പതിനാലാം കേരള നിയമസഭ
പതിനഞ്ചാം സമ്മേളനം

നക്ഷത്രചിഹ്നമിടാത്ത ചോദ്യം നമ്പർ: 4592 25.06.2019 ൽ മറുപടിയ്ക്ക്

ഇടുക്കി ഭൂപ്രശ്നം സംബന്ധിച്ച റിപ്പോർട്ടുകൾ

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(റവന്യൂവും ഭവനനിർമ്മാണവും വകുപ്പ് മന്ത്രി)

ഇടുക്കിയിലെ ഭൂപ്രശ്നം സംബന്ധിച്ച നിവേദിതാ പി. ഹരൻ ഐ.എ.എസ്. തയ്യാറാക്കിയ റിപ്പോർട്ട്, ശ്രീ. ബിജു പ്രഭാകർ ഐ.എ.എസ്. ഭൂമി മലയാളം ഡയറക്ടറായിരിക്കെ തയ്യാറാക്കിയ റിപ്പോർട്ട്, ശ്രീ. രാജമാണിക്യം ഐ.എ.എസ്. തയ്യാറാക്കിയ റിപ്പോർട്ട് എന്നിവയുടെ പകർപ്പുകൾ ലഭ്യമാക്കുമോ?	റിപ്പോർട്ടുകൾ അനുബന്ധമായി ചേർക്കുന്നു

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THE REPORT ON UNAUTHORISED POSSESSION OF GOVERNMENT LAND IN KURINJIMALA SANCTUARY IN VATTAVADA AND KOTTAKAMBOOR VILLAGES

1. INTRODUCTION

As per GO [Ms] No.177/14/RD dated 03.05.2014 **(Annexure I)** and GO (MS) No. 264/14/RD dated 21.06.14 **(Annexure II)**, Government have constituted a Special Committee under the Additional Chief Secretary (Home & Vig.) to examine the whole issue prevailing regarding the Government lands at Kurinjimala Sanctuary comprised in Vattavada and Kottakamboor villages .

Prima facie, issues that have arisen in the Vattavada and Kottakamboor Villages are not exclusively limited to that area alone; rather it is a typical feature of the remaining villages, namely Kanthalloor, Keezhanthoor and Marayoor also, the five villages in the erstwhile Anchunadu area, the cool season vegetable hub of the then-Travancore heartland. On a macro-level analysis the major issues observed are as follows:

- Badly maintained and systematically tampered Revenue records over decades;
- Non-availability of basic land assignment related registers that are crucial for verifying assignments, primarily, Number I Register and Number II Register for these villages.
- The assignees occupying lands other than those mentioned in Thandaper Registers / Registration Documents / Pattayam files or far in excess of extent mentioned in these documents.

- Rampant deforestation of shola forests to plant Eucalyptus Grandis by encroachers and in some areas by Forest department itself.
- The inability on the part of revenue officials in enforcing the Kerala Land Conservancy Act, 1957.
- Helplessness on the part of Forest Department officials and the Survey Department officials to undertake GPS survey of boundary of the sanctuary.
- The resurvey conducted by Survey and Land Records Department that generated complaints, confusion and alienation of public lands.

The Committee set up vide G.O. dt. 03.05.2014 is required to examine the issue in its entirety on the conditions prevailing in the Government lands at Kurinjimala Sanctuary and Vattavada and Kottakamboor villages in Idukki District and submit a report to Government. As per the order, the District Collector, Idukki shall provide necessary assistance to the Committee. Further, a Special Survey team was required to mark the private holdings in the said Sanctuary with clear boundaries. Also, an IAS officer was to be posted as Sub Collector, Devikulam.

The Committee had a number of meetings and the Members visited the site singly and some places collectively. The Members tried to examine the problem from the overall perspective and from the angle of their own specific departments, viz. Forest, Police and Revenue. Each admitted to the huge problem prevailing in the area, but none did or could do anything to solve or mitigate it from their end. As is explained later in the report, each had a set of ready reasons that showed the helplessness, incompetence and in some cases connivance of the departmental officers. DC, Idukki provided the list of land. An IAS Officer was posted in Devikulam.

This Committee can ultimately only lay down the methodology to sort out the huge land management issues that have arisen in the Anchunadu area and make recommendations on the corrective steps to be taken to

safeguard the basic Doctrines of land governance. **The Committee was not expected to take corrective measures as these measures fall within the statutory responsibilities of different authorities, empowered under the various laws, primarily under the Kerala Land Assignment Act, 1960, the Survey and Boundaries Act, 1961 and the Forest Conservation Act, 1980.** This Committee was required to lay down the set of actions that need to be taken to bring some extent of order in land administration in the areas concerned.

The recommendations made in this document towards the maintenance of land records and protection of public lands, if implemented, could still lead to the possibility of protecting public lands, including sanctuaries and thus setting an example for not just Idukki District but for the entire State.

2. A BRIEF ACCOUNT ON LAND DETAILS OF VATTAVADA AND KOTTAKAMBOOR VILLAGES

Vattavada and Kottakamboor villages are part of the erstwhile Anchunadu area that were surveyed and assessed as a separate hill circuit, way back in early 1900, leaving a large swathe of unassessed lands between the cadastral limits of the Anchunadu hill circuit and Tamil Nadu boundary on the Eastern side and KDH village boundary on the Western side. These 'no man's lands' which were unassessed were mostly revenue Poromboke or Tharisu as per Section 3(2) of the Kerala Land Conservancy Act, 1957 and small portions were covered by different notifications under various forest laws.

The Poromboke areas in question were shown in the revenue and survey records of 1909 as follows:

Old survey number	Extent in acres	Tenure of land
Vattavada Village		
1/1	1887.84	Hill Tharisu
1/2	221.86	Anamala Tharisu
21/1	181.38	Hill Tharisu
49/2	61.40	Hill Tharisu
106/1	110.88	Hill Tharisu
107/1	58.07	Hill Tharisu
123/1	95.78	Hill Tharisu
124/1	1857.57	Hill Tharisu
125/1	771.36	Hill Tharisu
127/1	1742.72	Hill Tharisu
128/1	93.12	Forest Tharisu
Total		**7081.98 acres**
Kottakamboor Village		
61/1	186.98	Hill Tharisu
70	8211.52	Hill Tharisu
71/1	4725.92	Hill Tharisu
72	1094.84	Hill Tharisu
Total		**14219.26 acres**

The resurvey process in the above villages started during the 1970's and it was finalized on 24.04.1991. Even before the finalization of the resurvey process there were many reserve forest notifications issued in the above villages as per the Travancore Forest Act,1893. After the resurvey finalization, one more notification was issued by the Forest department for the "Kurinjimala Sanctuary". The details of various notifications issued that pertain to the above two villages are as follows:

Sl. No.	Name of notification	Villages covered	Extent of land	Date of notification
1	Mannavan Shola Reserve No. 58	Kottakamboor & Kanthalloor	1 280 acres	22.10.1901
2	Indivara Shola	Kottakamboor	150 acres	22.10.1908

	Reserve No. 56			
3	Pullaradi Shola Reserve No. 57	Kottakamboor	400 acres	22.10.1908
4	Pampadum Shola Reserve No. 55	Vattavada	320 acres	22.10.1908
5	Kurinjimala Sanctuary	Kottakamboor & Vattavada	7904 acres	12.12.2007
Total			**10054 acres**	

After the finalization of resurvey process in 1991 the above areas are seen recorded as follows in the revenue records **(Annexure III)**:

Name of village	**Block No.**	**Name of reserve / Sanctuary**	**Area in acres**	**Physical appearance on ground**
Vattavada	63	Pampadum Shola Reserve	2871.81 acres	Around 370 acres of natural forest and remaining areas have Eucalyptus Grandis planted by Forest Department and/ or by encroachers and Wattle, Blue Gum and Pine plantations planted by Forest Department
Kottakamboor	59	Pullaradi Shola Reserve	2939 acres	No natural forest. Only Eucalyptus Grandis planted by Forest Department and/or by encroachers and Wattle plantations planted by Forest Department
Vattavda & Kottakamboor	58	Kurinjimala Sanctuary	7904 acres	Heavily encroached

3. THE CONFUSION, ITS CAUSES AND RESULT

The above-mentioned differences in areas in custody of Revenue and Forest Departments before and after the resurvey process lie at the core of the problem and have been creating most of the issues at the site in question. The people who are very close or who could influence the Revenue

and Forest officials exploited the confusion to grab thousands of acres by creating fake records and fabricated pattayams by making use of the names and addresses of the illiterate Tamil labourers in the region.

Through a systematic process that has been the norm in Idukki District, applications for land assignment were filed in the names of Tamil labourers and other families living in those areas. That the assignment applications and subsequent assignments were irregular is evident from the fact that the norms followed in assessing the eligibility are a crude mixture of the Land Assignment Rules, 1964 and the Special Rules, 1993. Any assignment can be only under **either** of these Rules and not both. As this area does not fall under the jointly verified lands that are covered under the 1993 Rules, any assignment can be only under the Land Assignment Rules, 1964.

Soon after getting the assignment orders, the interested parties, who are nothing but 'land grabbers', took over physical possession of the lands, consolidated multiple assignments and encroached vast adjoining areas. The earlier Tamil labourers who were small encroachers and were cultivating cool season vegetables and supplying these to Kochi and Thiruvananthapuram stopped doing this cultivation. The land grabbers took over possession from the smaller encroachers, planted Eucalyptus Grandis on these lands and on the encroached Government lands, after destroying the Shola forests. This happened in the area under enquiry through a well laid-out plan mainly commencing from the 1990's.

The above action had a number of consequences: apart from destroying Shola forests and adversely affecting the environment, the supply of cool season vegetables from Idukki to the towns and cities virtually stopped. The Tamil encroachers lost their livelihood but they were suitably corrupted by the land grabbers by being told that they were now 'patta holders', conveniently ignoring the fact that this did not make any change in

these patta holders' economic status. The change was only on paper as these small holders lost possession to the land grabbers for which they received a meager compensation. For the land grabbers the amount was negligible amount as they were dealing with a hundred or even a thousand times the extent and amount. From being honest, hard-working labourers these Tamil migrants had become a party to the systematic land grab mechanism functioning in the State.

The above shows how a person or a family of a person, having no right over these lands and sometimes living in a distant town or area came into possession of vast extent of land in these tracts. If we go by the perception of the local people, existence of many cases involving politicians, officials drawn from various departments and influential persons with high-end links stands established. The records clearly show the same. **Although individual cases of land grab came to notice, these cases are consciously not included in this Report as the same was not part of the brief given to this Committee.**

The connivance of the Government officials in the above illegal activities cannot be ignored. The Kerala Promotion of Tree Growth in Non-forest Areas Act, 2005 was also misapplied and misused in the land grab processes. Even though large tracts of Shola forests were destroyed and planted with Eucalyptus Grandis, Forest Dept. took no cognizance and no action. The decision in the Forest Dept. to plant Eucalyptus Grandis on Revenue lands to supply to the paper industry was another excuse. The eco-system of the whole tract of Kurinjimala Sanctuary was impacted adversely by undertaking Wattle and Eucalyptus Grandis plantations in sensitive Shola forests and grasslands. Further, those with vested interest took advantage of the confusion between Revenue and Forest departments regarding the status of the land. These vested interests destroyed Shola

forests and grasslands and grabbed the land through forged and fake pattayams.

4. ROLE OF THE FOREST DEPARTMENT

The entire tract which forms Kurinjimala Sanctuary was earlier 'Revenue Tharishu'. Despite this legal status, the Forest Department has been raising commercial plantations of Wattle and Eucalyptus Grandis since long and extracted as per the working plan prescriptions of Munnar Division. The raising of plantation crop is a long term activity; hence it is expected that it would be done with the formal or informal concurrence of Revenue Department. According to the Forest Dept., the total extent of Wattle and Eucalyptus Grandis plantation in this area is about 900.40 ha. The oldest plantation appears to be the Wattle plantation at Banthar from 1978.

Out of the above 900.40 ha, an area 102 ha of 1982 Eucalyptus Grandis plantation at Banthar was handed over to Hindustan Newsprint Ltd for raising captive plantations. The Forest Department was collecting lease rent for this area. The company has raised plantations and extracted the same in these areas before the declaration of the Sanctuary.

Thus, the Forest Dept. has over the last 20-25 years taken over unoccupied Revenue lands that are forest in nature and planted Eucalyptus Grandis on them. Forest Dept. has signed MoUs with the paper industry without Revenue Dept. being a party, for supply of Eucalyptus Grandis. Forest Dept. collects lease rent from the industry for the purpose. Forest Dept. using Government funding has planted Eucalyptus Grandis on them. Eucalyptus Grandis requires very little maintenance but is not food for the soil or the water table. On maturity, the lessee, viz. the paper industry harvests and takes away Eucalyptus Grandis leaving the land barren and unprotected. Forest Dept. as the lessor allows the land to be exploited with

no responsibilities for protecting it. From the lessee, ie. the paper industry, one need not expect any consideration by way of land protection as they are only a commercial party. Revenue Dept, the rightful owner of the land, believes that these lands are now under the possession of the Forest Dept. and, therefore, Revenue Dept. have no right or business to intervene in the contract signed between two other parties. Nothing could be more ironical nor unfortunate. It is seen again and again that these are the lands most prone to be encroached upon and are actually encroached upon. Furthermore, the Courts taking a legalistic view expect 'the rightful owner', ie. the Revenue Dept. to exercise its claim against an encroacher. But the Revenue Dept. in most cases surrenders its responsibility. This scenario benefits the land grabber. Any number of examples are available including those of resorts constructed on such lands where encroachers have obtained indefinite stay from the Court and continue to enjoy the public land.

If the actual demand from the paper mills is looked at, it is amply clear that harvested Eucalyptus Grandis in this area is supplied not to the paper mills in the State alone as the amount of Eucalyptus Grandis harvested from here is much, much more. Eucalyptus Grandis harvested from encroached lands are passed off as Eucalyptus Grandis from lands leased to paper industry. Much of it is taken away to demand centres in Tamilnadu and places like Perumbavoor. So any number of Shola forests are destroyed in Kerala to feed the demand for Eucalyptus Grandis in the neighboring States and private entrepreneurs. That there is the need to discontinue this practice of Forest Dept. signing contract for Revenue lands with a third party has been taken up with the Forest Dept. again and again (including in the report of the undersigned on Munnar); but this has always been ignored or has got sidelined and no decision has been taken by the Government.

The notification declaring part of Vattavada and Kottakamboor Villages as Kurinjimala Sanctuary was issued in 2006. The Sanctuary comprises of the

entire Block No.58 in Kottakamboor Village and part of Block No. 62 in Vattavada village in Devikulam Taluk of Idukki Dist. 2006-07 was the year when Kurinjimala flowers bloomed in abundance as part of the 12 year cycle. These flowers bloom once in 12 years. With the blooming of the flowers, it was suddenly noticed by the Government that in many of the Neelakurinji growing areas, land was being encroached upon. Based on an assessment done by the District Collector on the directions of the Commissioner of Land Revenue, who could convince the then Minister (Forest) and could communicate the sense of urgency, it was felt that at least some areas that were still secure should immediately be declared as a Sanctuary so that these Neelakurinji growing areas can thereafter be better protected. The Forest Dept. was required to submit a proposal within a time-limit on which the report of the Revenue officials was obtained and even though questions were raised by the local elected representatives on the ownership rights of the encroachers, after convincing them that these questions will be tackled by the Settlement Officer, the Notification for the Sanctuary was issued. This part of the Neelakurinji growing area was thus being declared a Sanctuary by law. It was done in the hope that the Settlement Officer will confirm the ownership rights of the encroachers eligible to get assignment as per law, evict those who are not eligible and also the Forest officials will thereby get full right to demarcate and fence off the balance land, protecting the future of the endangered Neelakurinji, at least within the Sanctuary premises. But as 2014 has shown, the Neelakurinji's fight for survival continues. In another part, Neelakurinji bloomed this year, ie. 2014. But the effort to protect the Neelakurinji within the sanctuary even after 8 years remains incomplete: the legal process is yet to reach fruition.

Unfortunately even though eight years have elapsed, the Settlement Officer's work remains unaccomplished. The Forest Dept. too could not carry out a geo-referenced survey of the Sanctuary boundaries to a final conclusion. Even during the tenure of this Committee, the representative of

the Forest Dept. agreed to do a hand-held GPS survey along the boundary to get a rough idea about its actual extent. After reasons given of lack of staff, etc, apparently an attempt was made to do a hand-held GPS survey. But it apparently ended in failure as "the local people did not allow survey to continue". A hand-held GPS survey, could have been done without instigating any 'local disturbances'.

(Letter received from the Member of the Committee is in **Annexure-IV**).

As per GO(MS) No. 180/05/Revenue dated 08.06.2005, Government of Kerala handed over 305 acres of revenue land in Block no. 58 of Kottakomboor Village in Devikulam Taluk in Idukki District to the Forest Department in lieu of the forest land diverted for the implementation of Sabarimala Master Plan. As per norms, this compensatory afforestation area ought to have been declared as reserve forest as per Kerala Forest Act, 1961. But as the notification for the Kurinjimala Sanctuary soon followed, the need for notifying this area as reserve forest was not considered necessary. The competency forest area of 305 acres was included in the Sanctuary area.

As per Order No. GO(MS) 220/05 dated 06.07.2005, the entire revenue land in Block No. 58 consisting of Kambakallu-Kadavari areas was handed over to the Forest Department for protection. Forest Department was directed to initiate action to protect the land for which a Committee had to be constituted with Forest, Revenue and Police Departments under the chairmanship of District Collector.

Kambakallu – Kadavari area was notorious for ganja cultivation. In order to eradicate ganja cultivation, Government of Kerala sanctioned two

Forest Stations at Kambakkallu & Kadavari vide order GO(MS) No. 66/05/Forest dated 03.06.2005.

Kurinjimala Sanctuary was notified on 06th Oct, 2006 vide GO (MS) No. 36/06/F&WLD of Government of Kerala with the objective of conservation of plant species namely, Neelakurinji *'Strobilanthes kunthianus'.* The notified extent of the sanctuary is 32 sq kms. But according to Forest Dept., going by the area recorded in Revenue records and after overlaying of boundary description on the digitized revenue map, the extent of the sanctuary works out to approximately 24.03 sq kms. Since the hand-held GPS survey was not possible, even the approximate area of the Sanctuary cannot be estimated.

5. ROLE OF SUB COLLECTOR / RDO AS SETTLEMENT OFFICER

In order to complete the activities of declaring Kurinjimala Sanctuary, it is necessary that the Settlement Officer completes his work. It is the duty and responsibility of the Settlement Officer to find out any occupiers legal or illegal in that area, issue notices to the parties, hear the parties, examine all relevant documents and take a decision. The Sub Collector, Devikulam was nominated as the Settlement Officer. Different Sub Collectors/RDOs over the last seven years have come and gone, but this work remains incomplete. The reason cited is that the local residents "did not co-operate", or that there was a threat of a law and order situation, instigated by the local and other interested political leaders. But administratively and professionally the Settlement Officers repeatedly failed to perform their duties.

Not only did the Settlement Officers failed to complete the proceedings under Sec 19 to 25 of Wildlife Protection Act, 1972, the RDO went on abetting destruction of vegetation by issuing six cutting permissions for Kottakamboor village most recently on the following dates: 26.02.2013, 13.03.2013, 07.06.2013, 19.06.2013, 05.03.2014 & 05.03.2014. A stay

disregarding pressures from interested parties, issued by the Principal Secretary (Rev) was in force during 2010 and that prevented cutting and transportation of trees for a while. But based on the orders of the RDO, trees have been felled as per the first three cutting permissions. Fortunately cutting permissions have been refused to be complied with by Wildlife Warden Munnar in the last three cutting permissions issued by the RDO. All these cutting permissions are in Kottakamboor village. It is to be noted that, the whole area comprised in Block 58 has been declared as sanctuary. In the event of such clarity, issuing cutting permissions in Block 58 without settling the rights of the claimants under Section 19 of the Wildlife Act is highly irregular on the part of the RDO/Sub Collector.

6. VIOLATION OF STATUTES

As mentioned earlier, the Kerala Land Assignment Rules, 1964 and Special Rules, 1993 have been conveniently mixed up by the encroachers taking advantage of both, with the Government departments enforcing neither. Furthermore, from the information provided by the District Collector, it is evident that the land assignment has taken place quite until recently. In some cases, the assignment goes beyond the permissible limit prescribed under the Rules. It has also come to notice that some families hold more than 15 acres; yet, no action under the Kerala Land Reforms Act,1963 is reported to have been taken. Regarding the systematic removal of forest and planting of Eucalyptus Grandis, it is a clear violation of extant Statutes. Against the encroachers, specially large-scale ones, action under the Kerala Land Conservancy Act, 1957 is called for. The Kerala Promotion of Tree Growth in Non-forest Areas Act, 2005 has actually had an adverse impact on the forest lands in general and on the areas covered in this Report in particular. Based on the provisions, contractors and others have systematically cut down all trees including forest trees, sometimes including sandalwood, and obtained illegal returns from their sales. Thus the State has

lost precious Shola forests; it has also lost and continues to lose huge revenue by way of sale of timber from public lands.

7. REVENUE RECORDS

Based on directions issued by this Committee, the District Collector, Idukki had seized the Records and Registers available from the Vattavada and Kottakamboor villages . District Collector was directed to provide data of persons who are valid patta holders with Survey Nos., extent and the present status of the land. He was also asked to report on the status of the verification of the patta holders including those falling within the purview of the Neelakurinji Sanctuary area. The District Collector has provided the first **(Annexures V & VI)** , but the verification work remains incomplete. The DC has reported that the data provided by him is an exhaustive list. Hence these lists are included as Annexures in this Report.

8. WORK OF KERALA STATE LAND BANK TEAM

The work done by the Kerala State Land Bank (KSLB) contained in the Report, on the five villages of Anchunad, was carried out by the Kerala State Land Bank (KSLB) Team over a period of 3 months based on the directions issued by the Government Principal Secretary [Revenue] on 06.04.2010. The work done by the KSLB team was exhaustive and for the first time it brought clarity to the entire issue of land holdings and the status of lands, including public lands, in that area. However, even though the verification work was done in 2010, Government chose not to take any follow-up action based on the report. If only follow-up action had been taken in 2010, some forest areas could have been saved, some of the encroachments that have taken place since could have been avoided and the genuine applicants could have been granted pattayam.

Although that Team did a strenuous and exhaustive site study and could identify almost all Government lands, they could not survey and demarcate all the lands due to the pressure on the Government by interested parties. The report submitted to Government by the Special Team suggested the following;

a. Declare a total ban on Eucalyptus Grandis cultivation in the villages of Kottakamboor, Vattavada, Keezhanthoor, Kanthalloor, Marayoor and KDH village based on Dr. Swaminathan's report findings, during the preparation of the Idukki package.

b. Nationalise all the Eucalyptus Grandis plantations in the above villages and assign land only to the local landless poor. By converging various schemes of agriculture department, these small assignees may be encouraged to cultivate cool season vegetables at the assigned sites, with the objective to make Kerala at least partly self-sufficient in production of cool season vegetables.

