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NOTIFICATION

No. C. 31011/5/2019-DC&MA(M), the 12th April, 2024. In pursuance of paragraph 11 of the Sixth Schedule to the Constitution of India, the following Rules passed by the Mara Autonomous District Council which received approval of the Governor of Mizoram on 14.02.2024 is hereby published for general information, namely :-

“THE MARA AUTONOMOUS DISTRICT COUNCIL (INHERITANCE OF PROPERTY) ACT, 2024.”

Dr. H. Lalthlanglana,
Secretary to the Govt. of Mizoram,
District Council & Minority Affairs Deptt.

THE MARAAUTONOMOUS DISTRICT COUNCIL (INHERITANCE OF PROPERTY) ACT, 2024

A ACT

To provide for the regulation of Inheritance of Property within the Mara Autonomous District Council area.

Preamble:- Whereas it is expedient to provide for the regulation of Inheritance of Property by means of will.

And Whereas, the Mara Autonomous District Council is empowered to make law under Paragraph 3, sub-paragraph (1) clause (h) to provide for the regulation of Inheritance of Property within the said District Council area.

Now, therefore, it is hereby enacted in the Seventy-second Year of the Republic of India as follows:-

Short title, extent and commencement.

1. (1) This Act maybe called the Mara Autonomous District Council (Inheritance of Property) Act, 2024.
- (2) It extends to the whole of the Mara Autonomous District Council area.
- (3) It shall come into force on its publication in the Mizoram Gazette.

Saving of certain rights.

2. Nothing herein contained shall be deemed to affect The laws of inheritance among those other than the Scheduled Tribes.

Definitions.

3. In this Act, unless the context otherwise requires:–
 - (i) “Governor” means the Governor of Mizoram appointed by the President of India under Article 155 of the Indian Constitution.
 - (ii) “District” means the Mara Autonomous District.
 - (iii) “District Council” means the Mara Autonomous District Council.
 - (iv) “District Council Court” means the District Council Court for the Mara Autonomous District, constituted under the provisions of Paragraph 4 of the Sixth Schedule to the Indian Constitution, and any other Law in force in this behalf, within the District Council area.
 - (v) “Prescribed” means prescribed under this Act;
 - (vi) “Probate” means and include a certified copy of document and any certificates in such form as may be prescribed from time to time under the seal of Court of competent jurisdiction with a grant of administration, right and title to the estate or property, etc. of the testator in accordance with a will if any, in such form and manner as may be prescribed from time to time by such competent Court.
 - (vii) “Property” includes movable and immovable property.
 - (viii) “Subordinate District Council Court” means a Subordinate District Council Court, constituted under the provisions of Paragraph 4 of the Sixth Schedule to the Indian Constitution, and any other Law in force in this behalf, within the District Council area.
 - (ix) “Will” means any testamentary instrument in writing or legal document duly signed or thumb impressed showing a person’s wishes regarding the disposal of his/her property or estate.
 - (x) “Issuing/concerned authority” for the Purpose of this Act shall mean the Subordinate District Council Court of the District Council competent to grant/issue probate or certificates including heir-ship, guardianship, succession, etc. under the provisions of this Act or any other Act, rules or regulation which are in force in the District Council area.

Competence of testator.

4. (1) Every person of sound mind not below the Age of 18 years may dispose of by will his or her property/estate which he or she could alienate during his or her lifetime. Where a person has left no will, or the will left by him or her does not cover all of

his or her property, the whole property or the property not covered by the will, as the case may be, shall devolve in accordance with the customary law or practice if any, in force or in practice for the time being in the District.

- (2) A will is liable to be revoked or altered by the maker of it at any time when he/she is competent to dispose of his/her property by will.

Procedure and conditions.

5. (1) If any person leaves more than one will, the One bearing the latest date shall be deemed to be final.
(2) The testator of a will may or may not disclose the contents of the will to the witness or to the legatee.
(3) The testator shall execute and make the will only when he /she is of sound mind.
(4) A will shall be taken to have effect from the death of the testator.
(5) The testator may bequeath by his/her will all or part of his/her properties in favour of one or more persons in one or more wills as he may prefer by such will.

Witness.

