shall bear the same proportion to the market value of the absolute interest in such property as the net income derived by the owner of the restricted or fractional interest bears to the total net Income from the property.
- 8. Set off or counter claim.**-A written statement pleading a set off or counter claim shall be chargeable with fee in the same manner as a plaint.
- 9. Documents falling under two or more descriptions.**-Subject to the provisions of the last preceding section, a document falling within two or more descriptions in this Act shall, where the fees chargeable thereunder are different, be chargeable only with the highest of such fees:
Provided that, where one of such descriptions is special and another general, the fee chargeable shall be the fee appropriate to the special description.
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CHAPTER III

DETERMINATION OF FEE

10. Statement of particulars of subject-matter of suit and plaintiff's valuation

Thereof - In every suit in which the fee payable under this Act on the plaint depends on the market value of the subject-matter of the suit, the plaintiff shall file with the plaint a statement in the prescribed form, of particulars of the subject-matter of the suit and his valuation thereof unless such particulars and the valuation are contained in the plaint

11. Decision as to proper fee in the High Court - Where, in a suit instituted in the High Court, in which a fee is payable under this Act, any difference arises between the officer whose duty it is to see that proper fee is paid and any party as to the necessity of paying a fee or the amount thereof, the question shall be referred to the Taxing Officer who shall decide the same:

Provided that, if in the opinion of the Taxing Officer, the question is one of general importance, he may refer it to the Chief Justice of the High Court or such Judge or Judges of the High Court as the Chief Justice shall appoint, either generally or specially in this behalf:

Provided further that, when the case comes up for disposal before the Court, the decision of the Taxing Officer may be reviewed by the Court.

12. Decision as to proper fee in other Courts

(1) In every suit instituted in any Court other than the High Court, the Court shall before ordering the plaint to be registered, decide on the materials and allegations contained in the plaint and on the materials contained in the statement, if any, filed under section 10, the proper fee payable thereon, the decision being however subject to review, further review and correction in the manner specified in the succeeding sub-sections.

(2) Any defendant may, by his written statement filed before the first hearing of the suit or before evidence is recorded on the merits of the claim but, subject to the next succeeding sub-section, not later, plead that the subject-matter of the suit has not been properly valued or that the fee paid is not sufficient. All questions arising on such pleas shall be heard and decided before evidence is recorded affecting such

defendant, on the merits of the claim. If the Court decides that the subject matter of the suit has not been properly valued or that the fee paid is not sufficient, the Court shall fix a date before which the plaint shall be amended in accordance with the court's decision and the deficit fee shall be paid. If the plaint be not amended or if the deficit fee be not paid within the time allowed, the plaint shall be rejected and the Court shall pass such order as it deems just regarding costs of the suit.

- (3) A defendant added after issues have been framed on the merits of the claim may, if the court so permits, plead that the subject-matter of the suit has not been properly valued or that the fee paid is not sufficient. All questions arising on such pleas shall be heard and decided before evidence is recorded affecting such defendant, on the merits of the claim, and if the Court finds that the subject matter of the suit has not been properly valued or that the fee paid is not sufficient the Court shall follow the procedure laid down in sub-section (2).

Explanation.-Nothing in this sub-section shall apply to a defendant added as a successor or a representative in interest of a defendant who was on record before issues were framed on the merits of the claim and who had an opportunity to file a written statement pleading that the subject matter of the suit was not properly valued or that the fee paid was not sufficient.

- (4) (a) Whenever a case comes up before a Court of appeal, it shall be lawful for the Court, either of its own motion or on the application of any of the parties, to consider the correctness of any order passed by the lower Court affecting the fee payable on the plaint or in any other proceeding in the lower Court and determine the proper fee payable thereon.

Explanation.-A case shall be deemed to come before a Court of Appeal even if the appeal relates only to a part of the subject-matter of the suit.

- (b) If the Court of appeal decides that the fee paid in the lower Court is not sufficient, the Court shall require the party liable to pay the deficit fee within such time as may be fixed by it.

- (c) If the deficit fee is not paid within the time fixed and the default is in respect of a relief which has been dismissed by the lower Court and which the appellant seeks in appeal, the appeal shall be dismissed, but if the default is in respect of a relief which has been decreed by the
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lower Court, the deficit fee shall be recoverable as if it were an arrear of land revenue.

(d) If the fee paid in the lower Court is in excess, the Court shall direct therefund of the excess to the party who is entitled to it.