So far no serious thought has gone into the recommendations made in that comprehensive report. Ironically another opportunity of Government to set things right at least in Vattavada and Kottakamboor villages has resulted in failure due to the lack of policy decision at the State level, the inefficiency and incompetence of the District Administration in general and the Sub-Division and the line departments in particular and party politics and cronyism colouring any land management issue.

9. ROLE OF SETTLEMENT OFFICER

As per Section 18B of the Wildlife [Protection] Act, 1972, Sub Collector/RDO Devikulam has been appointed as the Settlement Officer to settle the claims, if any, of the occupant farmers within the territorial limits of the notified area. It is reported that, efforts made by the Sub Collectors/RDOs went in vain due to "the protests by the occupants" who seldom were ready to prove their claim over the lands, before the notified authority so far, nor allowing others interested to establish their claims. The legal and eligible small assignees could really have no objection. In fact, it would be in their interest to get their documents and holdings verified. It is the illegal holders who have got the lands illegally transferred to their names from the pattayam holders, who would have objection as their wrong-doings would then get detected. The illegal holders have strong vested interest to continue to hold these lands and to enjoy the fruits of these lands. They lie in sly wait to get a chance wrong mutation done on the basis of a Power of Attorney, transfer and carry out further sale of such illegally held lands. The extent of misdoings is indeed mind-boggling. It is these illegal holders who are behind the so-called 'protests' and have been allowed to hold the system to ransom. All the efforts of the Government to settle the claims are, therefore, at a standstill.

The directions from this Committee could not be followed by the Survey Department and no progress on ground to survey the area could be made, as the survey teams that have gone for verification to the site claim their work was disrupted on the third day in succession, instigated from known and unknown powerful quarters making the efforts practically impossible to deal with. Copy of letter from Director, Survey & Land Records is at **Annexure VII**.

Since, the originally planned activities by the team could not be implemented successfully especially in such hostile environment, it warrants a different strategy altogether. The 'disruption' has happened primarily because powerful political and criminal interests are behind it. A weak administration has been brow-beaten into inaction. But might cannot determine one's right. The departments primarily Revenue, Survey and Land Records and Forest have now to be goaded and forced to act as per the Law.

RECOMMENDATIONS:

Based on a close examination of the situation, the Committee, therefore, makes the following Recommendations:

1. The entire Eucalyptus Grandis plantations in the villages of Vattavada, Kottakamboor, Kanthalloor, Marayoor and Keezhanthoor should be taken over by the Government at once. [Action: Revenue Dept.]

2. Ban on cultivation of exotic species or trees like Eucalyptus Grandis, Acasia, etc. in Forest or other public lands and private lands, in the Anchunadu area would be totally justified and in tune with the recommendations in the Kasturirangan Report, keeping in view the ecological fragility of this environmentally sensitive terrain. A Government order may be issued to stop Eucalyptus Grandis cultivation on private lands pending an amendment in legislation to ban cultivation of Eucalyptus Grandis and Acasia under the Kerala Promotion of Tree Growth in Non-forest Areas Act, 2005. Forest Department may be directed to stop Eucalyptus Grandis cultivation on all public lands. [Action: Forest Dept.]

3. The exhaustive details of all Thandaper holders is available for Vattavada and Kottakamboor villages as provided by the District

Collector. While providing the details, DC has confirmed the same is based on documents as per Thandaper Registers available in the two villages. It is reported that the list is exhaustive with none left out. With these details, it is now necessary to verify each holding through a laid-down process. The process should consist of issuing notices to each Thandaper holder. Each land holder is to be present in person before an identified authority. Neither legal representation nor Power of Attorney representation may be permitted. The land holder should be present with the documents available with the party to prove his/her title and possession. Based on the above, dedicated teams need to verify these documents with Number I and Number II Registers and Land Assignment and/or Pokkuvaravu files, case by case.

4. The above activities should have been performed by the Settlement Officer 7 years ago who was empowered under Section 18B of the Wildlife [Protection] Act, 1972. Even after extension of time, the authority has failed not only to complete the work but even to take the work to a reasonably advanced level. Various reasons and excuses for this were given by the Settlement Officers since 2007, the reported reason being the alleged non-co-operation from the patta holders and the possibility of a law and order situation. This shows the lack of will on the part of the Government officials in managing and completing the land-related activities. The problem becomes even more widespread as no action is ever taken against such officials. In the instant case, in order to pre-empt any possible hurdle to the work and since the issue has acquired wider ramification, this is a fit case where the work should be formally assigned to the Commissioner of Land Revenue (CLR) by the Revenue Dept. Moreover, the CLR is empowered under the Kerala Land Assignment Act, 1960 as well. CLR's duty will be to verify the records as detailed in Recommendation 3 above and to co-ordinate the field verification. The work should be and can be

with active connivance or tacit concurrence of Revenue and Forest officials. If the Government is serious about solving the problem, all harvesting of Grandis from Anchunadu area should also immediately be stayed until the verification vide Recommendation 4 above is completed. [Action: Revenue Dept.]

7. It is in the interest of the Forest Department to protect as much as possible of the Neelakurinji areas. That department should also be part of CLR's settlement process vide Recommendations 3, 4 and 5 and should demarcate the boundary of the Sanctuary. The Forest Department should insist that encroachers who have destroyed Shola forests or grasslands should be evicted, brought to book and the areas brought within the Sanctuary which should then be fenced-off. The Forest Department should keep copy of geo-referenced map of the Sanctuary. Only then the work of declaration of Sanctuary would reach a logical finality. [Action: Forest Dept. & PCCF]

8. Similar extensive encroachments have taken place in the other 3 villages of Anchunadu also. Based on the example proposed to be set by the CLR vide Recommendation 3, 4 and 5 above, the Sub Collector, Devikulam should issue notices and follow due process of law to verify all pattayams, confirm those that are genuine, and evict **all** encroachers. While doing so, geo-referenced survey maps shall be generated. [Action: DC, Idukki & Sub Collector, Devikulam]

9. Ensconced in the lap of the Western Ghats, Anchunadu still has pockets of Shola forests and watersheds that make it ecologically very sensitive. These areas are also of incredible natural beauty. With Munnar and its surrounding areas over-exploited through unplanned development and encroachment, the resort mafia has spread to Anchunadu. Hence, this area should be planned in advance to develop

regulated tourism that will be environment-friendly and ecologically sustainable. The land mafia that systematically grabbed lands from small patta assignees or / and encroached on public lands, should be evicted from there. Government needs to realise that if the area loses its picturesque beauty and pristine serenity, no tourists would visit the place. If planned professionally, the Tourism sector in the State can make huge gains by protecting and showcasing this area, the Western Ghat's heartland, the Shola forests and the rare Neelakurinji tract. [Action: Toursime Dept.]

10. Allowing transfer of land through Power of Attorney should not be permitted and should be totally banned especially within the statutory alienation period in the case of assigned lands. As will be evident from the Revenue records, in many cases, even though the initial transfer is through Power of Attorney, this gets converted into an eligible transfer based on which Revenue Department even carries out mutation. The extent of misuse of Power of Attorney is extensive and the *modus operandi* should be understood by the Government and corrective action taken. Hence, transfer of land through Power of Attorney during the statutory non-alienation period of assigned lands may be totally banned. An important advice to the verifying officials: just by collecting the details of registered Power of Attorneys executed at SROs of Devikulam and surrounding SROs, transferring the possession of assigned land by Tamil migrants to the present land holders / predecessors after 1993, the entire land grabbing details and the persons involved can be easily traced out. [Action: Registration Dept. and Revenue Dept.]

11. The leasing of Revenue lands by the Forest Department for the paper industry or for any other purpose should be discontinued. Where the lease is still in vogue, the Lease Agreement should be made tripartite

and Revenue Department brought in as a party. However,as early as possible, the growing of Eucalyptus Grandis in the Anchunadu area should be discontinued. [Action: Forest Dept. & Revenue Dept.]

12. A senior and efficient officer, preferably an outsider, with no personal land interest in Idukki may be posted as CLR to enable the work in Recommendations 3-5 to be completed. [Action: GAD (Spl)]

13. Strong disciplinary action is recommended against officials who have shown dereliction of duty, issued orders against the Law (as in allowing harvesting of Eucalyptus Grandis) or connivance with land grabbers. [Action: Dept. of Revenue, CLR, Dept. of Forest, Survey and Land Records, Registration Dept.]

14. A Quick Verification may be done by the Vigilance and Anti-corruption Bureau to ascertain the identity of those who have acquired or purchased properties in Anchunadu area, in Idukki Dist. and report submitted in a month to Government. [Action: Vigilance Dept. & Director, VACB]

15. The identity of elected representatives and senior officials who have purchased lands in Anchunadu area in violation of statutes in their own or dependent's name/s may be collated from Annual Property Returns and VACB Report and referred to the Lokayukta for action under Law. [Action: Vigilance Dept., GAD (Spl)]

Conclusion:

In conclusion, the situation prevailing in the villages of Anchunadu *vis-a-vis* land and forest is an example of total break-down of the Law. The Government, if it means business, should take the stand to enforce the law and direct the officials in the field to do the same. The inaction and impotence shown by

those concerned is pathetic. Excuses are always at hand: Forest Department did not hesitate while giving Revenue lands on lease to HNL for Eucalyptus Grandis cultivation, but to protect forest on Revenue lands, they desist. An accurate GPS-based survey by the Survey Department could have determined the ground situation correctly long ago. But that department is a shame to any professional administration: it is a living example of a self-centred, self-aggrandising department with no concern for public interest or interest of the genuine land-holders. The Revenue Department had an excellent opportunity to arrest the mischief and take corrective action in 2010 when the issue came to light. But the Government lacked the will to pursue action. Since then, over the last 4 years, matters have only got worse. If the Government does not act even now, this crucial part of our State will be handed over for good to encroachers and land grabbers. Tourists visit the State attracted by its natural beauty, be it the highlands or the coastline. If these are allowed to be destroyed by the greed of few, the harm caused will indeed be irreparable.

The extensive cultivation of Eucalyptus Grandis on public lands by the private individuals in all the five villages of Anchunadu tract is an example of law enforcing machinery having suffered a near break-down. The Revenue Department has tacitly allowed to use public land for private purposes; the Forest Department has mutely allowed the illegal orders of the RDO to be implemented whereas the Survey Department is unable to survey the land. Revenue Department represented by Sub Collector / RDO Devikulam could not complete the settlement of rights in the sanctuary during the last eight years whereas it was to be done within a period of two years as per the Wildlife Protection Act, 1972. The Government needs to show a more resolute political will to enforce the Rule of law in that tract. It is very pertinent that Revenue Department should identify and delineate public land and carry out the eviction from such land. This should include all encroachers who are squatting on the land on the basis of either forged or illegal pattayams.

The extensive plantations of Eucalyptus in these areas are playing havoc with the eco-system of the area. In terms of helping local economy, these plantations are not of much utility as Eucalyptus plantations employ minimal labour force and these are basically owned by

absentee-holders, people from far-off places. For the locals, benefit is limited only to some intermittent labour opportunities.

If the Government does not act even now, this crucial part of our State would have been handed over to the encroachers and land grabbers and the area destroyed forever.

Dr.Nivedita P.Haran	Sri.P.Vijayanand	Sri.Surendrakumar	Sri.M.C.Mohandas
ACS (H&V)	ADGP (Vig)	CCF (Protn)	CLR

23.10.2014

ANNEXURE – I

GOVERNMENT OF KERALA
Abstract

Revenue Department – Misuse of Government lands and unauthorized possession of the same at Kurinjimala Sanctuary, Vattavada and Kottakampoor Village in Idukki District - Committee to enquire into illegal activities in the said land - constituted - Orders issued.

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REVENUE (A) DEPARTMENT

G.O. (Ms) No. 177/14/RD Dated, Thiruvananthapuram, 03.05.2014

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ORDER

There are wide spread reports through media and other sources of information that the Government lands within the purview of Kurinjimala Sanctuary and the land in the villages such as Vattavada and Kottakampoor in Idukki district are being subjected to misuse and other illegal activities by certain unscrupulous elements. Since the terrains are hard, much difficulty is being experienced to govern such land by the authorities concerned in a day-to-day manner. Under the guise of valid possessors of the land, some persons are even resorting to alienate and encroach Government land without any documents. Even cases of gross violation of assignment conditions have been noticed.

Government have examined the matter and are pleased to order as follows:-

(a) A special team shall be constituted under the leadership of Dr. Nivedita. P. Haran, Additional Chief Secretary (Home and Vigilance) with Sri.P.Vijayanand, Additional Director General of Police (Vigilance), Sri. Surendrakumar, Chief Conservator of Forest (Protection) and Sri. M.C. Mohandas, Commissioner for Land Revenue as Members. The committee shall examine the whole issue prevailing in the Government lands at Kurinjimala Sanctuary, Vattavada and Kottakampoor Village in Idukki District and a report shall be submitted to Government within a period of one month. The District Collector, Idukki shall

provide all necessary assistance to the committee;

(b) A Special Survey team shall be constituted immediately to mark the private holdings in the Kurinjimala Sanctuary in the Idukki District with clear boundaries. The Director, Survey and Land Records shall take all necessary steps for constituting the special team with immediate effect;

(c) An officer of IAS cadre is to be posted as Sub Collector, Devikulam as soon as the election process is over.

(By Order of the Governor)
E.K. BHARAT BHUSHAN
Chief Secretary to Government

To

The Additional Chief Secretary (Home & Vigilance)
The Principal Chief Conservator of Forest Department
The Commissioner for Land Revenue, Thiruvananthapuram
The Director General of Police, Thiruvananthapuram
The Secretary, Land Board, Thiruvananthapuram
The Director, Survey & Land Records, Thiruvananthapuram
The Accountant General (A&E/Audit), Kerala, Thiruvananthapuram
The District Collector, Idukki
General Administration (SC) Department
Information & Public Relations (Web & Media) Department.
(for publication)
Stock file/ Office copy

Forwarded/ by Order

Section Officer

ANNEXURE – II

GOVERNMENT OF KERALA
Abstract

Revenue Department – Misuse of Government lands and unauthorized possession of the same at Kurinjimala Sanctuary, Vattavada and Kottakampoor Village in Idukki District - Committee to enquire into illegal activities in the said land - constituted – Period Extended- Orders issued.

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REVENUE (A) DEPARTMENT

G.O. (Ms) No.264/14/RD Dated, Thiruvananthapuram, 21.06.2014

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Read:-G.O. (Ms) No. 177/14/RD Dated 03.05.2014

ORDER

As per the G.O. read above a special team has been constituted under the leadership of Dr. Nivedita. P. Haran, Additional Chief Secretary (Home and Vigilance) with Sri.P.Vijayanand, Additional Director General of Police (Vigilance), Sri. Surendrakumar, Chief Conservator of Forest (Protection) and Sri. M.C. Mohandas, Commissioner for Land Revenue as Members, for examining the whole issues prevailing in the Government lands at Kurinjimala Sanctuary, Vattavada and Kottakampoor Village in Idukki District and to submit a detailed report to Government within a period of one month. The District Collector, Idukki has been directed to provide all necessary assistance to the special team. But due to the General Election process to L.S.2014, the District Collector Idukki could neither provide the required documents nor assist the special team.

(2) In the circumstances above mentioned, Government are pleased to extend the period of the special team for a further period of two months, from 03.06.2014.

(By order the Governor)

T.V. VIJAYAKUMAR
Additional Secretary to Government

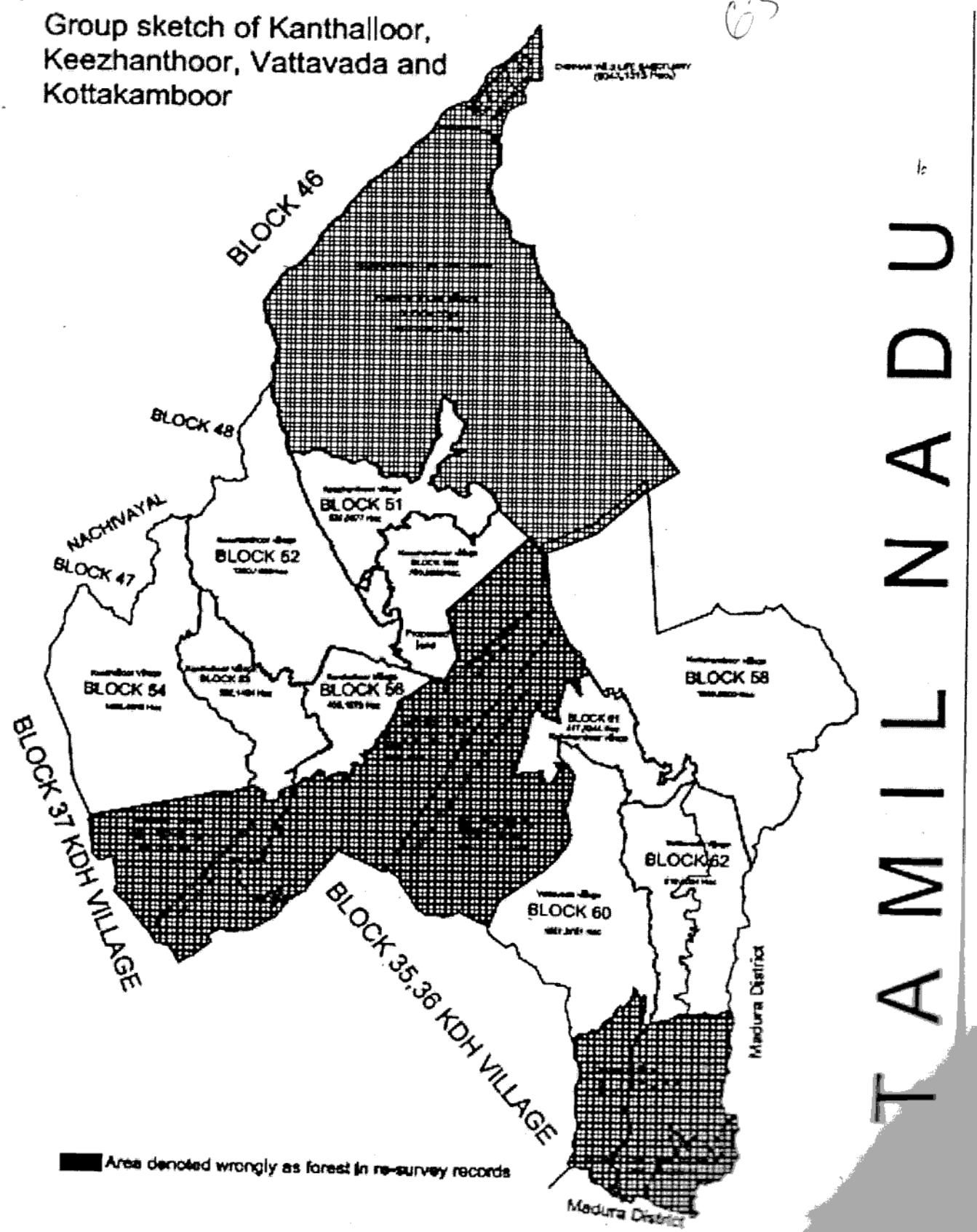
To

The Additional Chief Secretary (Home & Vigilance)
The Principal Chief Conservator of Forest Department
The Commissioner for Land Revenue, Thiruvananthapuram
The Director General of Police, Thiruvananthapuram
The Secretary, Land Board, Thiruvananthapuram
The Director, Survey & Land Records, Thiruvananthapuram
The Accountant General (A&E/Audit), Kerala, Thiruvananthapuram
The District Collector, Idukki
General Administration (SC) Department
(Item No.5194 of the Cabinet proceedings dated 30-04-2014)
Information & Public Relations (Web & Media) Department.
(for publication)
Stock file/ Office copy

Forwarded/ by Order

Section Officer

ANNEXURE – III



ANNEXURE – IV

Pro(7) - 18279/2014

Office of the Additional Principal
Chief Conservator of Forests (Protection)
Forest Headquarters
Thiruvananthapuram
Dated: 08.10.2014

From

Additional Principal Chief Conservator of Forests (Protection),
Thiruvananthapuram.

To

Additional Chief Secretary
Home & Vigilance Department
Thiruvananthapuram

Sir,

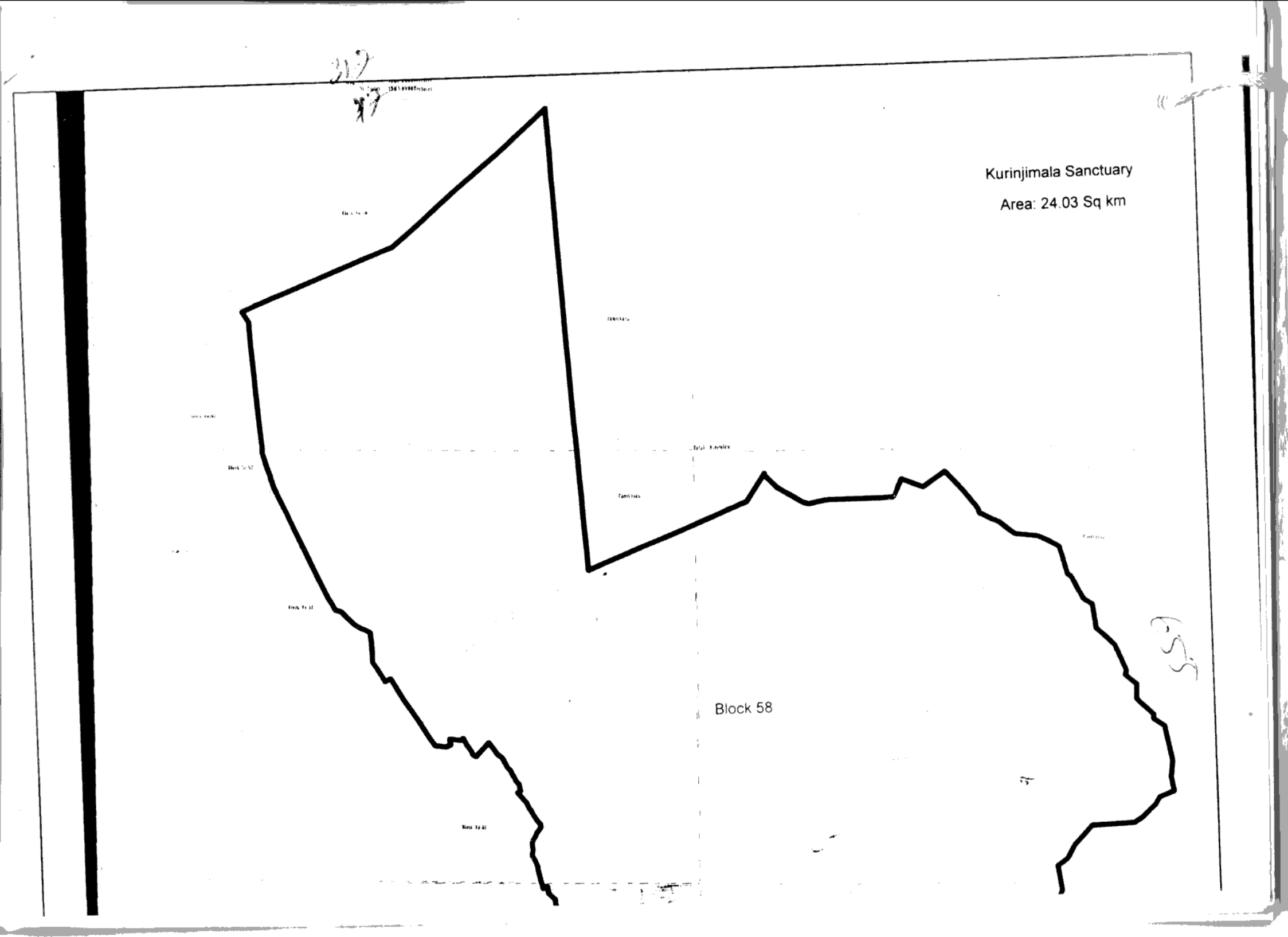
Sub: Enquiry into the irregularities in distribution of pattayam in areas falling under Neelakurinji Wildlife Sanctuary – Committee headed by Smt. Niveditha.P.Haran, Additional Chief Secretary (Home) - reg.

