

# THE CODE OF CIVIL PROCEDURE (KARNATAKA AMENDMENT) ACT, 1995.

## ARRANGEMENT OF SECTIONS

Sections :

1. Short title and commencement.
2. Amendment to section 54.
3. Transitional Provisions.
4. Savings.

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## STATEMENT OF OBJECTS AND REASONS

**Act 36 of 1998.**- Section 54 of the Code of Civil Procedure requires that where a decree is passed for partition of agricultural land assessed to land revenue, partition of such land shall have to be made by the Collector or any Gazetted Sub-ordinate. A number of cases are pending in different Courts in Final Decree matter awaiting reports from the Deputy Commissioner about division of lands. It is proposed to amend section 54 to enable the Civil Courts to appoint Commissioner to get the lands divided.

Hence this Bill.

(Obtained from L.A Bill No.11 of 1995)

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KARNATAKA ACT No. 36 OF 1998.

*(First published in the Karnataka Gazette Extraordinary on the Twenty-ninth day of December, 1998)*

**THE CODE OF CIVIL PROCEDURE (KARNATAKA AMENDMENT) ACT, 1995.**

*(Received the assent of the President on the Second day of December, 1998)*

**An Act further to amend the Code of Civil Procedure 1908 in its application to the State of Karnataka.**

WHEREAS it is expedient further to amend the Code of Civil Procedure, 1908 (Central Act 5 of 1908) for the purposes hereinafter appearing;

BE it enacted by the Karnataka State Legislature in the Forty-sixth year of the Republic of India as follows ;

**1. Short title and commencement.-** (1) This Act may be called the Code of Civil Procedure (Karnataka Amendment) Act, 1995.

(2) It shall come into force on such '[date]' as the State Government may, by notification in the official Gazette appoint.

**2. Amendment of section 54.-** For section 54 of the Code of Civil Procedure, 1908 (Central Act 5 of 1908), the following shall be substituted, namely:-

**"54. Partition of estate or separation of share.-** Where the decree is for the partition of an undivided estate assessed to the payment of revenue to the Government, or for the separate possession of a share of such an estate, the partition of the estate or the separation of the share of such an estate shall be made by the Court in accordance with the law if any, for the time being in force relating to the partition or the separate possession of shares, and if necessary on the report of a revenue officer, not below the rank of Tahsildar or such other person as the court may appoint as Commissioner in that behalf."

**3. Transitional Provisions.-** Where before the commencement of this Act, the court had transmitted papers to the Collector to carry out partition under section 54 of the principal Act, and no final order effecting partition is passed by the Collector or any Gazetted subordinate of the Collector deputed by him in this behalf, before such commencement, such papers shall be re-transmitted to the court, concerned and which shall make partition of the estate or this separation of the share of such an estate in accordance with section 54 of the principal Act, as amended by this Act.

**4. Savings.-** (1) Nothing contained in this Act shall affect any order, act, right or liability which has been made, done, accrued or incurred before the commencement of this Act.

(2) Where, before the commencement of this Act, the Collector or any Gazetted subordinate of the Collector, deputed by him in this behalf has passed any final order effecting partition under section 54 of the principal Act, and,-

- (i) any appeal is preferred or proceeding is initiated against such final order, after such commencement; or
- (ii) any appeal preferred or proceedings initiated against such final order, before such commencement is pending adjudication at such commencement ;

before any authority or a court or tribunal, such appeal or proceeding shall be continued or disposed of in accordance with the provisions of section 54 of the Principal Act, as if the said provisions had continued to be in force and as if this Act had not been enacted.

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#### **NOTIFICATION**

**Bangalore dated 8th February, 2001 [No. LAW 183 LAC 99]**

In exercise of the powers conferred by sub-section (2) of section 1 of the Code of Civil procedure (Karnataka Amendment) Act, 1995 (Karnataka Act 36 of 1998), the Government of Karnataka hereby appoints the first day of February, 2001 as the date on which the said Act shall come into force.

By order and in the name of Governor of Karnataka,

(D.H. NAGARAJ)

Under Secretary to Government

Law Department (Admn -I)

(Published in the Karnataka Gazette (Extraordinary) Part IV-A dated 24.8.2001 as No. 1581.)

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1. Act came into force w.e.f. 1.2. 2001 by notification. Text of the notification is at page 279.