(5) All questions as to value for the purpose of determining the jurisdiction of courts arising on the written statement of a defendant shall be heard and decided before evidence is recorded affecting such defendant, on the merits of the claim.

Explanation -In this section, the expression "merits of the claim" refers to matters which arise for determination in the suit, not being matters relating to the frame of the suit, mis-joinder of parties and causes of action, the jurisdiction of the Court to entertain or try the suit or the fee payable but inclusive of matters arising on pleas of res judicata, limitation and the like.

13. Additional fee on issues framed.-Where a party becomes liable to pay additional fee by reason of an issue framed in the suit, the provisions of the last foregoing section shall apply to the determination and levy of such additional fee subject to the modification that where the party liable does not pay such additional fee within the time allowed, the Court shall strike off the issue and proceed to hear and decide the other issues in the case.

14. Relinquishment of portion of claim.-A plaintiff who has been called upon to pay additional fee may relinquish a part of his claim and apply to have the plaint amended so that the fee paid would be adequate for the claim made in the plaint as amended. The Court shall allow such application on such terms as it considers just and shall proceed to hear and decide the claim made in the plaint as amended, provided that the plaintiff shall not be permitted at any later stage of the suit to add to the claim the part so relinquished.

15. Fee payable on written statements.-Where fee is payable under this Act on a written statement filed by a defendant the provisions of section 12 shall apply to the determination and levy of the fee payable on such written statement, the defendant concerned being regarded for the said purpose as the plaintiff and the plaintiff or the co-defendant or the third party against whom the claim is made being regarded as the defendant.

- 16. Fee payable on appeals etc.** - The provisions of sections 10 to 14 relating to the determination and levy of fee on plaints in suits shall apply mutates mutandis to the determination and levy of fee in respect of a memorandum of appeal, cross-objection or other proceeding in second appeal or in an appeal under section 5 of the Kerala High Court Act, 1958.
- 17. Fee payable on petitions, applications, etc.** - The provisions of sections 10 to 14 shall apply mutates mutandis to the determination and levy of fee in respect of petitions, applications and other proceedings in Courts in the same way as they apply to the determination and levy of fee on plaints in suits.
- 18. Court-fee Examiners.**
- (1) The High Court may depute officers to be designated Court-fee Examiners to inspect the records of subordinate Courts with a view to examine the correctness of representations made to, and orders passed by, Courts on questions relating to valuation of subject-matter and sufficiency of fee in respect of proceedings in such Courts and the Government shall, from time to time, fix the number of officers who may be so deputed to inspect the records.
 - (2) Questions raised in reports submitted by such Court-fee Examiners and relating to any suit, appeal or other proceeding pending in a Court shall be heard and decided by such Court; and for the avoidance of doubt it is hereby declared that in hearing and deciding a question raised in any such report, it shall be lawful for the Court to review an earlier decision given by the Court on the same question.
- 19. Inquiry and commission** - For the purpose of deciding whether the subject-matter of a suit or other proceeding has been properly valued or whether the fee paid is sufficient, the Court may hold such inquiry as it considers proper and may, if it thinks fit, issue a commission to any proper person directing him to make such local or other investigation as may be necessary and to report thereon to the Court and the Court may pass appropriate orders as to costs.
- 20. Notice to Government** - In any inquiry relating to the fee payable on a plaint, written statement, petition, memorandum of appeal or other document, or to the valuation of the subject-matter of the claim to which the plaint, written statement, petition, memorandum of appeal or other document relates, in so
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far as such valuation affects the fee payable the Court may, if it considers it just or necessary to do so, give notice to the Government or to such officer as may be prescribed by the Government; and where such notice is given, the Government shall be deemed to be a party to the suit or other proceeding as respect the determination of the question or questions aforesaid; and the Court's decision on such question or questions shall, when it passes a decree or final order in such suit or proceeding be deemed to form part of such decree or final order.