Ref: U.O. Note no HF I – 42/2014 dated 07.10.2014 of the Head of Forest Force, Kerala.

Regarding the rough area computation of the Kurinjimala Sanctuary using GPS traverse, it is informed that despite the best efforts of the Kerala Forest Department in consultation with the RDO Devikulam and the Director, Survey and Land Records, the GPS traverse of the boundary of the Kurinjimala Sanctuary could not be completed because of local protest of vested interests. However, the undersigned has tried to delineate the boundary of the Kurinjimala Sanctuary on the Revenue map of Vattavada and Kottakamboor villages. Using GPS technology, the area comes to 24.03 sq.kms (in place of 32 sq.kms as notified in the notification of the Kurinjimala Sanctuary). The sketch of the Kurinjimala sanctuary as per the boundary description is enclosed.

Yours faithfully,

Addl. Prl. Chief Conservator of Forests (Protection).


Kurinjimala Sanctuary
Area: 24.03 Sq km
Block 58


Block 62

ANNEXURE – V

No.C10.5197/2013.

Collectorate, Idukki
Dated: 06.08.2014

From

District Collector
Idukki.

To

The Additional Chief Secretary to Government,
Home & Vigilance Department,
Secretariat.
Thiruvananthapuram.

Respected Madam,

Sub:- Investigation regarding Pattayam in Kottakkampur and Vattavada villages – regarding.

Ref:- This office letters of even number dated 17.07.2014 and 23.07.2014.

As committed in the letters referred above, kindly find enclosed the data entry of Thandaper Registers of Vattavada Village of Devikulam Taluk.
(attached along with original registers submitted to CS)

This is for kind information and necessary action.

Yours faithfully,

DISTRICT COLLECTOR
IDUKKI

ANNEXURE – VI

R.C10.5197/2013.

Collectorate, Idukki,
Dated 23.07.2014.

From

The District Collector,
Idukki.

To

The Additional Chief Secretary to Government,
Home & Vigilance Department,
Secretariat,
Thiruvananthapuram.

Respected Madam,

Sub:- Investigation regarding pattayam in Kottakkampur and Vattavada villages – regarding.

Ref:- This office letter of even number dated 17.07.2014.

As committed in the letter referred above kindly find enclosed

1. Report on investigation in Kurinjimala sanctuary
2. Inventory of documents seized from Vattavada and Kottakkampur villages and Devikulam taluk in this regard (attached along with original report submitted to GS)
3. Data entry of Thandaper register (Resurvey and old) of Kottakkampur village. The data entry of Thandaper registers of Vattavada village shall be submitted separately before 14th August 2014.

This is for kind information and necessary action.

Yours faithfully,

District Collector.

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INVESTIGATION OF KURINJIMALA SANCTUARY PATTAYAM ISSUE IN IDUKKI

1 BACKGROUND

1.1 Constitution of the Kurinjimala Sanctuary

As per G.O.(P) No.36/06/F&WLD dated 06-10-2006, Government notified approximately 3200 Hectares of land comprised in in Block 58, Survey No.1 of Kottakkampur Village and Block 62 of Vattavada Village as a Sanctuary to be known as "Kurinjimala Sanctuary". Patta lands in the area are excluded from Sanctuary. Sub Collector Devikulam was appointed as Forest Settlement Officer as per order No. GO (MS) 74/F&WLD dated 12.12.07 to settle the rights within the notified area. The rights in the area, which generally include Pattayams, are not settled till date which has indefinitely delayed the final declaration of Kurinjimala Sanctuary as per the Forest Act.

1.2 Provisions of The Kerala Forest Act 1961, and Rules Applicable To Kurinjimala Sanctuary

Sections 3, 4, and 5 of the Kerala Forest Act 1961 empowers the Government to constitute any land at the disposal of the Government as a Reserved Forest, to publish a notification in the Gazette declaring that it is proposed to constitute such land a Reserved Forest and to appoint a Forest Settlement Officer to *inquire into and determine the existence, nature and extent of any rights claimed by, or alleged to exist in favour of, any person in or over any land comprised within such limits.*

When a notification has been issued under section 4, the Forest Settlement Officer shall publish a Proclamation fixing a period not less than three and not exceeding six months from the date of publishing such proclamation in the Gazette, and requiring every person claiming any right referred to in section 4 either to present to such officer, within such period, a written statement specifying, or to appear before him within such period and state, the nature of such right, and in either case to produce all documents and other evidence in support thereof.

Provisions of the Forest Settlement Rules 1965 deals with the procedure to be adopted to carry out the Forest Settlement Process. The FSO has to serve notice to each claimants, record their statements, prepare claim register, and examine the claimants on oath and taking decision on the claim. After admission/rejection of all claims, the Government has to publish a notification under Section 19 in the Gazette specifying the limits of the forests which it is intended to reserve and declaring the same to be reserved from a date to be fixed by such notification.

2.0 PRESENT STATUS

2.1 Present Status of Land

The status of the area prior to notification as Kurinjimala Sanctuary was Revenue Tharisu. There are many genuine Pattayams issued in the area notified for Kurinjimala Sanctuary. These include Pattas issued by the former Government of Travancore and Pattas issued under the Kerala Land Assignment Act 1960. These Patta lands, land under protection of the Forests Department and lands under encroachment / unauthorised occupation are lying interspersed. Although holders of genuine Patta holders are generally residing and cultivating in the land, large extents of lands are suspected to be under unauthorised encroachments. The Department of Forests could not assume custody of the land as Reserve Forest, since Forest Settlement is in its initial stage only. As far as resurvey is concerned although the Resurvey work has been completed in the rest of the Kottakkampur Village, Block No 58 of Kottakkampur Village remains without individual sub-divisions according to possessions, whereas Block 62 of Vattavada Village is sub-divided but lying interspersed.

2.2 Present Stage of Settlement Process

The Forest Settlement process is ongoing and have not yet attained any sort of finality. Proclamation under Section 21 of the Act was published by the RDO /Sub Collector ,Devikulam (Forest Settlement Officer) on 09.05.2008 and 08.09.2009, following which, there arose wide spread protests from the general public at Vattavada and Kottakkampur Villages, for the reason that all settlements, the town and the land in possession have been included in the initial proclamation. Thereafter joint site inspection of the Revenue, Forest and Survey officials and several meetings participated by people of the area, their representatives and officials of various departments were also conducted by the FSO to deal with the protests against the formation of Kurinjimala Sanctuary but to no avail. Although 452 claims have been received by the FSO claiming right or title within the notified area only a limited number of the claimants have co-operated with the hearing procedures. The protesters expressed a demand that the Kurinjimala Sanctuary shall be limited to the land which falls within the existing cairns put by Forest Department and the land in the possessory right of the individuals, irrespective of its nature, should be excluded from being constituted as Kurinjimala Sanctuary.

3.0 NEED FOR STRINGENT VERIFICATION OF TITLES AS PART OF THE SETTLEMENT PROCESS

With the rise of Munnar as a major tourism destination during the 90's, there was a rush of land prospectors towards the area and parts of area was occupied by outsiders with forged titles and without titles. These absentee land holders raised Eucalyptus in their lands. Meanwhile, other land developers had purchased most of the patta lands in the area that were issued from 1990's and are staking their claim over other adjoining uncultivated lands. Large extent of land in the notified area which have no patta or any document of ownership are cultivated with grandis trees by various persons claiming possessory right and these persons are not willing to let go of these land parcels. It is suspected that such encroachers, apprehending eviction, are instrumental in inciting protest against the settlement work as a result of which the declaration of Kurinjimala Sanctuary has been dragged indefinitely.

Consequent to allegations raised by mass-media regarding extensive encroachments in Kottakkampur / Vattavada areas, whole revenue records of Kottakkampur and Vattavada Villages are taken custody of and brought to Collectorate Idukki for safe keeping and are in the process of being transferred to the office of the Sub Collector Devikulam for the purpose of digitising and safe keeping. On a preliminary verification regarding some alleged discrepancies, certain substantial malpractices are noticed. The Vigilance and Anti-Corruption Bureau, Eastern Range Kottayam has also given details regarding a case registered as VC 10/03/IDK, in which 297 Pattas issued in Devikulam Taluk is being investigated. The malpractices in these cases are almost similar to the malpractices in the Pattas of Kottakkampur Village, verified preliminarily by this office. Therefore stringent verification of all titles in the area becomes absolutely essential as part of the Forest Settlement.

4.0 WAY FORWARD

The prime objective of the Government in this issue is to declare the Kurinjimala Sanctuary to protect the rich flora and fauna of the area by settling the issues of genuine Patta holders and to resume precious Government land from land grabbers by weeding out forged / inconsistent titles and claims. Before declaring the area as Kurinjimala Sanctuary, all the claims / titles are to be settled and notification under section 19 to be published.

A perfect liaison between the Departments of Revenue, Forest, Police and Registration is necessary to achieve the goals. A multi-fold course of action is recommended to achieve the proposed goals.

Action I **Completion of the Forest Settlement process.**

Forest Settlement activities are to be resumed by the Forest Settlement Office from the very stage it is held up. Wide publicity is to be given to the effect that the rights created by every genuine Patta issued in the area will be honoured. Steps are to be taken to ensure that none of the genuine claims are left unconsidered. Where the claims relates to uninterrupted possession from 1971 onwards, decision is to be taken at Government level regarding regularisation of the same or otherwise. All other unnecessary protests are to be dealt with suitably. Forest Settlement is to be finalised after the steps in the succeeding paragraph is completed, as laid down in Kerala Forest Settlement Rules 1965.

Action II **Investigation into the alleged forgeries.**

It is strongly recommended that the titles presented before the Forest Settlement Officer are to be checked simultaneously for forgeries and manipulations. A special checking team is to be constituted with dedicated officers of the Revenue, Survey and Registration Departments. Such a verification seems possible, since the Tahsildar Udumbanchola, in 2010, had successfully carried out such an exercise with respect to the Thandapers in Chinnakkanal Village. The proposed action plan is as follows.

1. With the tax receipt produced by the claimant, Thandaper No. is ascertained. The Thandaper entries are verified upto the Title Deed for its accuracy by the Revenue Officers. Along with, the basic Revenue Records are also verified.
2. Once the test of Revenue is passed, the transfer deeds produced by the claimants are verified for its genuineness by the Registration Officers. Any forgeries detected by these verifications are to be reported to the dedicated Police Team for action under the Criminal Procedure Code. Instances of impersonations and forgery are to be dealt with by Forensic and Hand-writing experts specially deployed. Simultaneously action under the Kerala Land Conservancy Act, 1957 also to be initiated by Revenue Department.
3. Once such forged titles are dealt with, every title found to be genuine are to be forwarded to Survey Team for actual field verification and on-spot preparation of Field Measurement Sketch of the land concerned. The forest officials shall also be pointed out the boundaries of the land in question.
4. Every claims passing all the above tests are to be handed over to Forest Settlement Officer for final adjudication and settlement.

Action III **Reconstruction of records together with proper re-survey of the land.**

Concerned Revenue records are to be updated with reference to the outcome of the

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adjudication by the Forest Settlement Officer. Preferably, fresh Thandaper Registers are to be prepared by the Revenue Team for the lands included in Pattas found genuine inside the Sanctuary area. Simultaneously, resurvey records are to be updated by the survey team with the help of Field Measurement Sketches prepared during the actual field verification.

Suitable institutional arrangements are to be put in place for executing these actions in a time bound manner.

Submitted

District Collector Idukki

Date: 22/7/2014

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List of Files and Registers of **Vattavada** Village, which were taken into custody of District Collector Idukki on 06.05.2014 and 17.05.2014 as per Order No. CA 15/14 dated 06.05.2014 of the District Collector Idukki

1. Supplementary BTR – Block 62
2. BTR – Block 62
3. Thandaper Register – Block 62 – Vol 1 to 14 (14 Nos) containing Thandaper Nos 1 to 1240
4. Thandaper Register – Block 63 – Vol 1 (1 No) containing Thandaper No 1 only.
5. Thandaper Register – Block 60 – Vol 1 to 15 (15 Nos) containing Thandaper Nos 1 to 1342.
6. BTR – Block 60
7. Kaivasa Register – Block 60
8. Tharisu Register – Block 60
9. Porampoke Register – Block 60
10. Supplementary BTR – Block 60
11. BTR – Block 63
12. Kaivasa Register – Block 62
13. Tharisu Register – Block 62
14. Porampoke Register (Randam Tharam)– Block 62
15. Pattaya Number Register
16. Resurvey Co-relation Register
17. Settlement Register
18. Kooduthal Kuravu Register (LA Register)
19. Thandaper Registers - Old – 3 to 129
20. Thandaper Registers - Old – 1 to 170
21. Thandaper Registers - Old – 1 to 162
22. Thandaper Registers - Old – 271-342
23. Thandaper Registers - Old – 360 to 391
24. Thandaper Registers - Old – 1 to 343
25. Thandaper Registers - Old – 171 to 359
26. Thandaper Registers - Old – 2 to 196
27. Thandaper Registers - Old – 85 to 147
28. Thandaper Registers - Old – 289 to 384
29. Thandaper Registers - Old – 95 to 97
30. Thandaper Registers - Old – 1 to 356
31. Thandaper Registers - Old – 773 to
32. Thandaper Registers - Old – 180 to 298
33. Thandaper Registers - Old – 691 to 755
34. Thandaper Registers - Old – 773 to 807
35. Thandaper Registers - Old – 808 to 861
36. Thandaper Registers - Old – 544 to 685
37. Thandaper Registers - Old – 305 to 419
38. Thandaper Registers - Old – 689 to 772
39. Thandaper Registers - Old – 264 to 395

40. Thandaper Registers - Old – 407 to 536
41. Thandaper Registers - Old – 2 to 200
42. Thandaper Registers - Old – 1 to 350
43. Porampoke Register – Block 60 - (Randam Tharam)
44. BTR – Block 63
45. Old FMB Vol I, Vol II
46. AA Register – 1 to 769 (B No.)
47. Sketch Register – 1
48. FM Sketch – 10 Sheets
49. Puthuval Case Register3
50. Old Thandaper Register – Travancore – 1
51. Tharisu Bhoomiyude Kaivasa Register – Block 60, 62
52. Basic Tax Muthal Register - I
53. Transfer of Registry Files – 2003 – Nos 1, 3, 7, 9, 23, 46, 49 50, 52, 58, 60, 62, 63, 64, 66, 67, 68, 69, 71, 72, 74, 75, 76, 79 to 81, 83 to 86, 88, 90
54. Transfer of Registry Files – 2011 – Nos 2, 4, 6, 7, 8, 9, 11, 14 to 16, 19, 23, 34 to 38, 40, 43 to 46, 54, 56, 60 to 64, 65 to 67, 74 to 76, 79, 80, 82, 87, 91 to 94, 95, 96, 98, 102, 107, 109, 101, 103, 117, 118, 108, 120, 121, 127, 126, 129
55. Transfer of Registry Files – 2006 – Nos 1 to 3, 5 to 7; 9 to 85
56. Transfer of Registry Files – 2005 – Nos 1 to 23, 25 to 29
57. Transfer of Registry Files – 2004 – Nos 1 to 6, 8 to 9, 12 to 15, 18 to 25
58. Transfer of Registry Files – 2001 – Nos 17, 30
59. Transfer of Registry Files – 2002 – Nos 3, 5, 9, 14, 35, 15, 48, 68, 69, 70, 71, 77, 3, 78
60. Transfer of Registry Files – 2013 – Nos 1 to 37, 39, 40, 42, 43, 44, 45, 46, 47, 48, 19
61. Transfer of Registry Files – 2014 – Nos 1, 4, 6, 7, 10, 11, 14, 18
62. Land Assignment Files – List appended – 1003 Nos

Land Assignment Files of various years

5601/67	5605/67	1129/64	59/77	7/94	4/94	8/94	5/94
5/95	2/95	12/96	13/96	43/76	102/79	1179/64	14/99
1585/65	1128/64	1/95	9/99	1/96	2364/65	2385/65	121/79
13/99	2390/65	2366/65	1594/65	2708/65	24/59	5602/67	22/59
23/50	10/83	19/83	7/76	5/96	2/98	1136/64	5/68
3/67	9/94	28/70	18/83	4/95	3/76	5577/67	10/94
29/93	3995/65	1712/65	1/83	12/83	11/99	36/70	29/79
10/99	1187/64	12/99	6/68	6/94	1130/64	2/67	1199/64
5/81	3063/65	54/96	1121/64	3997/65	9/96	77/80	114/80
26/96	18/76	56/67	27/93	2382/65	2369/65	112/80	48/99
1/77	2/96	27/70	149/79	91/83	35/70	4594/60	2387/65
3282/65	1733/65	1175/64	1730/65	2727/65	1134/64	2710/65	1122/64

2361/65	4940/66	2377/65	2394/65	1719/65	147/60	2362/65	2396/65
3986/65	2401/65	3391/65	3469/65	2704/65	2384/65	1735/65	3800/65
3288/65							

Land Assignment Files of 1960

155	148	154	221	222	142	288	145	223	156	144	225	141	153	143
149	140	150	146	237	277	226	151	224						

Land Assignment Files of 1961

278	276	274	275	277	273	280

Land Assignment Files of 1964

1132	1164	1133	1159	1114	1180	1131	1124	1117	1168
1113	1174	1112	1111	1125	1128	1115	1119	1137	1163
1203	635	1195	1204	1122	1201	1136	1177	1192	1182
637	1166	1165	1162	1118	1167	1189	1198	1197	1169
1202	1172	1170	1175	1138	1188	1200			

Land Assignment Files of 1965

1731	1733	1725	1713	1723	1742	1729	1743	1596	1721
1716	1739	1720	1718	1738	1713	1736	1735	1714	1730
1749	1728	1732	1582	1715	1727	1717	3073	3911	3468
4146	3991	4147	3994	3998	3996	3671	3794	3798	3068
3793	3065	3064	3061	4087	3284	3795	3808	4083	3485
3988	3046	3804	3059	4149	3989	4150	3052	3388	3050
3048	3475	3283	3802	3471	3472	4148	3282	3990	3056
3807	3469	3391	3290	3209	3058	4086	3055	3792	3049
3799	3047	3473	3060	3287	3986	3809	3210	3390	3796
3797	2383	2970	2394	2396	2372	2397	2398	2375	2356
2973	2368	2711	2723	2972	2699	2377	2707	2724	2727
2357	2360	2696	2717	2706	2720	2709	2701	2704	2975
2974	2721	2715	2378	2716	2379	2392	2361	2400	2725
2391	2389	2380	2359	2367	2371	2706	2729	2712	2698
2401	2402	2971	2710	2713	2387	2363	2362	2365	2388
2348	2358	2354							

Land Assignment Files of 1966

4595	4939	5022	5518	5043	5021	5369	4594	4591	5373
5370	5375	5372	5023	4957	4932	4936	5272	4592	4945
4935	4940	4942	4590	4934	5030	5035	5031	5024	4944
4570	5042	4593	5517	4943	4597	4747	5374	4933	5032

Land Assignment Files of 1970

33	39	24	30	29	35	25	40	31	26

Land Assignment Files of 1971

11	7	1							

Land Assignment Files of 1974

4	33	31	10	9	7	30	28	20	29
6	21	12	5	11	36	1	35	8	24
16	32	22	23	18	17	2	34	19	25
15	36	27	26	14	13	3			

Land Assignment Files of 1976

21	55	32	27	53	16	26	5	40	46
47	6	25	24	56	10	54	48	45	34
64	61	62	35	36	39	23	2	9	44
20	4	17	15	13	31	28	29	30	19
11	41	8	37	42	50	51	33	52	

Land Assignment Files of 1979

37	34	3	16	24	39	11	12	8	50
6	25	49	47	18	7	5	19	23	27
14	28	45	46	21	40	20	41	42	43
38	33	36	30	31	22	26	35	4	2
1	9	10	48	12	11	13	17	63	69
86	64	77	76	54	65	55	67	73	72
71	70	68	87	84	97	88	100	81	82
79	85	91	98	95	80	89	87	75	60
78	73	66	93	52	128	139	131	150	101
112	149	122	143	152	153	155	117	119	145
123	107	125	104	106	138	144	137	127	124
105	120	115	116	103	134	133	126	157	130
129	156	151	136	148	110	140	135	108	109

141	132	118	113

Land Assignment Files of 1980

48	44	43	40	39	46	36	25	42	35
30	32	34	29	5	3	24	31	10	20
33	50	23	16	21	41	17	3	22	2
4	7	45	5	13	26	14	19	47	9
8	49	66	60	69	55	53	98	89	88
87	73	70	72	65	83	51	81	68	86
86A	94	67	80	75	82	71	85	84	74
96	76	56	95	93	99	100	90	62	91
79	52	63	61	115	119	120	121	128	137
101	149	109	127	132	126	138	130	129	111
106	144	131	135	136	145	113	108	117	110
122	146	143	123	133	134	103	142	116	

Land Assignment Files of 1981

14	15	6	7	8	9	10	11	12	2
3	4	1	13						

Land Assignment Files of 1983

14	9	15	21	7	6	5	3	2	13
16	8								

Land Assignment Files of 1984:

32	34	33	22						

Land Assignment Files of 1982

58	59	60	24	40	44	56	46	17	42
13	16	18	19	20	21	22	23	25	26
27	28	29	30	31	32	33	34	35	36
37	38	39	41	43	45	47	48	49	50
51	53	54	55	57	62	64	65	66	67
69	70	71							

Land Assignment Files of 1993

17	16	12	37	39	42	47	46	49	48
33	153	45	118	50	155	35	34	31	30
156	157	18	14	28	1	2	4	3	7