6. (1) A witness to a will shall be of sound mind and no person below the age of 21 years and who is not of sound mind shall be competent to be a witness to the execution of a will.
(2) Except in an exceptional case, the execution of a will must be in presence of not less than two witnesses.

Attestation.

7. (1) The testator of a will must give his or her signature. If, however, he / she is unable to write or sign, the left or the right thumb impression respectively must be given instead.
(2) The witnesses to a will must also give their signatures in the presence of the testator. If, however, a witness is unable to write, the left or the right thumb impression respectively must be given instead.

Invalidity.

8. (1) Any will or attestation/testament not in accordance with the provisions of this Act shall be void.
(2) Any will or any part of a will, the making of which has been caused by fraud or coercion, or by such importunity as taken away the free-will and consent of the testator, is void.

Probate only to appointed executor.

9. Probate shall be granted only to an executor/a person duly appointed by the testator in his/her will or in whose favour a will has been executed and made or as may find fit, just and reasonable by competent Court.

Grant of Probate/ Certificate of probate.

10. (1) The Subordinate District Council Court shall have the like powers and authority in relation to the granting of probate/certificate of probate in such form and manner at such rate as may be

prescribed from time to time by Official order by such Court, and all matters connected therewith as are by law vested in it in relation to any civil suit or proceeding pending therein.

- (2) The Subordinate District Council Court may or may not grant probate to an applicant or a person on the basis of documents or any other ground as such Court may find necessary and reasonable in relation to any such application or petition for probate.
- (3) For the purpose of this Act, and also for issue of any other certificates in respect of any property, movable or immovable, the Subordinate District Council Court shall be competent authority to grant and issue such certificates in such form and manner at such rates based on value, nature, etc. of the property concerned, as may be prescribed from time to time by such Court by Official Order.
- (4) The process, procedure or proceeding for issue of all kinds of certificates under this Act shall be Judicial proceeding as envisaged and in the spirit under rules 7 and 10 of the Lakher Autonomous District (Administration of Justice) Rules, 1981 as may be amended from time to time read with Section 17 of this Act.

Jurisdiction of Subordinate District Council Court.

11. The Subordinate District Council Court shall have jurisdiction in granting and revoking probate or certificate of probate in all cases as the case may be.

Effect of probate.

12. Probate of a will when granted establishes the will from the death of the testator, and renders valid all subsequent acts of the executor/legatee respecting to the contents of such will.

Production of testamentary papers.

13. (1) The Subordinate District Council Court may order any person to produce and bring into Court any paper or writing being or purporting to be testamentary which maybe shown to be in the possession or under the control of such person.
- (2) If it is shown that any such paper or writing is not in the possession or under the control of such person, but there is reason to believe that, he/she has the knowledge of any such paper or writing, the Court may direct such person to attend for the purpose of being examined respecting the same.
- (3) Such person shall be bound to answer truly such question as may be put to him by the Court, and if so order to produce and bring in such paper or writing, shall be subject to the like punishment under the Indian Penal Code in case of default in not attending or in not answering such questions or not bringing in such paper or writing, as he /she would have been subject to in case he/she had been a party to suit or otherwise and had made such default willfully.

- (4) The cost of the proceedings for production and recovery of such copy of will, paper or writing if any, shall be in the discretion of the Court.

Interference of Court for protection of property.

14. Until probate is granted of the will of the deceased person, the Subordinate District Council Court within whose jurisdiction any part of the property of the deceased person is situated, is authorised and required to interfere for the protection of such property at the instance of any person claiming to be interested therein, and in all other cases where the Court considers that the property incurs any loss or damage, and for that purpose, if it thinks fit, to appoint an Officer to take and keep possession of the property in such manner and to such extent as the Court may direct at the expense of the person interested in such property or as the case may be.

When probate may be granted.

15. Probate of the will to the estate of a deceased may be granted by a Subordinate District Council Court under the Seal of the Court in such form and manner as may be prescribed from time to time by such Court, if it appears by a petition of the person applying for the same that the testator at the time of his decease had a fixed place of abode or any property movable or immovable within the jurisdiction of the Court within or after 7 clear days from the death of the testator.

Revocation and cancellation of Probate.