CHAPTER IV COMPUTATION OF FEE

- 21. Fee how reckoned** - The fee payable under this Act shall be determined or computed in accordance with the provisions of this Chapter, Chapter VI, Chapter IX and Schedules I and II.
- 22. Suits for money** - In a suit for money (including a suit for damages or Ucompensation, or arrears of maintenance, of annuities, or of other sums payable periodically) fee shall be computed on the amount claimed.
- 23. Suits for maintenance and annuities** - In the suits hereinafter mentioned, fee shall be computed as follows:-
- (a) In a suit for maintenance, on the amount claimed to be payable for one year;
 - (b) in a suit for enhancement or reduction of maintenance, on the amount by which the annual maintenance is sought to be enhanced or reduced;
 - (c) in a suit for annuities or other sums payable periodically, on five times the amount claimed to be payable for one year:

Provided that, where the annuity is payable for less than five years, the fee shall be computed on the aggregate of sums payable:

Provided further that, a suit for enhancement of maintenance shall be instituted in a court which will have jurisdiction to receive a suit for maintenance at the enhanced rate claimed and one for reduction of maintenance shall be instituted in a court which will have jurisdiction to receive a suit maintenance at the rate which is sought to be reduced.

24. Suits for movable property

- (1) In a suit for movable property other than documents of title, fee shall be computed-
- a. Where the subject-matter has a market value, on such value; or
 - b. Where the subject-matter has no market value, on the amount at which the relief sought is valued in the plaint.
- (2) (a) In a suit for possession of documents of title, fee shall be computed on one-fourth of the amount or of the market value of the property secured by the document-
- (i) Where the plaint alleges denial of the plaintiff's title to the money or the property secured by the document, or
 - (ii) Where an issue is framed regarding the plaintiff's title to the money or the property secured by the document:

Provided that, where the allegation in the plaint or the issue framed relates only to the portion of the amount or property, fee shall be computed on one-fourth of such portion of the amount or on one-fourth of the market value of such portion of the property.

- (b) In a suit for possession of documents of title where the plaintiff's title to the money or the property secured by the document is not denied, fee shall be computed on the amount at which the relief sought is valued in the plaint.

Explanation I - The expression "document of title" means a document which purports or operates to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent in any property.

Explanation II - When the main document of title has been valued and court fee paid on that basis, no additional court fee shall be leviable on documents of title which are subsidiary title deeds.

- 25. Suits for declaration.** -In a suit for a declaratory decree or order, whether with or without consequential relief, not falling under section 26-
- a. where the prayer is for a declaration and for possession of the property to which the declaration relates fee shall be computed on the market value of the property or [rupees one thousand] whichever is higher;
 - b. where the prayer is for a declaration and for consequential injunction and the relief sought is with reference to any immovable property, fee shall be computed on one-half of the market value of the property or on [rupees one thousand] whichever is higher;
 - c. where the prayer relates to the plaintiff's exclusive right to use, sell, print or exhibit any mark, name, book, picture, design or other thing and is based on an infringement of such exclusive right, fee shall be computed on the amount at which the relief sought is valued in the plaint or on [rupees one thousand] whichever is higher;
 - d. in other cases-
 - a.i where the subject-matter of the suit is capable of valuation fee shall be computed on the market value of the property, and
 - a.ii where the subject-matter of the suit is not capable of valuation fee shall be computed on the amount at which the relief sought is valued in the plaint or on [rupees one thousand] whichever is higher;
- 26. Adoption Suits.** -In a suit for a declaration in regard to the validity or invalidity of an adoption or the factum of an adoption, fee shall be payable at the following rates:-
- (i) In a Munsiff's Court Rupees fifty if the market value of the property involved in or affected by the relief is Rs.5000 or less
Rupees one hundred and fifty if it exceeds Rs.5000 but does not exceed Rs.15,000
 - (ii) In a Sub-Court or a District Court Rupees five hundred.]
- 27. Suits for injunction.** -In a suit for injunction-
- (a) where the relief sought is with reference to any immovable property, and
 - (i) Where the plaintiff alleges that his title to the property is denied, or
 - (ii) Where an issue is framed regarding the plaintiff's title to the property.
fee shall be computed on one-half of the market value of the property or on [rupees five hundred] which ever is higher;
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- (b) Where the prayer relates to the plaintiff's exclusive right to use, sell, print or exhibit any mark, name, book picture, design or other thing and is based on an infringement of such exclusive right, fee shall be computed on the amount at which the relief sought is valued in the plaint or on [rupees five hundred] whichever is higher;
- (c) In any other case, whether the subject-matter of the suit has a market value or not, fee shall be computed on the amount at which the relief sought is valued in the plaint or on [rupees five hundred] whichever is higher
["Provided that where the relief sought by the plaintiff is in respect of money sought to be recovered from him such relief shall not, for the purpose of computation of fee, be valued at an amount less than one half of the amount sought to be so recovered"]

28. Suits relating to trust property. -In a suit for possession or joint possession of trust property or for a declaratory decree, whether with or without consequential relief in respect of it, between trustees or rival claimants to the office of trustee or between a trustee and a person who has ceased to be trustee, fee shall be computed on one-fifth of the market value of the property subject to a maximum fee of rupees two hundred or where the property has no market value, on rupees one thousand:

Provided that, where the property does not have a market value, value for the purpose of determining the jurisdiction of courts shall be such amount as the plaintiff shall state in the plaint .