8	9	10	11	199	168	169	170	19	167
166	164	165	163	162	161	160	159		

Land Assignment Files of 1994

1	26	11	13	14	21	12	20	19	16
18									

Land Assignment Files of 1995

3	14	19	8	17	7	21	6	15	13
12	11	10	9	16	17	20	22	26	

Land Assignment Files of 1996

52	7	40	39	38	37	33	32	43	36
34	35	27	25	24	44	17	8	42	6
10	11	51	50	47	48	111	58	57	17
15	56	14	55	18	29	30	20	22	23
45	46	41	44	3	19	28	31	21	4

Land Assignment Files of 1999

1	2	3	5	6	7	4	8	34	57
56	47	46	58	51	52	49	42	50	61
44	35	36	37	38	39	40	41	42	43
25	24	26	29	30	31	32	33	17	18
19	20	21	22	23	16	15	28	27	67
55	54	45	53	59	60				

List of Files and Registers of **Kottakkampur Village**, which were taken into custody of District Collector Idukki on 06.05.2014 and 17.05.2014 as per Order No. CA 15/14 dated 06.05.2014 of the District Collector Idukki

1. Thandaper Registers – Vol 1 – TP Nos – 1 to 233.
2. Thandaper Registers – Vol 3 – TP Nos – 492 to 566.
3. Thandaper Registers – Vol 4 – TP Nos – 567 to 568.
4. Thandaper Registers – Vol 5 – TP Nos – 1 to 134.
5. Thandaper Registers – Vol 6 – TP Nos – 259 to 394.
6. Thandaper Registers – Vol 7 – TP Nos – 135 to 259.
7. Thandaper Registers – Vol 8 – TP Nos – 1 to 142 (From TO Devikulam)
8. Thandaper Registers – Vol 9 – TP Nos – 234 to 491. (From TO Devikulam)
9. BTR – Block 61, Sy No 1 to 198
10. BTR – Block 59, Sy No 1
11. B Register (Old)
12. Supplementary BTR – Block 59
13. Supplementary BTR – Block 61
14. Kaivasa Register -Old
15. Settlement Register – Old
16. Register showing details of LA File
17. Porampoke Register – Block 61
18. Porampoke Register – Block 61 (Randam Tharam)
19. Porampoke Register – Old
20. Old Thandaper Register – TP 1 to 97
21. Old Thandaper Register – PP 1 to 70
22. Old Thandaper Register – TP 81 to 153
23. Old Thandaper Register – TP 71 to 181
24. Old Thandaper Register – TP 1 to 80
25. Old Thandaper Register – PP 135 to 259
26. Tharisu Register
27. Basic Tax Register – Block 58 (From Taluk Office) Devikulam
28. Old Kuthakappattom Register – 1969-70
29. Survey Soochakam – 1962
30. Rahasya Bhoomiyude Kaivasa Register
31. Account No 24
32. Account No 23A
33. Tree Cutting Report Register – 1990-93
34. Adhishtana Bhoomi Register
35. Survey Number Book
36. Resurvey Collection Book
37. Kooduthal Kuravu Account
38. Kuthakappattom Account No.4
39. Resurvey Thandaper Register (TTPF)
40. Thavanamudakkom Account – 1998-99
41. Thavanamudakkom Account – 1112 -
42. Thavanamudakkom Account – 1964-65

43. Thavanamudakkom Account – 1953-54
44. Thavanamudakkom Account – 1957-58
45. Thavanamudakkom Account – 1958-59
46. Thavanamudakkom Account – 1959-60
47. Thavanamudakkom Account – 1960-61
48. Thavanamudakkom Account – 1952-53
49. Thavanamudakkom Account – 1117 -
50. Thavanamudakkom Account – 1950-51
51. Thavanamudakkom Account – 1120-
52. Thavanamudakkom Account -- 1967-68
53. Thavanamudakkom Account – 1961-62 (2 Nos)
54. Thavanamudakkom Account – 1962-63
55. Thavanamudakkom Account – 1956-57
56. Thavanamudakkom Account – 1964-65
57. Thavanamudakkom Account – 1963-64 .
58. Thavanamudakkom Account – 1968-69
59. Thavanamudakkom Account – 1969-70
60. Thavanamudakkom Account – 1973-74 (2 Nos)
61. Thavanamudakkom Account – 1974-75
62. Thavanamudakkom Account – 1975-76
63. Thavanamudakkom Account – 1973-74
64. Thavanamudakkom Account –1972-73
65. Thavanamudakkom Account – 1971-72
66. Thavanamudakkom Account – 1969-70
67. Thavanamudakkom Account – 1998-99
68. Thavanamudakkom Account – 1976-77
69. Thavanamudakkom Account – 1977-78
70. Thavanamudakkom Account – 1978-79
71. Thavanamudakkom Account – 1979-80
72. Thavanamudakkom Account – 1980-81
73. Thavanamudakkom Account – 1981-82
74. Thavanamudakkom Account – 1982-83
75. Solvency Register
76. Kuthakappattom Register
77. Survey Number /Adavu Register
78. Thandaper Register – Old – 1/1 to 92
79. Thandaper Register – Old – 1 to 49/73
80. Thandaper Register – Old – 1 to 158
81. Thandaper Register – Old – 1/1 to 112
82. Thandaper Register – Old – 1 to 151
83. Thandaper Register – Old – 38 to 154/221
84. Thandaper Register – Old – 17 to 171
85. Thandaper Register – Old – 3 to 105
86. Thandaper Register – Old – 4 to 119
87. Thandaper Register – Old (Travancore)
88. Transfer of Registry Files – 1/2007 to 15/2007

89. Transfer of Registry Files – 17/2007 to 26/2007
90. Transfer of Registry Files – 28/2007 to 32/2007
91. Transfer of Registry Files – 1/2006 to 6/2006
92. Transfer of Registry Files – 7/2006 to 14/2006
93. Transfer of Registry Files – 16/2006 to 17/2006
94. Transfer of Registry Files – 44/2006
95. Transfer of Registry Files – 2/2009 to 12/2009
96. Transfer of Registry Files – 1/2012 to 5/2012
97. Transfer of Registry Files – 7/2012
98. Transfer of Registry Files – 5/2011, 22/2011, 3/2011, 4/2011
99. Transfer of Registry Files – 1/2010, 7/2010
100. Transfer of Registry Files – 1/2008, 25/2008
101. Transfer of Registry Files – 1/2005, 17/2005, 19/2005, 21/2005
102. Transfer of Registry Files – 3/1997, 8/2001, 10/2001, 13/2001, 19/2001, 23/2001, 25/2001, 26/2001, 6/2002, 12/2002, 2/2003, 6/2003
103. FMB – Block 61 – Survey No. 1 to 100
104. FMB – Block 61 – Survey No. 101 to 199
105. Transfer of Registry Files -3/2013, 4/2013, 5/2013, 13/2013, 14/2013, 16/2013, 18/2013, 20/2013, 21/2013, 23/2013, 24/2013
106. Land Assignment Files – List appended – 520 Nos

Land Assignment Files of 1959

8	5	64	9	6	63	65	1	2	4	21	12	13	14	17
18	15	16	19	20	11	59								

Land Assignment Files of 1960 — Land Assignment Files of 1961

217	218	219	220	233					238	240	421			

Land Assignment Files of 1964

394	387	395	397	398	390	731	730	729	728	391	737	735	733	732
734	386	385	383	381	380	379	378	382	388	389	393	392	399	738

Land Assignment Files of 1965

2336	1743	3368	1576	1592	1578	1579	1580	1581	1583	1584	1587	1589	1591	1745
1746	1747	1750	1753	1754	1758	1760	2332	2977	2333	2334	2335	2338	2339	2344
2345	2342	2349	2350	2351	2384	2731	2923	3208						

Land Assignment Files of 1966 — 1974

5109	5110	5100	5106	4598	5098	4745	5196	5193	5192	5191	5194	5105	4744	1

Land Assignment Files of 1976

14	28	34	12	5	37	2	3	4	6	7	8	9	10	11	13	16
17	26	18	19	20	22	23	29	30	32	33	35	36	38	39	71	

Land Assignment Files of 1979

1	2	3	4	6	7	8	9	12	13	14	15	10	11
16	233	28	231										

Land Assignment Files of 1980

40	20	32	38	10	31	36	34	30	31	2	4	6	27
26	24	21	16	42	43	44	45	49	51	52			

Land Assignment Files of 1981

5	6	1	3	4	7	8	9	10	11	12	13	14	15
17	18	54	1	33	28	31	54	40	32	36	19		

Land Assignment Files of 1982

5	6	20	21	40	41	43	27	26	18	19	16	17	15
13	14	10	7	9	1	2	12	11	28	29	30	31	32
33	34	35	37	38	42	44	48	51	56				

Land Assignment Files of 1992

4	9	3	10	14	15	19	22	30					

Land Assignment Files of 1993

12	6	4	2	37	1	39	36	3	42	51	53	56	57	58
59	61	62	60	63	64	65	67	44	46	43	47	66	45	49
68	58	50	71	52	69	14	15	16	18	24	21	20	19	31
32	8	9	11	13	54	34	35	40	33	5	7	72	70	73
92	97	76	74	79	100	119	211	139	143	136	161	160	151	153
154	155	149	159	173	184	111	112	113	114	115	115	116	126	176
177	178	182	183	172	185	186	187	188	189	190	207	205	209	210
211	212	213	121	132	133	214	122	110	138	128	130	141	147	148
127														

Land Assignment Files of 1994

11	16	36	1	2	3	4	5	6	7	8	9	22	26	32	45

Land Assignment Files of 1999

124	48	1	117	128	123	122	126	125	127	100	121	120	118	119
93	94	81	32	83	84	86	87	80	88	91	92	99	100	96

97	95	55	54	83	57	115	116	56	60	59	61	58	52	101
89	85	76	22	111	112	113	14	20	69	70	2	21	15	10
9	17	16	13	12	11	23	24	25	18	19	77	103	102	4
5	6	7	8	62	63	64	65	66	68	3	114	78	71	72
73	74	75												

Land Assignment Files of 2000

1	2	9												

Land Assignment Files of 2001

23	25	26	19	12	13	15	16	17	20	22	27	18	21	24
4	11	7	9	10	8	6	5	3						

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ANNEXURE – VII

No.B2-9619/14.

Directorate of Survey Records,

Vazhuthacaud, Thiruvananthapuram-14,

Dated: 24-09-2014.

From

The Survey Director.
Thiruvananthapuram.

To

The Additional Chief Secretary , (Home & Vigilance),
Secretariat,
Thiruvananthapuram.

Madam,

Sub: - Devikulam Taluk – Survey report of Kurijimala Sanctuary in Vattavada, Kotttakambur villages.

Ref: - 1. Your Order No. G.O.(MS)No.177/14/RD. dated 03-05-2014.
2. Letter No. A-135/2008 dated 16-5-2014 of the Wild Life Warden, Munnar.
3. Letter No. B2-9619/14 dated 13-6-2014.
4. Letter No. G2-198/07 dated 18-09-2014, 23-09-2014 of Deputy Director, Idukki.

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Kind attention is invited to the references cited above . With respect to reference (1) the Deputy Director, Idukki was given direction as per (3) to constitute a Special Team for Survey Work.

Based on the letter dated 14-05-2014 of the Additional Principal Chief Conservator of Forest (Protection), the Wild Life Warden informed regarding the need for a Survey Team for surveying the entire land and fixing the boundaries, under the full supervision of revenue authorities and that there could be serious opposition from the locals and public against survey of the area. According to the report of the Deputy Director the preliminary

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survey process related to Kurinijmala Sanctuary started on 13-09-2014, the Survey Team inspected the boundaries on 13-09-2014 and 14-9-2014, identified 20 survey stones, however the survey work was interrupted by a group of local people on 15-09-2014 and the team returned, Additional Director (Survey) discussed the matter at a meeting held in the presence of Devikulam M.L.A., Sub Collector, Devikulam and Tahsildar, Devikulam and thereafter a meeting was held in Vattavada Panchayat Community Hall in which local people and representatives of political parties were present, in the mean time two teams of surveyors started the work of establishing G.P.S. Points, the local people however wanted survey based on their possession, since a consensus could not be reached, a meeting was again conducted in the presence of Devikulam Sub Collector and it was decided to inform the Sub Collector regarding Oorukootam decision on survey, the survey work was started again on 19-09-2014 but could not be continued due to local opposition. Further action with regard to survey work including marking private holdings with clear boundaries can be taken up in co-ordination with the Revenue and Forest Authorities .

Yours fatihfully.

Mathra I

Director of Survey & Land Records.

Copy to:- 1. The Additional Director General of Police (Vigilance)
2. The Additional Principal Chief Conservator of Forests (Protection)
3. The Principal Secretary, Revenue.
4. The Land Revenue Commissioner, Land Revenue Commissionerate, Thiruvananthapuram.
5. The District Collector, Idukki.

CHAPTER I

INTRODUCTION

1.1. Background

1.1.1. Government vide G.O. No. (Rt.) No. 309/2010/RD dated: 22/01/2010 (Appendix - I) had appointed Shri. Biju Prabhakar IAS, Vigilance Officer of the Department of Survey and Land Records and the Project Director, Bhoomi Keralam/Kerala Land Information Mission, for verification of the old survey records and resurvey records to find out discrepancies, if any, after demarcating the boundaries of Lakshmi estate and Abad Resorts. Government had entrusted the work with Survey Vigilance Officer on the basis of Letter No. C.10-29488/07(2) dated : 11.01.2010 and 12.01.2010 of District Collector, Idukki, who requested to constitute a team headed by officers outside the Survey department. Earlier Survey Vigilance Officer had pointed out discrepancies/anomalies in the resurvey records prepared by the Department of Survey & Land Records through resurvey using Electronic Distance Meter (EDM) and Electronic Total Stations (ETS) of the KDH Village during the period 1996-2001. The said report is attached as Appendix-II.

1.1.2. Earlier the Survey vigilance team had looked into the accuracy of the resurvey records of the survey conducted by the department from 1996-2001 from 1996 and found that the raw (unprocessed) data of ETS is not at all available. The Vigilance wing had made detailed investigatin into misappropriation of funds for the resurvey in 1996 - 2001. The report is appended as Appendix-III. In the joint verification of the revenue- survey officials under the Principal Secretary (Revenue) , Dr.Nivedita.P.Haran, found out large scale anomalies in resurvey records were found out in respect of Block no. 30. The report is appended as Appendix-IV.

1.1.3. The background for enactment of KDH (Resumption of Land) Act,1971 (henceforth called the KDH Act) included as 'Statement of Objects and Reasons' and the copy of the Land Board award of 1974 is attached as Appendix-V and VI. As per the KDH Act, from the appointed day, i.e. from 21st day of January 1971, all the land

would become vested with the Government. Tea plantation was straight away exempted from vesting u/s 3 of the said Act. The lessees were to approach the Land Board, convince the Board about their rights (for cultivation of plantation crops) in the land and then the Land Board was to decide on the matter and restore the land for the purposes mentioned u/s 4 of the Act. The District Collector of Idukki was to arrange u/s 6, for demarcation of boundaries and survey such land exempted or restored, and it was notified in the official gazette. The truth is that even after the lapse of about 40 years, the Survey department, as it had failed in completing the resurvey of the State, failed here in Munnar too – thus started the chaotic situation in the most pristine place in the State.

1.2. Surveys conducted by the Department of Survey & Land Records: In fact the Department of Survey & Land Records had conducted two surveys of KDH village during these 4 decades, after the enactment of the KDH Act:

1.2.1. Theodalite survey from 1974 to 1992: The survey was started on 16.4.1974 for the 30 resurvey blocks[1] and the section 9(2)[2] notification of this survey was published in 9.10.1992, after about 18 years. Evidence are not available that any refixing of boundaries of the survey numbers/sub-divisions mentioned in the Land Board award was undertaken in this survey. This survey was conducted by following the boundaries of resurvey blocks of the KDH village as minor circuits[3] (MCs). The detailed survey inside the estates was also not undertaken. There were 6 blocks comprising of Government land and 20 blocks comprising of Tea Estate interspersed with Government land, known as the concession land 2 blocks were in Thalayar estate and one belongs to the HML. Based on the findings of this unfinished survey, the final extent of land as per the Land Board award was notified vide No. LB(A)2-5227/71 dated : 29.03.1974.

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[1] In order to control the errors from accumulating, the cadastral survey, in any method, is done by following the principle " whole to part". The survey department has divided the entire State into resurvey blocks by connecting the Greater Trigonometric (GT) Stations established by Survey of India dividing the country into several triangles. Thus the errors are limited within the boundaries of the blocks and villages.

[2] The draft notification under section 9(2) of the Kerala Survey & Boundaries Act, 1961 in respect of survey records for verification by the land holders.

[3] Minor circuits- large tract of land, the boundary of which is surveyed through the boundaries using Theodolites and not by chain/cross staff as in the case of individual land parcels.

1.2.2. Total Station survey from 1996 to 2001. The survey, using modern survey equipments, which were introduced for the first time in department, was done to quantify the land being used for tea plantation by the company for assessing plantation tax. The survey was ordered vide G.O.(Rt) No.2083/96/RD of 17-05-1996, copy of which is appended as Appendix-VII. The block boundaries of the 1974 survey, measured using the theodolites, was said to be followed as such in this survey. There was no detailed survey in the blocks belonging to the Government and only the blocks awarded by Land Board to the KDHP company was subjected to detailed survey – which calassified it into tea, fuel trees etc as per the seven classification categories adopted in Land Board award. The survey was initially started by using Electronic Distance Meters (EDM), an electronic form of a theodalite. Thereafter, the Electronic Total Station of SOKISHA make was used, without any memory storage. Later memory storage was introduced and more number of total stations (3 Nos Sokisha set 3-C and 5 nos leica TC-805) were used. Confusion still exists on the methodology followed as the department since hard copy field records could not found. The situation in the department till now that only a few department staff are familiar with the modern technology, especially on the use of Electronic Total Stations and the processing using computer aided design (CAD) softwares.[4] During the KDH Village resurvey, the processing of data was done by one or two of department staff. This detailed survey was restricted only to the blocks belonging to KDHP company (except bock no.19 Mankulam). The 9 (2) notification of block no.19 was notified on 04-06-1990 and bifurcated from KDH village as Mankulam village as per Government order (Ms) No.463/85/RD dated 8.5.1985. After this resurvey, it was reported by the department that Tata tea company or the KDH company is in short of 278.2369 hectares i.e., 687.55 acres and there was no major encroachment into Government land seen on the ground. The report of Deputy Director of Survey & Land Records, Idukki vide Letter No.G2-13733/97 dated : 03.03.2004 is attached as Appendix-VIII. The figures were later corrected to include the said

[4] The top officers of the department of survey and land records including the Additional Director of Survey and the regional Joint Directors were deputed for 1 ¼ months training on modern survey equipments to the training Institute of Survey of India at Hyderabad during 2008 only. Modern survey equipments were introduced in 1998.

shortage area, as the estate roads inside the tea plantations and allowed to be kept under with the Tata Tea Company as roads as per the Land Board award, considering them as ancillary to the tea making process, as Government land as 'nalathu vazhi'(public road as on date).

1.3. The above report of the Deputy Director in 2004 may be read along with the D.O. No.Sy.B2-29678/94, dated : 27.10.1994 of Survey Additional Director, Shri. K.M.Soman, which informed District Collector as;

> *"It is seen that the Superintendent of Survey & Land Records, Devikulam is entrusted with the survey of land in KDH village. Elaborate study was conducted during the above period and survey was fund impracticable due to the huge cost and factors like time and manpower. Hence the Land Board decided to test check the maps given by the Tata Tea Company, so as to find out the acceptability of the maps prepared by the then K.D.H.P Company. Accordingly verification was conducted by the surveyors of survey department and the records prepared by the company was found acceptable. The Land Board award was prepared based on the records furnished by the Company. Now I would recommend not to re-open the issue."*
>
> The copy of the letter of the Additional Survey Director is attached as Appendix-IX.

1.4. The 1974 Land Board award also states that;

> *"Unfortunately, this preliminary survey and demarcation of the concession area into various blocks has not been done for reasons not known. Therefore, the land board has had to perform its functions under section 4, on the basis of the survey records already available for the area with the Government and the Company"*

1.5. The maps printed in the Central Survey Office of the Department of Survey & Land Records, including the concession maps, the estate maps etc all still bear the designations a "Manager,Engg department,

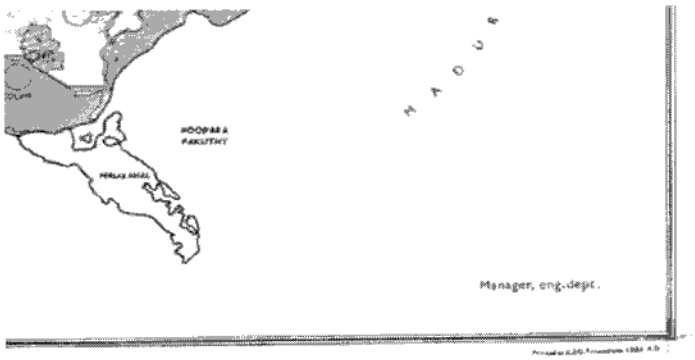

Figure 2: Maps of the department showing evidences that it was made my Engineering department of Tata Tea company and printed at CSO of the Directorate of Survey & Land Records

Chief Engineer etc", which again shows that no reliable survey records prepared by the department are available before or even after 1971. Should we need any further evidence to understand that the records adopted for the Land Board award and the survey records claimed to be prepared by the survey department and available till date are the ones prepared by the Engineering Department of the Tata Tea Company?

1.6. In short, the demarcation and survey of the village as stipulated under Sec 6 of the KDH (Resumption of Land) Act, 1971 could not be done by the department of survey and land records, even after the lapse of nearly 40 years of the enactment. As on date, there are no accurate survey records prepared by the Government and hence no proper revenue records and this is the root cause of all the problems of Munnar area. And the Tata Tea Company every day challenges this sovereign state to prove any encroachment by them into the Government land.

Chapter II
ENQUIRY AND FIELD INSPECTIONS

2.1. The Survey Vigilance Officer held discussions with the District Collector and made extensive field studies on 3 occasions during the last one month. The enquires were to look into the following issues;

2.1.1. Whether the resurvey records prepared by the survey department and which is under section 9(2) notification can be finalized and section 13 notification published?

2.1.2. Whether any modification/alteration made on the KDH Village boundary at the Lakshmi Estate side, made during or after the resurvey?

2.1.3. To find out the exact location of the 'Abad Resorts' at the KDH Boundary near the Lakshmi estate.

2.2. The details of the visits and field inspections conducted are as follows;

23rd Jan 2010	:	The first visit was done to understand the views of the District Collector. Field visit was also undertaken along with District Collector to the Lakshmi estate on the same day.
27th -29th Jan 2010	:	The Survey Vigilance Officer along with Maj.Gen. (Retd) Shamsher Singh (former Additional Survey General of India and) the Consultant of the Mission, Smt. E.R. Shobhana, the Senior most Deputy Director of the department and Shri. A.V. Damodaran, Superintendent of Survey & land Records met the Collector in his chamber on 27th January 2010 and verified the old survey records in his possession. The District Collector had informed any survey record before 1971 can be relied and handed over the land acquisition sketch of 1941 (M.E-19.07.1116) which showed 6 old survey marks. The said survey sketch is attached as Annexure-I. On advice of the consultant, GPS unit of the mission was called in and observations using 5 GPS equipments was undertaken on 28th and 29th January 2009.

