

I assent.

(L.S.)

AGATHA BARBARA
President

23rd May, 1984

ACT No. XI of 1984

AN ACT further to amend the Code of Organization and Civil Procedure, Cap. 15.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Code of Organization and Civil Procedure (Amendment) (No. 2) Act, 1984, and shall be read and construed as one with the Code of Organization and Civil Procedure, hereinafter referred to as "the principal law". Short title.

2. Section 306 of the principal law shall be amended as follows: Amendment of section 306 of the principal law.

(a) immediately after subsection (1) thereof there shall be inserted the following new subsection:

"(1A) Movable property referred to in the proviso to subsection (1) of section 308 may be sold by auction notwithstanding that a warrant of seizure has not been executed thereon.";

(b) immediately after subsection (2) thereof there shall be inserted the following proviso:

"Provided that the provisions of this subsection shall not apply to movable property referred to in the proviso to subsection (1) of section 308."; and

(c) immediately after subsection (2) thereof as amended there shall be inserted the following new subsection:

"(2A) The provisions of subsection (1A) and of the proviso to subsection (2) of this section, of the proviso to subsection (1) and of subsections (1A) and (1B) of section 308,

the proviso to section 319, subsections (2) and (3) of section 321, the proviso to section 325, subsection (4) of section 327, subsection (3) of section 328, the second proviso to section 356 and the second proviso to section 357, relating to the sale by auction of the property referred to in the proviso to subsection (1) of section 308 shall apply to the sale by auction of any such property, movable or immovable, only in the case where the Minister responsible for labour shall in his absolute discretion by order declare such sale to be necessary or expedient for the social purpose of providing employment for workers or for maintaining such employment and for the purposes of this subsection the Minister is empowered to make such orders; such order shall be made prior to the application or demand for such sale.”.

Amendment of
section 308
of the principal
law.

3. Section 308 of the principal law shall be amended by the insertion immediately after subsection (1) thereof, of the following new subsections:

“(1A) Where the property of which the sale is demanded consists of or includes immovable property referred to in the proviso to subsection (1) of this section, and the demand is for the sale of such property as a hotel, a kursaal or a factory or as a going concern, such demand shall, whether or not it is so expressly stated, mean a demand for the sale of all immovable and movable property referred to in that proviso, but only of such property, and in any such case the Court shall, without any further requirement whatsoever, order the sale of all the property, movable and immovable aforesaid, as one and indivisible property, and such sale shall be governed exclusively by the provisions of this Code relating to the sale by auction of immovable property as if such property consisted exclusively of one and indivisible immovable property, and where the immovable property of which the sale is demanded consists of land, buildings and other amenities which are adjacent, the Court may not limit the sale to any part or parts thereof.

(1B) Where the sale by auction is only of movable property referred to in the proviso to subsection (1) of this section, the proceedings for the sale of immovable property referred to in the same proviso shall apply.”.

Amendment of
section 319
of the principal
law.

4. Immediately after section 319 of the principal law there shall be inserted the following new proviso:

“Provided that the movable property referred to in the proviso to subsection (1) of section 308 shall be sold as one and indivisible whole.”.

Amendment of
section 321
of the principal
law.

5. Section 321 of the principal law shall be amended as follows:

- (a) the section shall be renumbered as subsection (1); and
- (b) immediately thereafter there shall be added the following new subsections:

“(2) In the case of a sale by auction of any property referred to in the proviso to subsection (1) of section 308, “suitable” means that the bidder produces to the Registrar sufficient guarantee to secure the payment of the price of the sale.

(3) Where under any law a person requires a permit or licence for the acquisition of any of the property to be sold by auction, such person shall not be deemed to be suitable for the purposes of this section unless he is in possession of such permit or licence at the time of the bid.”.

6. (1) The amendments by this Act adding subsections (1A) and (2A) and the proviso to subsection (2) of section 306, and amending sections 308, 319 and 321, of the principal law shall be deemed to have come into force on 12th March, 1984, and shall apply to any demand made after that date for the sale by auction of any property referred to in the proviso to subsection (1) of section 308 of the principal law, even where such a demand or any matter related to it, is the object of judicial proceedings pending before any Court of law and notwithstanding any judgement thereon which has not become ‘res judicata’.

Transitory
provision.

(2) Notwithstanding the provisions of subsection (2A) of section 306 of the principal law, in respect of proceedings for the sale by auction already pending on the day immediately preceding the coming into force of this Act, the ministerial order referred to in the said subsection shall be made not later than three days prior to such sale.

Passed by the House of Representatives at Sitting No. 174 of the 22nd May, 1984.

DANIEL MICALLEF
Speaker

C. MIFSUD
Clerk to the House of Representatives