Explanation.-For the purpose of the section, property comprised in a Hindu, Muslim or other religious or charitable endowment shall be deemed to be trust property and the manager of any such property shall be deemed to be the trustee thereof.

29. Suits for possession under the Specific Relief Act. 1977. -In a suit for possession of immovable property under section 9 of the Specific Relief Act, 1877 (Central Act 1 of 1877), fee shall be computed on one-third of the market value of the property or on rupees one hundred and fifty, whichever is higher

30. Suits for possession not otherwise provided for. -In a suit for possession of immovable property not otherwise provided for, fee shall be computed on the market value of the property or on [rupees one thousand] whichever is higher.

31. Suits relating to easements. -In a suit relating to an easement, whether by the dominant or the servient owner, or to a licence as defined in the law relating to easements for the time being in force, fee shall be computed on the amount at which the relief sought is valued in the plaint, or on [rupees one thousand] whichever is higher:

Provided that, where compensation is claimed besides other relief relating to such easement or licence, fee shall be paid on the amount claimed as compensation in addition to the fee payable on such other relief.

32. Pre-emption suits. -In a suit to enforce a right of pre-emption, fee shall be computed on the amount of the consideration for the sale which the pre-emptor seeks to avoid or on the market value, whichever is less.

33. Suits relating to mortgages.

(1) In a suit to recover the money due on a mortgage, fee shall be computed on the amount claimed.

Explanation. -It is immaterial that sale of the mortgaged property is not prayed for.

(2) Where, in such a suit, the holder of a prior mortgage or charge is impleaded and he prays in his written statement that the amount due on his mortgage or charge be determined and that the decree contains a direction for the payment of such amount to him, fee shall be payable on the written statement computed on the amount claimed:

Provided that, where the holder of the mortgage or charge has paid a fee in any other proceeding on the claim to which his written statement relates, credit shall be given for the fee paid by him in such other proceeding.

(3) Where, in such a suit, the mortgaged property is sold and the holder of a prior or subsequent mortgage or charge applies for payment to him, out of the sale proceeds, of the amount due on his mortgage or charge, such holder of the prior or subsequent mortgage or charge shall pay on his application a fee computed on the amount claimed by him:

Provided that, where such holder of the mortgage or charge is a party to the suit in which the sale was held and has paid fee on the written statement filed by him in the suit, no fee shall be payable by him on the application for payment out of the sale proceeds:

Provided further that, where the holder of the mortgage or charge, not being a party to the suit in which the sale is held, has paid a fee in any other proceeding on the claim to which his application relates, credit shall be given for the fee paid by him in such other proceeding.

- (4) In a suit by a co-mortgagee for the benefit of himself and other co-mortgagees, fee shall be computed on the amount claimed on the entire mortgage:

Provided that, where a co-mortgagee impleaded as defendant in such suit claims on the entire mortgage a larger sum than is claimed in the plaint, the difference between the fee computed on the entire sum claimed in such defendant's written statement and the fee computed on the entire sum claimed in the plaint shall be payable on the written statement.

Explanation.-Nothing in this sub-section shall be construed as affecting the law of limitation.

- (5) (a) In a suit by a sub-mortgagee to recover the amount claimed on the sub-mortgage by sale of the mortgagee's interest in the mortgaged property, fee shall be computed on the amount claimed under the sub-mortgage.

(b) In a suit by a sub-mortgagee, if the prayer is for the sale of the property mortgaged to the original mortgagee and the original mortgagor is also impleaded as a defendant, fee shall be computed on the entire amount claimed on the original mortgage which is sub-mortgaged to him.

- (6) Where the holder of a prior or subsequent mortgage or charge is impleaded in a suit by a co-mortgagee to which sub-section (4) applies, or in a suit by a sub-mortgagee to which sub section (5) applies, the provisions of sub-sections (2) and (3) shall apply mutates mutandis to a written statement or an application filed by such holder of mortgage or charge.
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