Detailed Total station survey of Abad Resorts and Chappakulam area (where KDH Company has constructed the check dam) was also done on the basis of the processed GPS data. (Pl. refer findings in para 3.2.1)

08-11, February 2010 : This time about 70 officers and staff were deployed for more verification of the findings of survey conducted on 28th and 29th January 2010. More GPS measurements of common points available on (a) Restricted map of Survey of India first edition 58B/16 1977 (b) litho map printed at Central Survey Office of the department in the year 1925 and (c) Ortho rectified and Geo referenced QUICK BIRD satellite image made available from Centre for Earth Science Studies (CESS[5]), Thiruvananthapuram, was done on 8th and 9th February 2010. This GPS measurements/ readings were used for traverse survey at different locations. The different GPS points were also connected through traverse survey in order to check the accuracy of GPS readings and also to understand whether the total station data is conforming to the land features identified on ground as per the different maps available.

2.3. Details of the equipment / manpower deployed :The details of the equipments and man power deployed for the verification survey under the Survey Vigilance Officer is attached as Annexure II (A) and II (B).

[5] Government in 2008 had entrusted a study " geospatial survey of Munnar and adjoining panchayaths by modern tools of geo-informatics" with CESS for which Quick Bird Satellite image was used and the old survey maps were digitized and superimposed over it.

CHAPTER III

SHIFTING OF VILLAGE BOUNDARY/LOCATION OF ABAD RESORTS

3.1. Methodology adopted:

3.1.1. The Differential Global Positioning Systems (DGPS) are equipments that receive satellite signals and measure the coordinates of earth with an accuracy of sub-centimeter. The readings of the equipments when used in combination gives relational positional accuracy and this accuracy increases with the duration of observation. The normal practice is two keep 2 or 3 GPS units as base units at points with known coordinates and use other units as 'rovers'. In order to correct and obtain higher accuracy, the data obtained is connected with International Geodetic (IG) Stations, the nearest one being available at Bangalore.

3.1.2. In the first spell, five GPS units were used at the following locations, which were shown in the old Litho sheet;

3.1.2.1. A bridge shown in Survey of India map near Virappara.

3.1.2.2. The meeting point of a stream from Chappakkulam in Survey No. 1034 with the Kallar river.

3.1.2.3. The Check dam constructed by Tata in the Chappakkulam.

3.1.2.4. Abad Resorts and

3.1.2.5. An intermediate location between Chappakkulam and Abad.

3.1.3. The Total station observation started from the GPS Points, IDK021 And detailed observation was conducted at the Chappakulam area over the banks of the newly constructed check dam and extended to a certain area along both sides of the estate road. Simultaneously, another team started the ETS survey from IDK011 In the Abad Resorts and observed the buildings and roads in the disputed area. The first team, connected the Total station reading from the check dam to the rock mark and then followed the newly bifurcated boundary of mankulam, reached the tri-junction (TJ) and then followed the ridge and terminated the observation at RM-1. The second team also terminated their observation at the RM-1.

3.1.4. In the second spell, the three Base units were kept over the points established by CESS in their geo-spatial study of Munnar and adjoining villages and rovers were positioned over points marks in

various maps. The data obtained was processed using these base point values collected from CESS. The points were selected in such a way that most of them are commonly shown in the three maps used in this verification survey.

3.1.4.1. Litho sheets 7 & 8 printed in 1925 by the CSO.

3.1.4.2. The 1977 Survey of India map.

3.1.4.3. The ortho-rectified and geo-referenced Quick Board satellite image used by the CESS, on which the old litho map was digitized and overlaid

3.1.4.4. The Concession map shown in Figure 1.

3.1.5. After making observations using GPS the data was processed again with Leica Geo Office and detailed survey were conducted in the following locations.

3.1.5.1. The four roads in front of the Lakshmi Tea Estate Factory.

3.1.5.2. Traverse survey of the roads on both sides of Ramaswamy Head Works.

3.1.6. The readings obtained after processing the GPS data using Leica Geo Office (LGO)are available at the State Project Office of the Kerala Land Information Mission and is not desirable to be published as it gives the accurate coordinates of the locations. The details of the observations during the three days in the second spell are as follows;

Base Stations:

Sl. No.	Location	IDK001		IDK002		IDK003	
	Dates	Start	Stop	Start	Stop	Start	Stop
	8th Feb 2010	11.35	20.45	12.14	21.10	13.50	19.46
	9th Feb 2010	10.08	19.07	10.04	19.29	11.02	18.49

Rover 1

Sl. No.	Location	8th Feb 2010		9th Feb 2010	
		Start	Stop	Start	Stop
1.	IDK015	15.05	16.08		
2.	IDK.009	16.32	18.09		
3.	IDK.017			12.41	14.43

Rover 2

Sl. No.	Location	8th Feb 2010		9th Feb 2010	
		Start	Stop	Start	Stop
1.	IDK.011	16.38	17.58		
2.	IDK.08RP			12.34	13.40

Rover 3

Sl. No.	Location	8th Feb 2010		9th Feb 2010	
		Start	Stop	Start	Stop
1.	IDK006	13.56	16.08		
2.	IDK010	16.32	18.33		
3.	IDK.008			10.44	12.21
4.	IDK.018			14.31	15.37
5.	IDK.020			16.24	17.33

Rover 4

Sl. No.	Location	8th Feb 2010		9th Feb 2010	
		Start	Stop	Start	Stop
1.	IDK.007	14.11	16.07		
2.	IDK.013	17.06	18.15		
3.	IDK.13.RP	18.27	19.00		
4.	IDK.014			10.57	12.07
5.	IDK. 014RP			12.23	13.36
6.	IDK..019			14.33	16.39

Rover 5

Sl. No.	Location	8th Feb 2010		9th Feb 2010	
		Start	Stop	Start	Stop
1.	IDK 007RP	14.30	16.10		
2.	IDK.0012	17.04	19.09		
3.	IDK.0016			12.14	16.18

Table 3.1

3.1.7. Further, four total station teams were deployed to undertake traverse survey connecting GPS points of two locations - namely Lakhshmi Tea factory and Ramaswamy head works. The traverse of Munnar - Lakshmi Estate Road and the village boundary through Abad was undertaken to confirm the position of data falling on maps.

3.1.8. The traverse survey was done to check the accuracy of the GPS and to see whether the total station readings of team I and II follows the Munnar--Lekshmi estate, --Mankulam road and also to see whether team 3 and 4 follows the village boundary at the Abad Resort side. The total station observations of team 3 and 4 was terminated at point RM2 with a closing error of 400 cm for a total distance of 8000 m. But the total station observation of team 1 and 2 could not terminate at a common point due to erroneous work done by one of the teams.

3.2. Findings:

3.2.1. First spell: The GPS data showed that the bridge identified by the team headed by Shri. A.V. Damodaran and GPS observation done by Shri. Krishnan Kumar, FGS was not the one shown either in the 1925 litho map or 1977 Survey of India map. It was at a far off location. But two points namely the meeting point (MP) of stream from Chappakkulam and Kallar and the tri-junction of three villages marked as "TJ" was taken as reference points on the 1925 map and found that the GPS reading of Chappakkulam falls near the water body shown in survey No. 1034 of Lekshmi Estate. With these three readings as reference (i.e. TJ, MP and approximate location of the chappakulam) it was found that the Abad Resort was falling just outside KDH boundary , which conformed with some of the resurvey stones planted at the ridge of a hill marked as R1 to R2. It was decided that a more detailed verification survey is required and accordingly the detailed survey was started on 8th February 2009.

3.2.2. In the second leg of verification survey started on 8th February 2010 of the verification survey conducted with more GPS Units and detailed survey in two locations as well as traverse survey through the road and the village boundary, it was again found that the location of the Abad resorts was also falling just outside the KDH village boundary. The figures attached with this report shows the similarities found with the three maps and it is almost convincing that there is no shift in KDH

Boundary, but more evidences are required to say a final word and close the matter conclusively forever.

3.3. Evidences supporting that the KDH Boundary is not altered:

3.3.1. The GPS measurement of an old stone (picture-21) at the ridge, which was found to be untampered (further verification required) and the Ottappara GT station (picture-30-33) confirms that the boundary is passing through the said points. The Abad resorts lies at a location in between these two points near the KDH boundary. The Village/block boundaries are extended from the GT Stations in order to control errors. GT stations are marked in SOI maps and it will be nearly impossible to destroy the records of GT stations established by a Government of India agency by the department staff of a State. These two points on ground are strong evidences supporting that the village boundary is not altered/tampered.

3.3.2. All the land marks, mentioned in para above, when measured using Differential GPS falls at somewhat near the position marked in the three maps and the Quick Bird satellite image obtained from CESS. These maps are prepared by different agencies which are of different scale at different points of time. The GT stations Ottappara and Anamudi as well as the land marks Chappakulam, Ramaswamy head works, the old survey stones/rock marks in the LA sketch of 1941 (M.E-19.07.1116) (Annexure-I) all fall almost exact at the same location shown in the Survey of India map, Litho map. Locational data of several features falls exact inside the Quckbird image provided by CESS.

3.3.3. The detailed Total station survey data of chappakkulam area (Old Sy.No.1034 of Lakshmi Estate), the plot in which Abad Resorts is located, the four road junction in front of the Lakshmi estate Tea Factory, the roads near the Ramaswamy head works, the traverse survey through the Munnar-Lakshmi Estate-Mankulam Road and the Village Boundary passing through the Ottappara GT Station was coinciding with several points on the boundary shown in the various maps and satellite image.

3.3.4. The GPS data taken by the Vigilance team was in conformance with earlier GPS observation of CESS, at a time which nobody had raised the theory of shifting of village boundary. The shape and measurements of the geo-referenced village boundary superimposed

on the Quick Bird satellite image was passing through several old survey marks.

3.3.5. The shifting of a village boundary will be affecting the boundaries of other villages, the traverse survey done for forming resurvey blocks etc which are again connected to the GT stations. The survey records[6] prepared earlier are available in several offices and any tampering will be revealed in future. It will also be not possible for any single individual to do such a shifting of a village boundary which has relation to the GT stations and the boundaries of other resurvey blocks.

3.3.6. There is no evidence[7] at present available to show that the land of Abad resorts were sold by the Tata Tea company or the Tata tea company was involved in the fabrication of the bogus pattayam, by which the ownership was obtained to Abad Resorts.

3.3.7. The connection established through Electronic Total Stations to the different GPS stations (except the erroneous readings of team 3 or 4) was also within allowable error.

3.3.8. The similarity in tell tale land features shown in the satellite image and those on the Litho map are compared in the photographs/ figures attached in this reports are evidences against the boundary shifting theory.

3.3.9. The old cairns (Forest Janta or കൂട്ടുകല്ല്) shown in picture-29 at the line separating the Bit No.12 and the forest is a strong evidence supporting the existence of an old boundary there.

3.4. <u>Evidences supporting shifting of the Village Boundary</u>

3.4.1. The GPS and ETS readings shows that some of the village boundary stones are not falling in the exact position as where there would have been in the old survey maps. Is it because of the usage of old Litho maps and not the measurement sketches used in the enquiry ? This could not be ascertained.

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[6] It is a fact that several valuable records are missing from the CSO and other survey/revenue offices in case of property under dispute; old records are available with several retired and serving survey staff; but in case of a village boundary, it could be refixed from other villages and a massive effort is required for the disappearance of all such records.

[7] The statement of facts filed by the Commissioner of Land Revenue before the Hon'ble High Court is attached as **Appendix-X**

3.4.2. Almost all the stones are old and replanted[8] (see pictures of old stones and resurvey stones). Even the one in front of the Abad Resort (Picture 35-37) is a replanted stone.

3.4.3. The reasons why several resorts (picture-48) have sprung up just outside the present and disputed KDH Boundary on the Lakhsmi Estate side could not be justified properly.

3.4.4. See the (Annexure-XII) of a measurement sketch of sy.no 400. In the Litho, the survey number of sub-division at Ottapara is shown as 406. Was it a copying error or a deliberate attempt of tampering ?

3.5. Limitations/Errors of the method used for verification Survey:

3.5.1. The strongest evidence is the untampered old survey stone (picture-21) at the KDH boundary in the ridge. More than the positional accuracy, forensic evidence should have been collected to establish that this stone is the one planted during the original survey in early 1900s and remaining there untampered for the last 100 years. Similarly the positional accuracy and genuineness of the forest cairns in the Bit no.12 is to be ascertained.

3.5.2. The two 1977 Survey of India maps collected from the District Collector scanned and used for the enquiry was in folded conditions soiled due to constant use and there may be errors during scanning also.

3.5.3. The original survey record of 1925 was a litho map produced by the CSO and was susceptible to shrinkage during this long period of several decades. There may be scanning errors also.

3.5.4. A print out of the quick bird image obtained from CESS was further scanned by the Mission and used.

3.5.5. The GPS points were connected to the base points taken by CESS using two GPS at a time. But checked for its accuracy by connecting with International Geodetic (IG) stations. The accuracy of this readings was not verified by the Mission on its own.

3.5.6. Only one village boundary was verified and this should have been cross-checked with different points on the north, east and west sides of boundaries of KDH village and also the boundaries of adjoining

[8] There is no justification for the replanting of old stones. It is a practice of the survey staff to replant the available old stones in field during the re-survey to avoid the difficulties encountered during the transportation to high altitude places and claim the cost of purchase using bogus vouchers. Some section of staff had claimed wages even without planting of any stones at all.

villages in the district and if necessary, from the boundaries in the adjoining districts also.

3.5.7. The different land parcels are not measured on ground and compared with the old survey areas by the Vigilance team, after which only any shift cannot be completely ruled out.

3.5.8. The northern boundary of the village has not been re-fixed and the distance from the boundaries of the north, east and south was not measured and compared with the southern boundary, which would only rule out completely the possibility of shifting of southern boundary.

3.5.9. The boundaries of villages contiguous to the KDH village was not refixed and measurements taken to the verified boundary.

3.5.10. The modern survey equipments are highly accurate and this when compared with the traverse data observed using the theodoite and the chain and the cross staff, which has its own manual errors and this method will naturally result in shifting by a few meters.

3.5.11. Any shrinkage/distortion in the maps by a few millimeters will result in difference of meters as the scale adopted is 1:15840 in Litho maps. Further these maps are printed several decades ago in Litho Presses and therefore, susceptible to small shrinkages and errors in printing.

3.5.12. The Abad resorts as per the satellite image shares the KDH Boundary as a common boundary and a few meters shift in any angle can include or exclude the resort into or away from KDH Boundary.

3.5.13. The present enquiry was conducted without refixing any one land parcel on the basis of old survey records using the measurements of conventional system. The CESS has also geo-referenced the Litho maps and not the measurement maps, without any refixing of the boundaries. This could induce minor errors.

3.5.14. The refixing of points from GT stations to the resurvey block boundary using old theodolites was not done.

3.6. Discussion on the Findings:

3.6.1. The evidences/measurements obtained during the verification survey conducted now do not support the theory of large scale shifting of boundary on the Lakshmi estate side, running to hundreds of meters or as suspected to be shifted by 1.4 km, at the

boundary of the village at the Lakshmi estate side because of the fact that the Village boundary runs through a GT station, shown in the Litho map and the Survey of India map.

3.6.2. The village boundaries are normally running through the ridges of hills and through natural boundaries liken river, streams, lakes or roads. Here also it is running through the ridges.

3.6.3. But it is possible that the boundary may be shifted by a few meters, which cannot be detected because of the following reasons;

3.6.3.1. errors of the old survey method and highly accurate new method using GPS/ETS,

3.6.3.2. the shrinkage in old maps used for the study,

3.6.3.3. the inaccuracies in geo referencing,

3.6.3.4. the minor changes in land use pattern etc.

3.6.4. As proved in the Electronic Total Station measurement of 'ക' block, there is a possibility of reduction in area of about 1000 to 3000 acres in the total extent of the village, because of the use of modern survey equipments and data processing in place of measurements using theodolites, manual plotting and manual computation with computing scale. This is negligible when a large area of 137600 acres is concerned, but highly detrimental when smaller land parcels are concerned.

3.6.5. There is a possibility that the some portion of Abad resorts may interfere with the KDH Boundary, a matter could be confirmed during the detailed refixing and survey of the village, if Government entrusts the work with the Kerala Land Information Mission. Therefore the refixing of the boundaries of at least the KDH Boundary on the three remaining sides and comparison with the 1974 areas will only reveal the exact position of the Abad Resorts. In short, the refixing of the boundaries as per the old measurement sketches can only exactly locate the position of the Abad Resorts.

3.7. Whether such an exercise has to be done at the State's expenses is a matter to be decided. I think such an exercise at Government expenses at this stage is not essential, since the onus of proving the location rests with the party. In any case the Commissioner of Land Revenue has filed an affidavit before the Hon. High Court (Appendix-X) that the basic ownership of the land is questionable as the survey numbers are not the

right one as claimed by the parties. It has been also found out that the ownership was acquired on the basis of bogus pattayams.

3.8. The time allotted did not permit this officer to issue notices and call for evidences, therefore further enquiry into the ownership issues could not be conducted. On the other hand, the location of the Abad resorts and all the land parcels contiguous to the KDH boundary could be exactly located along with the finalization of survey of the KDH Village, the details of which is discussed in the subsequent paragraphs.

3.9. Conclusion: Evidences and measurements undertaken using the state-of-art modern survey equipments do not suggest that large scale shifting of village boundary at the southern side near Lakshmi Estate. Measurements/evidences confirm that the Village boundary runs through the ridges and follows the land marks on the ground, most importantly passing through the Ottappra GT Station. But shifting of boundary by a few meters could be suspected since the old survey stones were replanted and this could be conclusively proved only after doing further verification or even the detailed refxing of land parcels and village boundary as per the old survey records.

Chapter IV.
ACCEPTABILITY OF RESURVEY RECORDS

4.1. Methodology adopted for verification:

4.1.1. The total station data[9] of the survey conducted from 1996-2001 by the Department of Survey & Land Records for which 9(2) notification was published in 2007 pertaining to block NO.17 (Lakshmi Estate) was overlaid (superimposed) on the ortho-rectified and Geo-referenced Quick Bird satellite image supplied by CESS in order to test its accuracy. CESS had digitized the old litho map by drawing over the lines (not by vectorizing using the measurement of FMBs). This method is very quick and can have an accuracy about 95 to 98 %, and this will be sufficient for preliminary studies for a large extent of land. Once this accuracy of this CESS data was found convincing to the survey team, at least in the case of Lakshmy Estate, the Survey Vigilance team over laid the 1996 total station data on the scanned copy of satellite image. The same control points taken by the CESS were also used by the Vigilance team for geo-referencing the resurvey data. Field verification was done to measure old stones to understand the accuracy of the CESS data and the actual boundary on ground on the northern side (near old survey no 77) was measured using 4 total station teams.

4.1.2. Further the coordinates of the old survey no 77 was taken from the computers and relocated on the ground using 'Stake Out' programme of ETS. The actual boundary on the ground was also measured using ETS. On plotting the readings of the actual boundary on ground, it was found that they are coming near to the digitized boundary provided by the CESS rather than the resurvey boundary.

4.2. Discrepancies in the survey records: The discrepancies detected in the resurvey records of 1996 done by the department using electronic survey equipments are as follows :

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[9] In fact, the entire data of 1996 survey cannot be considered to be generated by the use of Total Station. Five blocks including Block no 17 was done using EDM and plotted using AutoCAD. The Survey Vigilance Officer in the report dated : 29.09.2009 Has reported to the Government that there is a possibility of drawing over the lines of the maps either supplied by the KDH company or in the possession of the department.

4.2.1. The department has certified that there is only an encroachment of 122 acres in an area of 1.37 lakh acres (total area of KDH village) without doing any "ayacut fixing" of over 70000 acres outside the concession area and also without refxing the boundaries of Government coming inside the concession area. The area obtained in the resurvey of 1974 was simply copied during the 9(2) notification of the 1996 survey and certified that there is no encroachment. There were several letters written by the Deputy Director of Survey, Idukki showing haste in publishing and finalizing the survey records And only when boundaries are refixed on the ground, the department could detect whether there is any encroachment into the Government land. The records thus published without ayacut verification is totally erroneous. This is the most important reason to be cited for the cancellation of the 9(2) notification now in force.

4.2.2. The basic principle of survey ie from 'whole to part[10]' is grossly violated in this 1996 survey. The traverse of the entire Village boundary including the Government blocks , the boundary of which are passing through the inter-state boundary should have been done first. The justification for avoiding this may be put forward that the 1996 survey team might have followed the block boundary, which was fixed during the 1974 survey. This justifications put forward by the survey officials is absolutely illogical since the accuracies[11] by the two survey instruments greatly vary.

4.2.3. I have not come across any evidence that in 1974, the boundaries of different survey nos provided in the survey maps of 1925 was refixed on ground in conformance with the Land Board Award. The present Deputy Director (Survey) of Idukki has also supported this view.

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[10] In cadastral survey, first the traverse survey of village boundary is conducted, based on the points on the village boundary, the ward/block/khandam boundaries are surveyed. From thes points only the detailed survey of individual holdings are conducted. This method is to confine the errors from accumulating and containing the area within the village boundary.

[11] For those who do not understand the intricacies of survey, a note on how the variations in measurements occurs in the two method is attached as **Appendix-XI**. The measurements of the manually done conventional survey will not match exactly with the survey done by digital equipments because of the inherent errors in the equipment and method in the conventional system. The difference in area in respect of 'Ka' block was 653.4852 hectares for theodolite survey, 639.9467 hectares for ETS survey and 635.2365 hectares was actually the self forming area of the block shown in the ETS data.

4.2.4. Resurvey number of 62 and 34 are encroachments into old survey No. 77 (which is shown as Lakshmi No.8 in the land board award with an area of 575 acres).

The area of resurvey number 62 is 0.4782 hectre (picture-51) and 34 is 1.5966 hectre, (picture-52) both area shown as 'fuel trees' in the area list appended as Annexure-III. The area seems to be lost at sy no. 77 is 5.13 acres. If this resurvey records were implemented, government would have lost 5.1248 acres of land in block no. 17 alone. In the Land Register prepared after resurvey, in the co-relation with the new resurvey nos, the old survey number[12] of 34 and 62 are shown as 77, i.e. of the Government land in Lakshmi Estate. The encroachments would have been detected from the Land register itself , without going into the field. It is very much possible that this kind of massive regularization of illegal encroachments into Government land of KDH village resurvey can be detected in other blocks also.

4.2.5. In the Land register prepared by the department after the resurvey also, the owner of the Concession land was shown as "Tata tea company' and not as Lessee. This was corrected and shown as Government after the intervention of Director of Survey & Land Records before the 9 (2) notification.