16. The Court granting probate under this Act may at any time revoke or cancel on its own motion or on an application in writing made before it by interested person in this behalf, a probate duly granted on proof of misrepresentation of material factor on any other reasonable ground as may deem fit and proper by such Court.

Petition/application for Probate.

17. Application for probate with copy of will annexed, if any, shall be made by a petition distinctly written in the language generally used in proceedings before the Court in which the application is made stating:—
- (a) the time of the testator's death.
 - (b) that the writing/will annexed is his last will and testament.
 - (c) that the will was duly executed by competent person.
 - (d) the amount of the assets which are likely to come to the petitioner's hand.
 - (e) that the petitioner is the executor named in the will.
 - (f) that the deceased at the time of his death had a fixed place of abode or had some property situated within the jurisdiction of the Court.

Power of the Subordinate District Council Court.

18. (1) In all cases the Subordinate District Council may, if it thinks proper—
- (a) examine the petitioner in person upon oath or affirmation;
 - (b) require further evidence of the due execution of the will;

- (c) issue summons/calling upon all persons claiming to have any interest in the property or estate of the deceased to come and see the proceedings before the grant of probate;
- (2) The summons if any, may also be affixed in some conspicuous part of the Court Building and may also be published or made known in such manner as the Court issuing the same may direct, as the case may be.

Time for grant of probate.

- 19.** No probate of a will shall be granted until after the expiration of 7(seven) clear days from the death of the testator, and well satisfaction of the Court to that effect.

Filing of original will of which probate with will annexed granted.

- 20.** (1) The Subordinate District Council Court shall file and preserve all original wills of which probate with the wills annexed may be granted by it among records of the Court until some public registry for wills is established, on payment of such registration fee as may be fixed and prescribed by such Court.
- (2) The Subordinate District Council Court District Council may grant inspection of the wills so filed at any time during Office hour.
- (3) Any person executing/making a will in accordance with the provisions of this Act must file original copy or attested copy of such will before the Subordinate District Council Court in person or through his/her legal representative. The Subordinate District Council Court shall file and preserve all such wills if any, filed before it in the separate Register to be maintained for such purpose in such manner and in such form;

Provided failure to file such copy of will on good ground as may be condoned by the Subordinate District Council Court does not invalidate any will, if such will has been duly made and executed in accordance with the provisions of this Act as the case may be.

Appeal from Order of Subordinate District Council Court.

- 21.** Every Order made by a Subordinate District Council Court by virtue of the powers hereby conferred upon it shall be subject to appeal on the points of procedural lapse to the District Council Court in accordance with the provisions of the Civil and Criminal Procedure Codes in spirit, and any other Law in force in the District Council area.

Surrender of revoked probate.

- 22.** (1) When a grant of a probate is revoked or annulled under the provision of section 16 or under any other provisions of this Act, the person to whom the grant was made shall forthwith deliver up/return, and submit copy of such probate to the Court which made the grant within such period and in such manner as may be prescribed by such Court.

- (2) If such person will fully and without reasonable cause omits to deliver up/return copy of such probate within the prescribed period, he/she shall be punishable with fine which shall not be less than to Rs.2000/- (Rupees Two Thousand) only or with imprisonment for a term which may extend to three months or with both.

**Payment to
Executor before
Probate revoked.**

23. When a grant of a probate is revoked, all payments bonafide made or incurred by any executor under such grant before the revocation thereof shall notwithstanding such revocation, be a legal discharge to the person making the same, and the executor who has acted under such revoked grant may retain and reimburse himself in respect of any payment made by him from the payment a person to whom the probate may afterwards be granted might have lawfully made.

**Power to makes
Rules.**

24. The Executive Committee may, subject to the prior approval of the Governor, make rules for carrying out any of the purpose of this Act.

**Repeal and
saving.**

25. (1) The Lakher Autonomous District (Inheritance of Property) Act, 1982 and its subsequent Amendment are hereby repealed.
(2) Notwithstanding such repeal all actions taken, orders made or directions given under the Act so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to be taken, made or given under the corresponding provisions of this Act, and subsequent actions if any, with regard to any such action, order or direction shall be in accordance with the provisions of this Act.