4.2.6. A shift of over 30 metres towards north over a stretch of 5 km can be seen in figure below when the resurvey records are superimposed over digitized old survey records prepared by CESS. (Refer picture-54-55). Fifteen hectares approximately is the area increase since the cardinal principle of 'whole to part' is not followed in 1996 survey. If 33 m shift to north is detected when the southernmost block is verified, it is possible that the error will cumulate with every block towards north and the shift at the northern boundary of KDH may manifest into several hundred meters as per the resurvey records. Therefore the areas shown in the resurvey records are greater than the actual base area[13] on ground. Finalization of these records will result in the loss of several hundred hectares of land and will render the resurvey records as grossly erroneous – a matter that could be

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[12] Could not obtain a copy of this Land Register, as the Devikulam survey office was under sealed condition when I enquired this matter later during the preparation of this report.

[13] In cadastral survey, the base area and not the surface area is taken. The base area will almost equal the surface area when the ground is plain and the surface area greatly varies with base area in hills. The possibility of occurance of difference in measurements is shown in Appendix-XI.

proved before any authority or court of law by the same surveyors who did the survey on behalf of the department when in collusion with those vested interested groups.

4.2.7. The Survey Vigilance Officer was deputed by the Director of Survey & Land Records during January 2008 to verify the survey records of KDH which were under section 9(2) notification and it was found that the land use in Block no 30 was greatly varying from the resurvey records. Several other anomalies were found out in the said block. Later, a joint verification was conducted from 3rd to 5th March 2008, by the Principal Secretary (Revenue) Dr.Nivedita.P Haran along with the Director of Survey & Land Records, Dr.S.Raveendran, the Head- Munnar Task Force and Addl.CLR, Dr.K.M.Ramanadan, the District Collector, Shri.Asok Kumar Singh and the Survey Vigilance Officer. The report of the inspection is appended as Appendix-IV, which substantiated the findings of the survey vigilance officer.

4.2.8. The Principal Secretary (Revenue) had directed to measure the 'ക' block using Electronic Total Stations immediately. The said block was having an area of 653.4852 hectares (1614.8272 acres) when measured in the theodalite survey during 1974. When it was re-measured on instructions from the Principal Secretary (Revenue) using Electronic Total Stations in 2008, the new area obtained was only 639.9467 Hectares (1582.3722 acres). There is a difference of 13.5385 Hectares or 33.4550 acres, just because of the higher accuracy[14] of the Electronic Total Stations. But the actual area obtained in ETS measurement was much lower.

4.2.9. The 'ക' block is totally enclosed by the Tata tea estates on almost all the sides. When the tea estates are surveyed using electronic survey equipments, the area of 'ക' block has to be obtained automatically,

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[14] It is impossible for the measurements of total station survey in 1996 to match with the measurement of theodalite survey done in 1974, since the total stations are more accurate than the conventional equipments. In the conventional survey the distance between two points is measured by chain or tape after following a procedure called "stepping and leveling" which is most often not followed rigorously especially in the highly undulating hilly terrains of KDH village. The total station totally eliminates "stepping and leveling". Secondly the angular measurement of theodelite are calibrated to 20 seconds. The angles are observed and readings are recorded on paper. This is later plotted on paper and the distance between the points are measured manually and converted into the actual distances by applying the scale factor. The area enclosed in the polygon is computed manually using computing scale by the Draftsmen who has never seen the field or done the field work. The Survey of India special rules prevents a visually disabled person from being the appointed as a survey staff. But our survey department is liberal enough to not to specify any vision test to surveyors or draftsmen and no prudent man will believe that the computations made manually by the survey staff can be centpercent accurate. Still, the survey officials befooled the government and the people of the State that the theodalite measurements of 1974 can match exactly with the total station measurements of 1996.

since the said block shares common boundary with the tea estates. The digital data of map of 'ക' block prepared during the 1996 survey, presumably as the self forming area between block nos 29,30,31,33 & 39 of KDH village (refer Figure 3 below), which are said to be surveyed using Electronic Total Stations, is available with the department. The map area computed from Auto CAD is only 635.2365 Hectares – a reduction of 4.7102 Hectares or 11.6394 acres further down, from the ETS survey of 2008. At the same time the area published was 653.4852 Hectares, the original theodolite area of 1974. Thus there is a difference of 18.2487 hectares or 45.0944 acres from the actual area and the area recorded in the section 9 (2) notification. What does this suggest?

4.2.9.1. The area obtained electronically is less than the area obtained in the 1974 survey using theodolites.

4.2.9.2. The area obtained electronically is not the area recorded in the area list now published under section 9 (2) in 2007 & 2008.

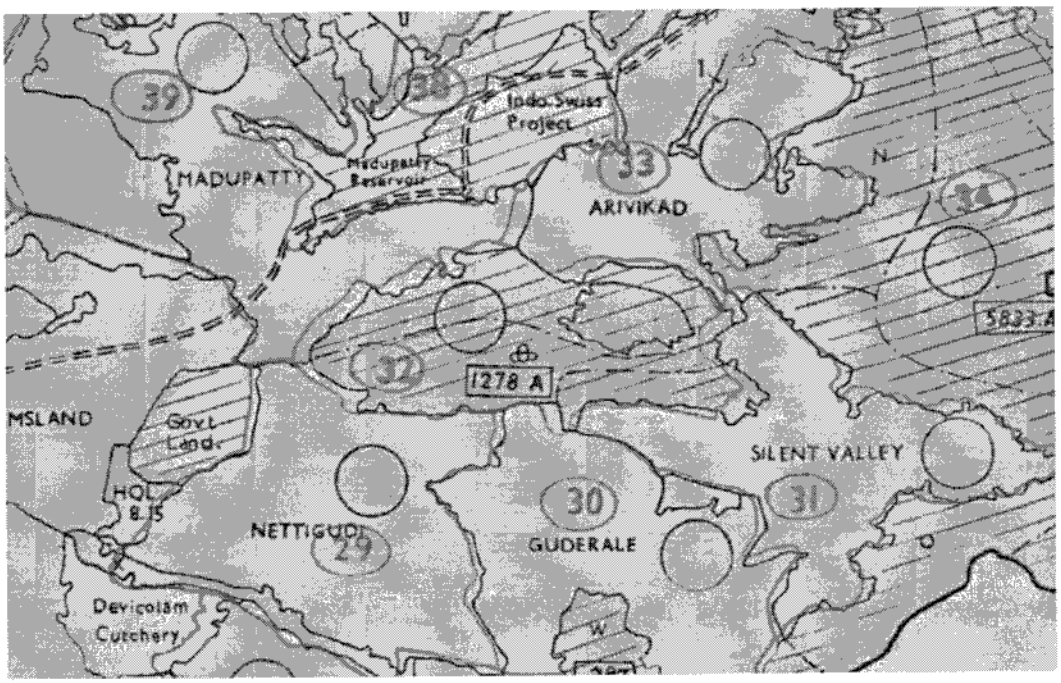

Figure 3: The self forming 'ക' Block between Tata tea company estates surveyed using ETS; the old theodolite area of 'ക' Block is taken for the publication of section 9(2) notification

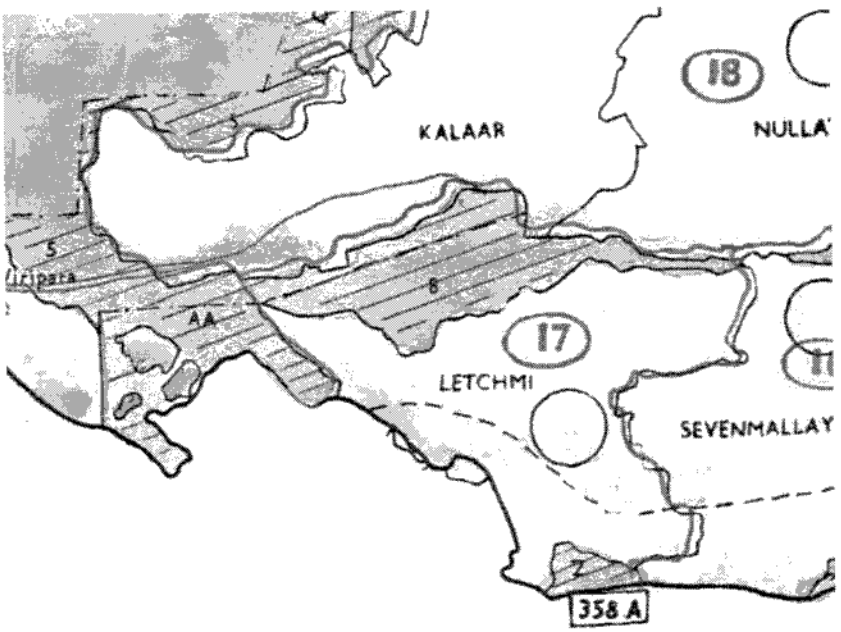

Figure-4: the survey no.77 part is recorded as Lakshmi no.8 in Land Board award and as having an area of 575 acres. The resurvey no is 1 in block 17 and area is 697.85 acres. The area of lakshmi no.'z' shown in map is 358 Acres; in final land board award it is 141.60acres and in the resurvey is 93.81 Acres (resurvey no.131)

4.2.15. Kindly see the FMB prepared in respect of resurvey No.131 attached as Annexure-IV. On the top of the FMB, the area calculated is shown as 38.1234 hectares. Now kindly see the area list of block no. 17 appended as Annexure-III. The area shown in the list is 37.9643 hectares. The difference is 0.1591 hectares or 0.3931 acres. This is the area notified under section 9 (2), as in the case of area of 'ക' block, mentioned in para supra. These two instance show that the figures finally published as area list was altered deliberately to approximately coincide with the area awarded by the Land Board.

4.2.16. The 1974 survey area and records cannot be adopted in 2010, as the land use pattern has changed over these 35 years. As elsewhere, encroachments might have happened in a substantial portion of Government land in KDH and Mankulam Villages during these 35 years. Further verification by the refixing of the boundaries of Government land has to be done before finalizing any survey records.

4.3. Discussions on the findings:

4.3.1. It is understood that before the Land Board award in 1974 itself, as part of resurvey of the entire State, every taluk was divided into blocks. The KDH village was divided into resurvey blocks starting from 16 to 45 in Devikulam Taluk. In the 1974 resurvey, the block boundary was only surveyed and the refixing of the boundaries of all the survey nos mentioned in the land board in the KDH village was not done. The refixing of the boundaries of the Government land interspersed between the KDH land was also not done. The block were surveyed as minor circuits and on the basis such incomplete survey the Notification H1-43919/76 dated : 21.05.1977 was done by the District Collector. The extracts of the notification is appended as Annexure-V. The Devikulam Tahasildar vide order no. D3-6642/77 dated : 12.06.1978 had transferred the land on the basis of the Litho maps. The areas transferred were coloured using color pencils.

4.3.2. The resurvey of 1996 is claimed to follow the block boundaries and measurements thereof of the 1974 survey. This detailed survey was ordered for assessing the area under tea cultivation for the purposes of plantation tax, which was stopped since 2003-04 by order of Government. There was no refxing of the boundaries of Government land not only inside the blocks allotted to the KDH , but even at the 9 blocks, namely including mankulam, iravikulam etc in possession of the Government. The area list just copied the area obtained in 1974 survey for theses blocks and prepared a tabulated statement in computer. How can one say there is no encroachment, without the boundaries of the Government land are refixed? The area calculation is a mathematical exercise done in tabulated Excel statements rather than on the basis of actual survey. The findings again supports my earlier report that the KDH resurvey records are fabricated.

4.3.3. The Deputy Director without doing any refixing of over 70000 acres of Government land or verifying the records of pattayam holders in the Government land or assessing the genuineness of revenue records of those possessed land in such vast area, stated in the most callous manner that only 122 acres of encroachments were only detected and that is a negligible figure. It seems that he was more

worried about the KDH company losing 278.2369 Hectares. Surprisingly in the report given by the then Deputy Director, Survey, Idukki Shri.K.Surendran vide letter No. G2-13733/97 on 03.03.2004, it has been mentioned that the Tata tea company is in short of nearly 700 acres and that even though encroachment for variation to the tune of 122 acres was found out, the same cannot be considered as encroachments since Tata is in short of 700 acres. Now in 2007, the officials of the same survey department say that there is no shortage and the figures exactly match with the figures of land board award which was based on theodalite survey. A detailed investigation is required into the goofing up of figures.

4.3.4. Please see the comparative statement of areas obtained in the 1974 theodolite survey, 1996 ETS survey and the actual figures in the area list attached as Annexure-VI. In five blocks, the total station area exceeds the theodolite area. But in other blocks, the ETS area is less than the 1974 area. The overall variation in area of the 1974 theodolite survey and the ETS survey is only 189 acres. This cannot be true. If 1 % is taken as the difference, there will be a difference of 1370 acres in the modern survey method. The D.O. letter no. G2-13733/97 dated : 13.02.2003 (Appendix-XII) of Shri. K. Surendran, Survey Deputy Director, Idukki--- the relevant portion of which is reproduced as follows :

"റവന്യൂ റിക്കോർഡ് പ്രകാരമുള്ള കെ.ഡി.എച്ച് വില്ലേജിന്റെ വിസ്തീർണ്ണവും റീസർവ്വെ റിക്കോർഡ് പ്രകാരമുള്ള വിസ്തീർണ്ണവും തമ്മിലും റീസർവ്വെ വിസ്തീർണ്ണവും ടോട്ടൽ സ്റ്റേഷൻ സർവ്വെ വിസ്തീർണ്ണവും തമ്മിലും കാര്യ മായ വ്യത്യാസം ഇല്ല എന്നതിൽ നിന്നും റീസർവ്വെ നടത്തിയതിലും അംഗീക രിച്ചിട്ടുള്ള റീസർവ്വെ റിക്കോർഡ് ഫൈനൽ ചെയ്യുന്നതിലും അപാകതയില്ലാ യെന്ന് കാണാവുന്നതാണ്. "

4.3.5. In a subsequent letter from the same file no. on 03.03.2004, (Appendix-VIII) Shri. K. Surendran again states the following :

"..... ലാന്റ് ബോർഡ് അവാർഡ് പ്രകാരം കമ്പനിക്ക് 23145.87.00 ഹെക്ടർ സ്ഥലം അവകാശപ്പെട്ടതാണ്. എന്നാൽ ടോട്ടൽ സ്റ്റേഷൻ സർവ്വെ പ്രകാരം കമ്പനിയുടെ കൈവശത്തിൽ 22867.6331 ഹെക്ടർ സ്ഥലമാണുള്ളത്. അതായത് 278.2369 ഹെക്ടർ കുറവ്. അവാർഡ് പ്രകാരം സർക്കാരിൽ നിക്ഷിപ്തമായിട്ടുള്ളത് 28539.910 ഹെക്ടർ സ്ഥലമാണ്. എന്നാൽ സർവ്വെ റിക്കോർഡുകൾ പ്രകാരം ഇത് 28492.0359 ഹെക്ടറാണ്. അതായത് 47.8791 ഹെക്ടർ കുറവ് കാണുന്നു.

1974--ൽ റീസർവ്വെ ചെയ്ത് തയ്യാറാക്കിയ റിക്കോർഡുകൾ പ്രകാരം പരി ശോധിക്കുമ്പോഴാണ് അന്നത്തെ കൈവശം / സ്വഭാവം അനുസരിച്ച് റോഡ്,

തോട് തുടങ്ങിയ പൊതു സ്വഭാവമുള്ള ഭൂമി ഉൾപ്പെടെ കമ്പനിയുടെ പേരിൽ സർവ്വെ ചെയ്യാതിരുന്നിട്ടുള്ള 7 റീസർവ്വെ ബ്ലോക്കുകളിലായി 49.4600 ഹെക്ടർ സ്ഥലം നിലവിൽ കമ്പനിയുടെ കൈവശത്തിലായി കണ്ടത്. ഇപ്രകാരം കമ്പനിയുടെ കൈവശത്തിൽ ഉൾപ്പെട്ടുവരുന്ന ഭൂമി ഉൾപ്പെടെ കമ്പനിയുടെ നാളതു കൈവശത്തിലുള്ള സ്ഥലം അവാർഡ് പ്രകാരം അവകാശപ്പെട്ടതിലും കുറവാണ് എന്നാണ് സൂചന കത്തിൽ റിപ്പോർട്ട് ചെയ്തിരുന്നത്. പല ഭാഗങ്ങളിലായി 57200-ഓളം ഏക്കർ വരുന്ന കമ്പനിക്ക് അവകാശപ്പെട്ട സ്ഥലത്തിനോട് ചേർന്നുവരുന്ന 55600-ഓളം ഏക്കർ വരുന്ന സർക്കാർ ഭൂമിയിൽ വിവിധഭാഗങ്ങളിലായാണ് 122 ഏക്കർ ഭൂമി കമ്പനിയുടെ നാളതുകൈവശത്തിൽ വന്നിരിക്കുന്നത്. നാളതുവരെയുള്ള കൈവശ / അനുഭവ / ഉപയോഗ സ്വഭാവത്തിന്റെ അടിസ്ഥാനത്തിൽ നാമമാത്രമായ ചില ഏറ്റക്കുറച്ചിലുകൾ ഭൂമിയിൽ സംഭവിക്കുന്നതും തികച്ചും സ്വാഭാവികമാണ്. ആകയാൽ കമ്പനിക്ക് അവകാശപ്പെട്ട സ്ഥലത്തിൽ കുറവുള്ള സാഹചര്യത്തിൽ മേൽപ്രകാരം കണ്ടെത്തിയ ഭൂമി കൂടുതലായുള്ള കൈയ്യേറ്റമായി കാണാൻ കഴിയില്ല എന്നതുമാണ് റിപ്പോർട്ടുചെയ്തിരുന്നത് എന്നുള്ള വിവരം അറിവിലേക്കായി റിപ്പോർട്ട് ചെയ്തുകൊള്ളുന്നു. "

In the above report, kindly note that Surendran had found out an encorcahment of 49.4600 hectres as encroachment in the 'സർവ്വെ ചെയ്യാതിരുന്നിട്ടുള്ള 7 റീസർവ്വെ ബ്ലോക്കുകളിലായി'. How is this possible to find encroachments without survey?

4.3.6. Now the above statements made by Shri. K. Surendran may be examined in detail.

4.3.6.1. There is no difference in the area of K.D.H Village as per revenue records (i.e., as per the old survey in 1925 or so) and the resurvey records (i.e., as per the 1974 resurvey using theodolites).

4.3.6.2. There is also no difference in area between the resurvey records (i.e., the 1974 theodalite survey) and the total station survey i.e., 1996 survey.

4.3.6.3. The K.D.H company is in short of 278.2369 hectres i.e., about 687.55 acres.

4.3.6.4. The K.D.H company has encroached only into about 122 acres in the Government land interspersed between the company land and this is negligible when they are in short of 687.55 acres.

4.3.7. Shri. K. Surendran had advised the Survey Director to immediately publish 9(2) notification and recommended for the final section (13) notification since the records are so perfect.

4.3.8. Excerpts from the report of the Deputy Director, Survey Idukki Shri. Unnikrishnan vide G2-49223/07 dated : 28.05.2008 (Appendix-XIII);

ബഹു. റവന്യൂ പ്രിൻസിപ്പൽ സെക്രട്ടറിയുടെ 2008 മാർച്ച് 3, 4 തീയതിക ളിലെ മൂന്നാർ സന്ദർശനവേളയിൽ നിർദ്ദേശിച്ചതനുസരിച്ച് സർക്കാർ ഭൂമി യായ റീസർവ്വെയിൽ ഉൾപ്പെടുത്തിയിട്ടുള്ളതിന്റെ വിസ്തീർണ്ണവും ടോട്ടൽ സ്റ്റേഷൻ ഉപയോഗിച്ച് ഒരിക്കൽകൂടി സർവ്വെ ചെയ്ത് പരിശോധിക്കുന്നതിന് നിർദ്ദേശിച്ചു. ആയതുപ്രകാരമുള്ള ജോലി പുരോഗതി പത്രിക ഇതോടൊപ്പം ചേർക്കുന്നു. 32-ാം ബ്ലോക്കിന്റെ ജോലി പൂർത്തിയായിട്ടുള്ളതാണ്. അതിൻപ്ര കാരം പരിശോധിച്ചതിൽ റീസർവ്വെ 32-ാം ബ്ലോക്കിന്റെ (ക ബ്ലോക്ക്) വിസ്തീർണ്ണം 653.4852 ഹെക്ടർ ടോട്ടൽ സ്റ്റേഷൻ സർവ്വെ പ്രകാരം ലഭിച്ചത് 639.9467 ഹെക്ടർ വ്യത്യാസം 2.07 ശതമാനം (13.5385 ഹെക്ടർ) സ്റ്റേറ്റ്മെന്റ് പ്രത്യേകം ചേർത്തിരിക്കുന്നു.

4.3.9. By this rate, i.e., a reduction in 2% of the total area of 1,37,600 acres is about 2750 acres is the possibility, when surveyed using the Electronic Total Stations. The difference in area in the two methods have never been accounted for. Had the survey officers stated that there is a difference of so many acres and this has happened due to the higher accuracy of the ETS or the modern survey equipments, then such difference could have been construed as the old area obtained in the conventional survey. But instead, the Deputy Director of Survey, Idukki, Shri.K.Surendran had certified that there is no error in the resurvey records and therefore recommended of finalization of resurvey records.

4.3.10. The expenditure statement prepared by the same Deputy Director vide letter No.G2-26342/01(1) dated : 13.11.2002 is appended as Appendix-XIV. An amount of Rs.56.30 lakhs was spent on the Total Station Survey of 1996. The Survey Vigilance wing has found out that all these expenditures were made on the basis of vouchers and only the vouchers for an amount of Rs.10,30,733/- could be traced in the offices. On the basis of recommendation of the Survey Vigilance wing. Government had referred the matter to the Vigilance and Anti Corruption Bureau (VACB). The VACB, Kottayam is investigating the corruption involved in the matter vide their case No. VE-6/ERK. It is evident that in the case KDH survey records Shri. K. Surendran made several attempts to mislead the Survey Director and the Government by certifying the grossly erroneous and fabricated resurvey records as accurate and urged to finalise such false records. He had favoured the KDH company by certifying that the company is in short of 278.2369 hectares, the information which was produced by the company in their claims before the Hon'ble High Courts. The report of the Deputy Director has weakened the position of the Government. In the news paper

advertisement released on 25th February also, Tata had advertised that the Additional Chief Secretary had filed an affidavit before the Hon. Lokayutha that the company is in short of 239.2369 Hectares. The report of Shri.K.Surendran, had thus resulted in far reaching consequences.

4.3.11. It is also suspected that the disbursement of funds and subsequent disappearance of the expenditure records of the total station survey occurred since Shri. K. Surendran assumed charge as the Deputy Director of Survey in Idukki in 2001-2002 and that is the reason why the case was referred to VACB. Shri. K. Surendran was suspended earlier by the Government vide G.O.(Rt) No. 1013/2007/RD dated : 06.03.2007 and his service records are not so clean. Till now no action was initiated against such an official who misled the department and government by certifying erroneous survey records. Had the department accepted his recommendation and published the final section 13 notification, the State would have lost land worth crores of rupees to the encroachers. It is highly essential that Shri. K. Surendran presently the Regional Joint Director of Survey, Kozhikode should be immediately placed under suspension as his continuance in the department will lead to the disappearance of more vital evidences for the offices concerned. Such officials are a bane to this State and they are to be removed from service through following due process of law.

4.3.12. By the fax message dated : 26.07.2002 Shri. Surendran has requested the services of Shri. Ameer, Surveyor, O/o of the SSLR, Devikulam and Shri. Sreekumar of the Kasargode resurvey party for processing of the electronic data. Appendix-XV. It is evident from the evidences presented in this report that these two officials had made several adjustments in the area list prepared in excel statement to approximately equal the area prescribed by the 1974 land board award as well as the area obtained under the 1974 theodalite survey. It is possible that Shri. Ameer and Shri. Sreekumar who were processing the data had acted on instructions of Shri. K. Surendran to make book adjustments to hide the errors of the total station survey and the encroachments of valuable land in the KDH village. It is recommended that disciplinary action shall be initiated against these to surveyors immediately considering this as major penalty.

4.4. Conclusion: It is necessary that the notification under section 9 (2) in respect of the 1996 to 2001 survey should be cancelled as in the case of 1974 theodolite survey because of the following reasons;

4.4.1. This do not reflect the land use pattern as on date.

4.4.2. This also don't reflect the position of encroachments as on date.

4.4.3. The Resurvey records are grossly erroneous because the basic principle 'whole to part' was not followed in the 1996 survey.

4.4.4. Even though the land board award was undertaken on the basis of the survey maps prepared by the Engineering department of Tata Tea company, the survey department ought to have refixed the different survey sub-divisions on ground in the subsequent survey in 1974, soon after the award. This was never done.

4.4.5. There is no evidence that the ayacut fixing of land parcels mentioned in the Land Board award was also not done in 1974 survey.

4.4.6. The area of Government land was blindly copied as such while publishing the records of survey using Electronic Distance Meters /Electronic Total Stations (a) without verifying for encroachments and (b) knowing that the area of modern survey won't match with the area obtained under conventional survey.

4.4.7. It is also recommended that the amount of Rs.56.30 lakhs incurred for the 1996 survey, minus genuine expenditure, if any, shall be recovered from those who were part of the survey.

4.4.8. It is also recommended to take immediate disciplinary action against the survey officials who certified the resurvey records are accurate.

CHAPTER V

COMPLETION OF SURVEY OF KDH AND ADJOINING VILLAGES

5.1. It is a common practice in the department of survey & land records, that only the survey numbers are only co-related and the area of the land in the previous survey numbers and the new resurvey number area don't match. The correlation statement records only the area as 'part' of several old survey numbers. This helps a section of the corrupt officials to hide their errors in survey. Book adjustments are made in the final round to match the old area of the village with the new resurvey area. There is seldom any verification. The resurvey records finalization, usually takes years together and the senior staff would retire by that time. Therefore no responsibility is fixed.

5.2. In order to resolve the ambiguities in the survey records, first the village boundary of the KDH as existed in the land board award in 1974 ought to have been refixed on the basis of the maps used for such land board award in the 1974 survey. Thereafter, the different survey numbers mentioned in the 1977 notification No. H1-43919/76 dated : 25.01.1977 (copy appended as Annexure-V) should have been refixed/relocated on ground in 1996 to check whether any variation with the area the land board award, as that happened in the case of old survey no.72 (resurvey no.131 of block 17) has happened. As a third step, the area as per the old Land Board award and the present utilization of land by the Tata tea company should have been compared. Unfortunately, the department of survey & land records failed totally in supporting the Government by doing the above procedure in 1974 or 1996 surveys. Rather, the department officers conspired to make the Government, their department and people of the State believe that their manipulated figures are conforming to the figures of the land board award and encouraged for finalization.

5.3. With the advent of modern survey equipments, it is easy to find out the encroachments into Government land or variations from the land awarded in 1974 by the Land Board, without large scale measurements on ground. In order to understand the exact situation on ground, the boundaries of government land as per the land board award has to be refixed afresh and encroachment sketches and list have to be prepared. The present land use/possession has to be updated. It is requested that

fresh survey shall be ordered immediately to be conducted by the Kerala Land Information Mission under the Bhoomi keralam project.

5.4. It is possible that the survey of the entire land of KDH Village could be completed in 4 to 6 months by the Mission. Before going into that aspects in detail, let us try to understand the task ahead. The entire KDH area is 1,37,700 acres. Since there is an allegation that the village boundaries have been shifted, it is necessary to measure the land parcels contiguous to KDH Village boundaries in adjoining villages also. We may take the total area to be surveyed as 1,50,000 acres. The output prescribed by the Mission for a total station team in Forest survey under the Scheduled Tribes & Other Forest Dwellers (Recognition of Rights) Act, 2006 is 10 acres per team per day. By this rate, it will take 15000 days for one team to complete. It will take only 100 days if 150 teams are deputed for the survey, which in other words mean that we may require 750 surveyors and 150 Electronic Total Stations for the work. Therefore, the work of this magnitude cannot be undertaken by the Department of Survey & Land Records or the KLIM using its own resources because of the following reasons;

5.4.1. There are only 83 total stations in working condition as on date. The Mission can spare only maximum 30-40 ETS for the KDH Village survey after the Forest survey and the on-going resurvey work in several villages.

5.4.2. A hybrid methodology using satellite imagery will only ensure that the work is finished in time; and there is every little expertise for digitization, geo-referencing etc available in the department/ Mission.

5.4.3. Almost 98% of the surveyors under the Mission are new recruits and they cannot not give the desired output per day.

5.4.4. Very few staff in the about 1000 surveyors in the department knows how to operate an ETS; even when they have the skills, they will say that they don't know how to operate the ETS and it is difficult for making a lame horse work.

5.4.5. Quality assurance is almost non-existent in the department.

5.4.6. Both in the department as well as Mission, nearly 50 % of the surveyors are women and they cannot be deployed in these inhospitable conditions for months together.

5.4.7. There are several others under medical treatment or perennially disabled from doing any work at high altitudes.

5.4.8. Even if the department staff is willing to work in Hilly areas and also willing to give 10 acres output per day, the prominent field staff union, now affiliated to the Joint Council, namely the 'Survey Field Staff Association (SFSA)', who has filed writ petitions in Hon.High Court for the withdrawal of Modern Survey Manual of the Mission, will not allow the surveyors to achieve the target[15] as is happening with melmuri resurvey project and the forest survey in Idukki.

5.4.9. Most of the supervisory officers are not all capable of managing this large contingent number of surveyors or ensure the quality for their daily work. A large majority of staff starting from head surveyors upto the Additional Director of Survey don't know how to operate a computer, let alone the operation of Global Positioning Systems/ Electronic Total Stations and processing of the data in sophisticated software such as Skipro, LISCAD, AutoCAD, Microstation etc

5.4.10. It will be difficult to find out the accommodation for this large contingent of officers and staff at Munnar, one of the most wanted tourist spot. The staff are not willing to camp in tents as was being done by the surveyors[16] during 1960s to 1980s.

5.5. In short, the survey by the Mission directly on its own will only result in another farce like resurvey of the Kerala which started in the year 1966. But it is possible to undertake the survey using a hybrid methodology with the expertise of CESS and under the technical experts and officers/staff of the Mission with the help of external agencies. The field survey has to be done those willing to work in the inhospitable conditions and having real expertise in Electronic Total Stations. Professional managers have to plan, supervise and ensure the quality of the work.

5.6. Before deciding on who will do the survey, one important decision from the Government is required on the *modus operandi*. The detailed survey of about 1.5 lakh acres of area could be done in two methods; in both methods, the Village boundary has to be refixed first and more

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[15] The SFSA is headed by Shri.Shanavas Khan , Head Surveyor , as its president, who is facing Vigilance and Anti- corruption Bureau enquiry vide VE-2/03-IDK for alienating 1.28 acres of land worth Rs.6.40 crores and also by the Forest Vigilance wing's Enquiry vide their letter no. VE-87341/2008 for embezzlement of lakhs and lakhs of rupees are illegal wages and work dairies. Further, one of their main functionaries is a surveyor who had worked with the KDH company who had later joined the Department of Survey & Land Records.

[16] Survey of remote areas were done by establishing camps called 'thavalams' and such maps are called thavalam maps.

Ground Control Points have to be established in the 9 blocks left out. The methods are;

5.6.1. The first method involves digitising all the measurement sketches of the KDH Village and refixing every land parcel on the basis of co-ordinates, so obtained from computers, on ground. The land parcels coming under the blocks in possession of the KDH Company has to be done in the presence of the company representatives. But this method will take minimum one year, as much of the time will have to be spent on the digitization, generation of coordinates and staking out using Electronic Total Stations and is finally suspeptible to be disputed by the KDH Company, which has a track record of entangling any issue in court cases. Because of the time factor, this method is not recommended to be adopted.

5.6.2. In the second method, the Ayacut Fixing has to be done first. Then notices shall be issued under section 6 (1) of the Kerala Survey & Boundaries Act, 1961 urging the KDH Company to show their boundaries and measure them using the Electronic Total Stations in their presence. If it is found that the area is on the higher side than the land board award, then it can happen only because of encroachment into Government land. On the other hand, if it is found that the area obtained is less than what has been awarded by the Land Board, then the lesser area can occur only due to alienation of the land in the form of gift, lease and sale by the KDH Company in the past. This method will be easier for completing the survey in 6 months and the KDH company cannot question in any court of law, as the boundary was surveyed in their presence. Thus it will become a win-win situation for the Government.

5.7. Conclusion: The resurvey records are erroneous and donot reflect the ground situation as on date. The 9 (2) notification need to be cancelled urgently. It is necessary to undertake the following preliminary works for the detailed survey during the current field season (rain-free season ending within 3 months by May 2010);

5.7.1. Digitisation of all old FMBs of KDH Village.

5.7.2. Identification of all the available Old Stones in the village boundary, a portion of which falls in the inter-state boundary sharing with Tamil Nadu.

5.7.3. Establishing more Ground Control Points in the blocks of Government land – Iravikulam, Mankulam etc

5.7.4. Identification of agencies that can supply about 500- 700 surveyors and about 125 to 150 Electronic Total Stations.

5.8. The other adjoining villages are also facing severe encroachments and will soon reach the state of affairs as of Munnar. It is also necessary to establish control points so that the encroachments could be detected using geo referenced Satellite images ,which could be purchased from ISRO periodically.

5.9. It is requested that Government may immediately take a decision to cancel the notification current in force and order a fresh resurvey/ updation survey to be entrusted with the Mission without any further loss of time before the rains in June 2010.

CHAPTER VI
THE REAL ISSUES OF MUNNAR

6.1. The newspaper advertisement of the Tata Tea Company appeared in Malayalam and English newspapers in the last week of February 2010 are appended as Annexure-VII(A) & (B). These advertisements have been issued by the Tata Tea company, with a view to confuse the people, the Government and the Hon.Courts of law and to sanctify the actions of its functionaries of the company. This has prompted me to highlight the real issues plaguing this beautiful land and bring the same to the notice of the Government. The factual position revealed in my enquiry into Munnar and adjoin villages on several earlier occasions is given as answers to the questions raised by the Tata tea company in Annexure-VIII. Munnar is not being gang raped as the Hon.High Court has observed. It is dying. This is the place where several rivers are originating and to be treated with reverence.

6.2. An intermittent visitor to Munnar these days can sense the undesirable changes, be it on the climate, or on the topography. The Eucalyptus grandis[17] crops is one of the chief factors for degradation of the environment of Munnar. It is planted in bulk, since it gives an yield of a more than lakh of rupee on an average per acre, without any substantial investment and maintenance. The Government officials, the politicians, the land mafia are planters of eucalyptus for years together. One can see thousands of acres of Eucalyptus crops in an around Munnar, a known 'water sucker'.

6.3. The pattayam holders, who claimed thay don't have any agricultural land anywhere in Kerala and managed to get pattayams through the pattayamelas for agricultural purposes, are cultivating Grandis in large quantity. The attached report of the joint inspection into the kanthallor–keezhanthoor villages depicts the real scenario. The certificate issued by the Keezhanthoor Village Officer to one Fathima of Kothamangalam Taluk is attached as Annexure-IX. This photocopy of the certificate was obtained from the lorry belonging to one K.N.Prasad, said to be the contractor for Hindustan News Print Ltd for soft wood. The Tata Tea

[17] The ill effects of this crops is widely documented. It is a known water sucking tree. Several countries in the past had planted this crop which yields pulp and fibre in abundance with an intention to revive their economy. The forest department of Kerala also planted eucalyptus in the 1950s, but it did not succeed. Rivers and streams dried up in Brazil, Africa et al according to nature groups and UN. It easily catches fire and wild fires destroy other trees; there are other documented health hazards. Some of the articles available on internet is appended with this report.

Company has paved the way for large scale cultivation of Eucalyptus in Munnar, which is spreading to other parts of the taluk like wild fire due to obvious benefits. In the near by future it is possible that people will turn to eucalyptus instead of cash crops. Eucalyptus is the favorite for certain section of officials and politicians of this hilly land and shares the same position as the 'river sand' in other parts of the State. It is time to call them as "eucaly mafia'

6.4. As a servant of the Government, who got involved in various investigations on the revenue and survey side for the past 3 years at KDH Village, I take this opportunity to highlight the real issues. The real issues of Munnar is not the construction of a check dam or allegations of change of village boundaries. The real issue is as the Hon.High Court of Kerala pointed out is the 'rape or gang rape of Munnar, by a consortium of conspirators led in the forefront by the local officials of the tea Company. Resorts are mushrooming in all the villages. The mafia has succeeded in focusing the attention of the Government and media into happenings of the KDH Village.

6.5. It could be seen that the Land Board Shri.K.C.Sankaranarayanan has awarded huge extent of land against the spirit of the enabling KDH Act, The award was promulgated without looking into the facts and figures and it was done as per the inflated claims of the company officials, who till a few years back, kept and still keeping certain areas as their personal fiefdom. The forests were gaming zones for the company officials – hunting and angling were their favourite past time. The Land Board award was prepared on the basis of maps prepared by the Company. Several lapses could be found in the area meantioned in the Land Board award. The errors in Lakshmi Block No Z shown in Figure-4 is mentioned in para 3.2.14.

6.6. The tea plantations were straight away exempted from vesting by virtue of the section 3 of the Act. In the statement of object and reasons attached to the Act (Appendix-V), para 4, Government had laid down the objectives of the Act as follows;

"The Government consider that such agricultural lands should be resumed for the distribution thereof for cultivation and purposes ancillary thereto. For instance, in the case of the K.D.H.P.Co. itself, the actual extent planted with tea is only 23,570.95 acres and building sites, etc., will come only to 2,605.35 acres. Perhaps the Company may

require ***certain more extent of land for purposes ancillary to the cultivation of tea and preparation of the same for the market"***

Thus the Act, was liberal enough to give 'certain more extent of land' for purposes ancillary to the cultivation of tea and preparation for the same to the market over and above, the 2605.35 acres allotted for buildings, roads etc. But what had the Land Board allotted instead of this 'certain more land'- about 35000 acres for running a tea plantation of area about 23000 acres. There were several other tea plantations and tea factories owned by others in this area as well as in Wayanad and Thiruvananthapuram districts. What was the ratio of area of tea plantations vs its ancillary area existed during that time or even today? In many estates, it could be seen that it will be less than 20% of the area of the tea plantations. In the land board award, in order to maintain an area of 23239.66 acres, another (57359.14 - 23239.66 =) 34119.48 acres i.e. about 150 % of the plantation land has been restored to the company. The Land Board ought to have enquired into the proportion of plantation land vs. the ancillary area available in other tea estates in the State. The subsequent paragraphs elucidate this illegal favour meted to Tata by the administration in the form of a Land Board award.

6.7. The section 4 of the KDH Act is reproduced as follows;

*"**Restoration of possession of lands in certain cases.** - (1) Where the person in possession of a plantation considers that any land, the possession of which has vested in the Government under sub-section (1) of Section3,-*

(a) is necessary for <u>any purpose ancillary to the cultivation of plantation crops</u> in such plantation or for the preparation of the same for the market ; or

(b) being <u>agricultural land</u> interspersed within the boundaries of the area cultivated with plantation crops, is necessary for the <u>protection and efficient management</u> of such cultivation; or

(c) is necessary for the <u>preservation of an existing plantation</u>, he may, within sixty days from the date publication of this Act in the Gazettee, apply to the Land Board for the restoration of possession of such land.

In short, land other than plantation should be restored to the Lessees if the land is needed for any purpose (a) ancillary to the cultivation of plantation corps or (b) if it is interspersed and required for protection/ efficient management of such cultivation or (c) if found necessary for preservation of existing plantation. In which category mentioned above under which the *'area under grazing'* of 1220.77 acres and *'area uncultivable'* of 6393.59 acres are coming?

6.8. The pertinent questions in the allotment of land for the above two categories by land board are

6.8.1. Is grazing of cattle an activity ancillary to tea plantation?

6.8.2. Which other tea plantation owner company in Kerala has allotted thousands of acres of grazing land for the cattle of their poor labourers?

6.8.3. By what provision an area of 6393.59 acres of uncultivable land is allotted to the Tatas when another 4523.92 acres of land is allotted as *'area interspersed in estates and between estates'* as per the provision in the section 4 as the area needed for the protection and efficient management or even preservation of the existing plantation?

6.9. Consider the case of allotment of grazing land. An extent of 1220.77 acres of land worth around Rs. 600 crores (@ Rs. 50,000/cent) is given by the State to Tatas for 6750[18] cattle of their labourers. i.e. about 18 cents of land for one cow. Initially Tata had claimed for 6 acres per cow. Land Board award says

"It is clear that no estate could provide that much grazing acreage for their workers cows. ..... "Then why did K.C.Sanakaranarayan allotted this much land. The land board award was prepared in the opulence of Tata tea Company's Bunglows.

6.10. We never come across large herds of cattle anywhere in the KDH Village during these days. If a cattle census is immediately arranged, it can be seen that the labourers may have less than 500 or a maximum of 1200 cattle, which means that every cow of Tata Tea has more than

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[18] Para 19 of Land Board Award: The next item for consideration is grazing lands. It is seen that the company has reduced this area from 1453.75 acres to 1400.89 acres after the appointed day. In their affidavit they have stated that there are about 6950 herd of cattle in their estates belonging to their labourers. Under an industry-wide arrangement made through the Association of Planters of Kerala, the keeping of this cattle has to be permitted and grazing land allotted. The scale of land needed for animal as per the A.P.K. Circular quoted is very unrealistic. (6 acres for one cow). It is clear that no estate could provide that much grazing acreage for their workers cows. .....

one acre for grazing. The paradox is that Government has filed an affidavit before the Hon. High Court that 14,200 adivasis of the State are land less. The revenue department and the Kerala Land Information Mission are on the lookout for land for rehabilitating advasis as well as the Chegara agitators throughout the State. Here is a State where 14000 advasis donot have even a cent of land and Tata's cows have more than one acre and that too in the pristine land of Munnar where every cent values lakhs of rupees. (Holy Cow!). This area allotted is not for purposes ancillary to tea plantation or right in the spirit of the Act. Even though land board award rejects the claim of the Tata tea company, it is still not known, how this land was allotted finally. The question before the Government is which requirement is more important – giving land to the land less 'advasis' or allowing one acre for grazing of Tata's cow. It is necessary to resume this land, illegally allotted by Land Board, K.C.Sanakaranarayanan in 1974.

6.11. The Tata tea Company was also allowed to keep 6393.59 acres of uncultivable land in their possession. If such a land was need for the protection, then why separate land was allotted under the area interspersed between estates. The picture shows how the Tata tea Company uses uncultivable land. The illegal quarrying was for construction of an illegal check-dam in Chappakkulam in Lakshmi Estate.

figure-5 : Recent Illegal quarrying inside uncultivable land in Lakshmi Estate for construction of Chappakulam Check Dam

There is no basis for allotment of such uncultivable land, as the Act does not provide for that. Uncultivable land is not ancillary to tea plantation nor such land is required for its preservation, protection and management. For such purposes, an area of 4523.92 acres interspersed between estates have been restored to the company u/s 4. Further, they have using such land for illegal activities. Citing these reasons, it is necessary to resume resume the entire uncultivable land.

6.12. An area of 16,898.91 Acres was awarded in 1974 for growing fuel trees which was stated to be most essential ancillary activity to tea plantation. Later Tata Tea Company procured an order from Hon.Courts and Land Board obtained permitting the conversion of fuel areas into further tea plantations. The above area of 16,898.91 acres was restored for processing tea planted in 23239.06 acres. Tata inadvertently has claimed before the Hon. Courts that when the area of tea increases, the fuel plantation area decreases-- an inversely proportional relationship. By this rate, time will come when all the fuel tress are converted into tea estates, they may not require any fuel plantation at all. It should have been the other way round if the arguments before the land board by Tatas are taken into consideration. The arguments of the DFO Munnar at the time of the award has been quoted by the Land Board in para 17 on the misuse of the word 'ancillary' by the company in 1974 as;

" He (the DFO, Munnar) also pointed out that the area under tea has been declining and *most of the requirements of fire wood and charcoal are not for direct utilization in the production of made tea for the market, but are being used for other unjustified purposes, stretching the use of the word " ancillary" to an unjustified length"*

The Land Board points out in the same paragraph:

"It was clear that the company was quoting the production capacity of the fire wood per acre at a low figure in order to get more land" and

" Taking that a demand and a production capacity of 100 cubic yards per year, 15300 acres of fuel land would be adequate to meet their reasonable needs in the near future"

But the land board was magnanimous enough to restore 16,898.91 acres (1600 acres more) in the final round, for reasons unknown. The Tata tea company has illegally obtained 35000 acres stretching the word 'ancillary' to unjustified length.

6.13. Over the years Tatas have installed several boilers for tea processing; The list of boilers given below will show that they have installed high efficiency boilers even during the year 2005 and 2007;

List of Boilers owned by KDHP and Tata Tea Limited

Sl. No.	Name of owner	Reg. No. and date of installation	Capacity	Fuel used
1	Tata Tea Ltd, ITD, Munnar.	K-444, 1982	10 T/hr	Furnace Oil
2	Tata Tea Ltd, ITD, Munnar.	K-1031-2005	10 T/hr	Furnace Oil
3	KDHP Co (P) Ltd, Chittuvarrai Factory	K-947-2002	02T/hr	Furnace Oil
4	Tata Tea Ltd, ITD	K-448, 1983	15T/hr	Furnace Oil
5	KDHP (Oil Extraction Co, Kundaly)	K/s-1096, 2007	500Kg/hr	Furnace Oil
6	KDHP Co.(P) Limited, Tea Museum, Munnar.	K-711, 1996.	06T/hr.	Furnace Oil
7	Tata Tea Limtied, Pallivasal	K-578, 190	500Kg/hr	Furnace Oil
8	Tata Tea Ltd, Mushroom Div, Munnar.	K-565, 1990	02T/hr.	Furnace Oil
9	Tata Tea Ltd, ITD, Munnar.	K-207, 1963	06T/hr	Furnace Oil

Table 5.1

6.14. From the above, it is clear the company, no more requires the fuel tree area as per their inflated claims before the Land Board in 1974. They are converting more and more areas of fuel tree land into tea plantations. Unofficial estimates from the NRSA and CESS studies put the total area of tea plantation at around 28000 acres. When the product area increased, there is substantial reduction in fuel area which proves that either (1) the claims made in 1974 was for grabbing more land in the name of planting of fuel trees which was claimed as an 'ancillary' activity to the tea processing. Or (2) Tatas don't have the requirement of that much area of fuel trees for the processing of tea after the lapse of 40 years because of the improvements in technology especially the increase in efficiency of the boilers and the heat transfer equipments[19]. The calorific value of the fuel woods especially that of

[19] Earlier hot air was circulated through ducts for drying tea and this resulted in over drying at the hot air inlets and under drying of tea at the outlet. Now, all the large scale tea manufacturers uses fluidized bed technology for drying, the heat transfer efficiency of which is very high and having better control over the process. The use of solar water heaters for pre-heating the feed water can also increase the efficiency and has reduced the consumption of fuel trees and thereby production of harmful gases. Tata tea company is not following the best practices in other companies since the Government has allotted vast expanse of land for cultivation of Eucalyptus Grandis which donot require any substantial investment.

Eucalyptus Grandis variety is more when compared with other fuel woods because of its high oil content. Several tea factories are switching to the practice of minimizing consumption of fuel trees and more cleaner fuel fired burners are being used. It is time the State has to direct the Tatas under the Pollution as well as water conservation laws to switch over to more cleaner LNG/LPG instead of burning the precious wood and generating high amount of pollution in the form of Carbon Monoxide, Carbon dioxide and other ozone depleting gases. The LNG from Petronet storage/Southern Gas grid could be extended to the KDH factories. Or the State could supply the fuel trees as it had allowed Grasim industries of Kozhikode in case of soft woods.

6.15. The Land Board has also justified its award by saying that fuel trees are also required for supplying charcoal for the 22000 workers and officers. In the application to the land board, they have claimed that there are 17000 permanent hands, 4000 temporary hands, 950 staff and managers (total 22000) and they have to supply charcoal according to their customary practice. In the advertisement released in newspapers on 25th February 2010, they have claimed that their staff strength is only less than 16000. The company may be directed to file returns of the fuel produced from the land, the daily consumption of the fuel in their factories and the daily allotment charcoal to their workers. It is suspected that *benamies* of some of the revenue, survey, forest and police officials who has interests in Munnar cultivates *Eucalyptus Grandis* in Government land and sell them at the end of 4-5 years. These type of trees donot require any substantial maintenance costs as in the case of any other crops. Such trees fetches around Rs.1 lakh per acre at the end of 4-5 years of growth. It is possible that the local officials of Tatas sell these grandis wood outside and make money on their own rather than using in their factories. A thorough investigation is required into the role of the company officials as well as Government officials including police, revenue and forest for the planting of grandis in the Kezhanthoor, marayoor and adjoining villages.

6.16. In short, the Tatas are proving again and again that they don't require this vast extent of land for planting fuel trees through the conversion of such land as tea plantations. In this scenario, Government can take back about 17000 acres of land from the company by suitably amending the KDH Act,1971 citing the changed circumstances and directing the company to switch over to cleaner fuels like CNG/LNG.

There is no justification to allot 17000 acres for conversion into resorts or tea by the Tata tea company. The State has to redeem the 16898 acres of land from Tatas immediately as they no longer requires this much extent of land for producing fuel trees. Such a move will also prevent ground water depletion caused by Eucalyptus Grandis. This is very essential from the angle of protection of environment of this precious land.

6.17. The land allotted by Land Board under the title *'areas under buildings, sites, roads, workers garden etc'* is 2617.69 acres. By Tatas own admission, the staff strength has been reduced by 6000 as on 2010. This is the reason why so many Bungalows and workers houses have become vacant and Tata is leasing them out to be used as resorts. Can a lessee can further sub-lease the properties of the Lesser? It is an implied condition of any agreement that the lessee should not use it for any purpose other than the agreed terms and conditions. This huge extent of land belonging to the people of Kerala has been leased to the company in the interests of the agrarian relations and to protect the interests of about 22000 workers and other staff. The company is required by the Act as well as by the award to undertake only tea plantation and purposes ancillary to that. Now the vacant buildings and land, which was disproportionately allotted to the company in 1974, is being rented out as resorts. It is suspected that more buildings have been leased to several others in this way. A thorough survey under the revenue department on the land, buildings will only reveal the real situation. The list of the Bungalows and the details of the notices issued by the Secretaries of Grama panachayaths are as follows;

Estate Bunglows sub-letted for resorts

Sl. No.	Name of Estate/Bungalow	Notice number & date	Issued authourity
1.	Kannimalai Bunglow, XI/1402	A-674/10 dtd. 29.01.2010	Secretary, Munnar Grama Panchayath
2.	Seven Malai Bunglow, VIII/426	A-674/10 dtd. 29.01.2010	Secretary, Munnar Grama Panchayath
3.	Parvathy Bunglow, VIII/680	A-674/10 dtd. 29.01.2010	Secretary, Munnar Grama Panchayath
4.	Kadalar Manager's Bunglow, XII/844	A-674/10 dtd. 09.02.2010	Secretary, Munnar Grama Panchayath

5.	Thenmala Assistants Manager's Bunglow, IX/1178	A-674/10 dtd. 09.02.2010	Secretary, Munnar Grama Panchayath
6.	Thenmala Assistant Manager Bunglow, XII/868	A-288/10 05.02.2010	Secretary, Devikulam Grama Panchayath
7.	Silentvalley Assistant Manger Bunglow, IV/01	A-288/10 05.02.2010	Secretary, Devikulam Grama Panchayath
8.	Aruvikkadu Assistant Manger Bunglow, IV/01	A-288/10 05.02.2010	Secretary, Devikulam Grama Panchayath
9.	Manager Bunglow, III/1240	A-288/10 05.02.2010	Secretary, Devikulam Grama Panchayath
10.	Nettikudy Bunglow, V/240	A-288/10 05.02.2010	Secretary, Devikulam Grama Panchayath
11.	Silentvalley Manager, Bunglow, IV/137	A-288/10 05.02.2010	Secretary, Devikulam Grama Panchayath
12.	Korandakkadu New, Bunglow,V/1081	A-288/10 05.02.2010	Secretary, Devikulam Grama Panchayath
13.	Mattupatty R&D Bunglow, III/1045	A-288/10 05.02.2010	Secretary, Devikulam Grama Panchayath
14.	Mattupatty R&D Bunglow, III/1060	A-288/10 05.02.2010	Secretary, Devikulam Grama Panchayath
15.	Mattupatty Packing Bunglow, III/780	A-288/10 05.02.2010	Secretary, Devikulam Grama Panchayath

Table 5.2

6.18. A scaled down version of the 1965 map of the Munnar Town available in the land Board files (again prepared by the Chief Engineer of the Tata Tea Company) is appended as Annexure-X. This is not the occupancy position/ land user of Munnar town in 2010. Tata has admitted in the news paper advertisements and interviews that they are sub-letting the buildings in their possession in Munnar town. Is sub-letting an activity ancillary to tea plantation? In any case , running a town is not ancillary operation of a tea plantation. Government shall enact laws to bring the administration of Munnar town under a Municipality or a development corporation in similar lines with GCDA or TRIDA immediately. The Government shall direct the KSEB to take over the distribution of electricity for the Munnar town. It will also be advisable to shift the RDO office and Taluk offices from Devikulam to Munnar to demonstrate, who is in control at Munnar.

6.19. The water bodies are assets of the people of this land. A Sovereign State cannot allow a private company to hold the water bodies as their own and construct dams without taking any permission from any of the arms of the Government. Unless such precious water bodies are taken back from the company, they will soon start commercial activities like tourisms, or bottling of drinking water and the State will have to remain as a mute spectator. The entire water bodies including streams and swamps which are sources of fresh water has to be redeemed and Tata may be allotted a definite proportion of the water for purposes ancillary to tea plantation in the interests of their workers either after levying charges or otherwise, as decided by this sovereign Government. A substantial portion of land restored as "area under streams and swamps of 2465.20 acres" to be resumed.

6.20. A study has to be conducted on the land interspersed within the estates, on the areas which are most essentially required for the protection, preservation and management of the tea plantation of the company. The Tata has allowed several resorts to use their estate roads and it is possible that they may be collecting user fees for this magnanimity. The trespassers wont encroach the land in the possession KDH Company and the company is smart enough to repel such moves. At least 2000 acres of interspersed land could be redeemed from the company as the restored 4500 acres is an inflated figure presented before the Land Board.

6.21. It is almost four decades and Tatas have done more damage to the Munnar, one of the most beautiful places in the world by violating the terms and conditions of the land board award. Their actions are against the spirit of the KDH Act. They have alienated several acres of land in the form of gift, lease and sale in order to gather support from the politicians and the officials. The State adopted the role of mute granny when her girl was being raped. The pertinent question is should the people of Kerala allow a monopolistic company and its henchmen to run a major town of Kerala defying the laws of the land?

6.22. Discussion on the Findings: The time has come for a relook into the obsolescence of the KDH (Resumption of Land) Act,1971 enacted some four decades back and the partisan Land Board Award, which allotted very large extent of land against the spirit of the enabling Act. Time has come to relook into the land held by the company not only because they have excess land for purposes not ancillary to tea plantation as

provided u/s 4 but also because of the extensive damages done to the land belonging to the people of Kerala. Munnar is not a town like Jamshedpur built by Tatas. This is part of the most progressive State of India and wholly owned by the people of the State.

6.23. The situation existed in 1970s is not the prevailing situation in 2010. Munnar has a high place in tourism map of the State – the Gods own country. Land prices have shot up to lakhs. There are thousands of landless existing in this State, even after introduction of the Land Reforms Act in the very same year as 1971. On one hand, Government implemented the Land reforms Act in 1971 to abolish 'Jenmi- Kudiyan system' and distribute land to poor tenants. On the other hand, the KDH Act implemented in the same year, resulted in the illegal allotment of about 25000 acres of excess land to a monopolistic company, whose actions are have manifested to be that of a *Jenmi*, treating the dwellers of Munnar as Kudiyans. Time has come again to resume the excess land awarded to Tata Tea Company since the illegal land board award is no more relevant and the Lessee company is constantly violating the provisions of the enabling Act itself.

6.24. Government is negotiating with all potential investors for obtaining share in their companies in lieu of the freehold or lease rights given on land. Here the Government has parted with 58000 acres of land costing around several thousand crores and the Government is not a party to any of the decision taken by the company. The Government shall after resuming the excess land shall also demand for inclusion of revenue and forest secretaries to be included in the Board of Directors of the company so that the Government will be a party to the major decisions of the Board of the KDHP Company. As the lesser, Government has every right to demand at least 26% share in the newly formed company.

6.25. Conclusion: It is high time to introduce an amendment to the KDH (Resumption of Land) Act, 1971 to redeem the land which is retained by the Tata Tea company and which cannot be termed as land retained for purposes ancillary to tea plantations. The ancillary land to be restricted to less than 20% of the acreage of the tea plantations, i.e. around 5000 to 7000 acres, as in the case of all other tea plantations of Kerala. The land which has been illegally allotted to the Tata Tea Company are:

1. Area under Grazing	:	1220.77 acres
2. Area uncultivable	:	6393.59 acres
3. Area in excess due to use of Boilers and switching over to cleaner fuels	:	16893.91 acres
4. Area vacant because of the reduction of 6000 officers and staff	:	1250 acres
5. Area under streams & swamps	:	1000 acres
6. Area redeemable from interspersed land	:	2000 acres
TOTAL redeemable Land	:	28758.27 acres

Table 5.3

6.26. The company is claiming through their advertisements that they have formed the KDH Plantation company in 2005 to protect the interest of its workers and the Tata Group have very little share in it. It is also claimed that the Tata tea company director board consists of eminent personalities and they run several charitable initiatives. If the intentions of the company is genuine, then they should allow 26 % share holding in the company for the Government of Kerala, since they are have utilized about 58000 acres of the land and resources of this tiny state for the past several decades. If the company is not willing to induct Government of Kerala as a share holder, this provision shall also be included in the Amended Act.

CHAPTER VII
FINAL RECOMMENDATIONS

7.1. Shifting of Village Boundary: The evidences obtained during the verification studies of the Survey Vigilance team rule out the possibility of large scale tampering of village Boundary on Lakshmi Estate side of the KDH Village as it follows one untampered old stone (Subject to further verification) and the Ottappara GT Station; but a shift in village boundary by a few metres cannot be ruled out.

7.2. Location of Abad Resorts: As of now the evidences are substantiating that the Abad resorts is coming just outside the KDH Boundary in Pallivasal Village; the location is the same as that shown by the Geo referenced satellite image (Picture 41-42) and as per the location sketch prepared by Deputy Director of Survey, Idukki, Shri.Unni Krishnan (Annexure-XI). But due the limitations of the verification survey conducted by the Survey vigilance team as discussed in Chapter -III para-3.5 requires that further detailed verification is required in the matter. The evidences supporting the theory of shifting discussed in para 3.4 of this report also require further investigation. Only by conducting a detailed survey after refixing of the land parcels as per old survey records and also refixing the boundaries as well as comparison with other village boundaries, the exact position of Abad resorts can be found out.

7.3. Verification of resurvey records of KDH Village:

7.3.1. The resurvey records are highly erroneous; The encroachments of Tata tea company has been regularized in the resurvey records. The department had certified that only 122 acres of land has been encroached by the Tata tea company or by any other persons without refixing the 70000 acres of Government land in Mankulam, Iravikulam and other blocks supposed to be in the custody of the Government. The area of 278.2368 Hectares or 687.55 Acres reported as shortage of the land board award area to the company was because of erroneously recording the estate roads as Government road (Pothu vazhi). The resurvey records were prepared from 1996 to 2001 and this is not the land use position and holdings in 2010. Because of these reasons, the section 9(2) notification in force is to be cancelled immediately.

7.3.2. A fresh survey shall be ordered immediately for the KDH and adjoining villages and the Kerala Land Information Mission/Bhoomi Keralam Project may be entrusted to complete the survey in six months; The completion of the resurvey and finalization of land records through resurvey will only reveal the actual land use position as well as extent of encroachments by the tata tea company and others.

7.3.3. The Government of Kerala, scientific organization namely Centre for Earth Science Studies shall be directed to share the data they collected of their study and also to provide technical assistance and technical manpower to the Kerala Land Information Mission in hybrid methodology for resurvey of the KDH village.

7.3.4. The survey officials responsible for misrepresenting facts and figures of the resurvey and put the Government and the people in an embarrassing position by hiding facts and reporting that Tata Tea company is in short of 278.2389 hectares shall be immediately suspended from service as their continuance will lead to missing of more vital records needed for the resurvey, if ordered by the Government.

7.4. Real issues of Munnar:

7.4.1. I may take this opportunity to highlight that the real issues of Munnar is not the check dam construction and shifting of village boundary; but the vested interests have succeeded in drawing attention of the State Government and the District administration to focus only on these two issues ignoring larger problems such as massive encroachments through bogus pattayams of valuable Government land in all the villages surrounding munnar and the illegal land transactions by the land mafia.

7.4.2. The illegal cultivation of Eucalyptus Grandis by *benamies* of the officials and politicians are doing more ecological damage to Munnar. It is necessary to draw out a programme to phase out Grandis cultivation and undertake afforestation in such land.

7.4.3. Time has come to reopen the KDH (Resumption of Land) Act, 1971 for reasons mentioned in chapter V of this enquiry report, most importantly the obsolete Land Board Award, which violated the basic spirit of the enabling Act through the allotment of excess land to the Tata Tea company and the blatant misuse / infringement of terms and conditions of the award/Act by the said company. Since

the company has advertised that the Tata group has relinquished its major interests in the newly formed company, it is suggested that the Group Chairman, Shri.Ratan Tata may be called for a negotiation before amending the KDH(Resumption of Land) act, 1971, a step which could absolve many legal issues later, for the following purposes;

7.4.3.1. To part with about 28000 acres of excess land held by the company in the name of activities ancillary to tea plantation and

7.4.3.2. To reconstitute the Board of Directors of the newly formed KDHP company to induct Government nominees so that the Government is kept abreast with the day-to-day decisions of the Board.

Sections offices

THE REPORT OF SRI. M.G. RAJAMANICKAM IAS, THE SPECIAL OFFICER & COLLECTOR - REGARDING WHY MOST OF THE PLANTATIONS IN KERALA ARE THE PROPERTY OF THE STATE AND WHY THE STATE MUST IMPOSE CONTROL OVER THE PLANTATION REGION






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REPORT OF THE SPECIAL OFFICER & COLLECTOR

(Sri. M.G. Rajamanickam IAS)

No. GLR – (LR) - 1/2016/BRT/Co. Dated: 04.06.2016

Subject:- Kerala Land Conservancy Act, 1957 – The resumption of Government land, which had been occupied and abandoned by the English Companies and individuals prior to Indian Independence - Report to Government - Reg.

Read:-1, GO (MS) No.161/2013/RD; dated 25/4/2013.

2, GO(MS) No. 703/2015/RD;dated 30/12/2015.

Kind attention is invited to the reference cited. As per the order dated 25.4.2013, the Government have appointed the Special Officer & Collector conferring the power of a collector under Section 15 of the Kerala Land Conservancy Act, 1957 and extended the jurisdition to 7 districts of Kollam, Pathanamthitta, Kottayam, Ernakulam, Idukki, Thrissur and Wayanadu, where M/S Harrisons Malayalam Ltd, its transferees and other intruders occupy Government land which had been occupied and abandoned by the English Companies like M/S malayalam Plantations (UK) Ltd, a company registered in England

under the English Companies (Consolidation) Act, 1908 and situated at 1 to 4 Great Tower Street, London.

As per the order dated 30.12.2015, Government have again appointed the Special Officer & Collector conferring powers of a collector under Section 15 of the KLC Act, 1957 and extended the jurisdiction to the entire State and empowered him to identify all land holdings by the British individuals and companies prior to independence in Kerala and to verify the ownership of lands, post independence in terms of any title conferred on the land holders by the Government of Kerala. If no title has been conferred on the present occupiers by the State of Kerala or the Central Government, action shall be taken as provided under law and to resume the land illegally possessed by such persons and companies.

As per the above directions of the Government, various laws that had existed in the State and Union during the reign of the British Rule in India and the related laws and Rules after Independence, have closely been examined by comparing the case of land occupied by various foreign companies like M/S Malayalam Plantation (UK) Ltd, The Kannan Devan Hills Produce Company (UK) Ltd, The Anglo American Company Ltd etc in various districts of Kerala.

As per the judgment of the Hon`ble High Court in WP (C) Nos. 14251/12 and 213/13,dated 28.2.2013, the Government of Kerala have been directed to initiate actions under the Kerala Land Conservancy Act and Rules against M/S Harrisons Malayalam Ltd, its assignees and other intruders, if they occupy Government land. The related extract of the judgment is as given below;

8. *"Be that as it may, if the Government stand by the assertion that the properties in possession of HML or its assignees are Government land or are land which are recoverable under the provisions of LC Act, the bare minimum for any action to start, is by issuance of due and appropriate notice. This is not something to be done on any prompting of any other authority, but has to be done on the satisfaction of the competent authority under the LC Act regarding the existence of grounds to proceed under that Act……"*

9. "*One thing is certain; even if land are covered by orders issued by the Land Board in a ceiling case, if the Government were to contend specifically that the land are Government land or are land which the Government are entitled to reach at, through the process of the LC Act, it would be within the jurisdiction of the competent statutory authority to initiate action. This is because, title to property is not what is decided in the Land Board proceedings in a ceiling case as between the declarant and the state, though such issues may be germane while exemptions or identification of excess, are to be decided by the Land Board, as between the declarant and other parties appearing before the Land Board. If the Government have the case that the paramount title to the land rests with them, they would be at liberty to initiate action in accordance with law"*

11. *"Whatever arguments may be addressed at this point of time, we would stand dissuaded from answering any jurisdictional issue or any other aspect that may arise, if and when the competent authority under the LC Act issues notice. We also would not now speak on the quality of the state Government`s rights or any other issues since it will be premature for us to express on that……. we would cautiously guard this courts power and jurisdiction from*

being utilized to answer issues pre – judging matters which statutory authorities or other executive authorities have to decide……."

"For the aforesaid reasons, without expressing anything on merits, these writ petitions are ordered directing that if the competent authority or authorities in the state administration as are authorized in terms of the provision of the LC Act, decide to initiate action against any of the properties in the possession of HML or any of its transferees or persons in occupation, they may do so strictly in accordance with law. If such authority concludes that action has to be so taken, let steps be initiated in that regard within a period of two months from the date of receipt of a copy of this judgment .Let proceedings follow thereupon, affording due opportunity of hearing to all parties entitled to be heard in that regard."

Government of Kerala have decided to resume Government land for and on behalf of the landless poor and for public interest from foreign companies, their transferees and other intruders. The action under LC Act is indended against the present occupants who occupy Government land which had been held by the English people and English Companies. The companies like M/s Malayalam Rubber & Produce company (UK) Ltd, M/s Malayalam Plantations (UK) Ltd, The Kannan Devan Hills produce Company (UK) Ltd, The Anglo American Company Ltd, The Travancore Rubber Company, The Peerumadu Tea Company etc had been registered in England under the English Companies (Consolidation) Act, 1908; The Indian Independence Act 1947 was passed by the British Government. After Independence in

1947, the English and English Companies stopped their business in India and left or fled to England and abandoned all the lands held by them in the state of Kerala for plantation purposes. By virtue of Article 296 of the Constitution of India, such lands have vested with the state without any subsisting rights in favour of such foreign companies.

The following records have closely been examined - all the records such as the High Level Committee Report, the legal opinion given by the Rtd. Justice Sri. L. Manoharan, Writ Petitions filed by the State of Kerala, various Affidavits and Exhibits in the OP (C) No. 3508/11, in which M/S HML was a party, judgement in OP(C) 3508/11 and WP (C) 14251/2012 & 2013/2013, The Foreign Exchange Regulation Act, 1947 & 1973, Independence Act 1947, KLC Act 1957, KLR Act 1963, The Indian Companies Act 1956, Various Land Revenue Manuals published by the Erstwhile Government of Travancore, the Edavagai Rights Acquisition Act,1955; the Settlement Register of Travancore, the Enquiry Report No. VE.1/2013/SIU – II of the Vigilance & Anti Corruption Bureau, Thiruvananthapuram, various Judgments of the Hon`ble High Court and Hon`ble Supreme Court regarding the same nature of cases, the Kannan Devan Hills (Resumption of Land) Act, 1971; the Hon`ble Supreme Court Judgment in WP (C) 44/1971 dated24.7.1972, the various Orders and Oridinances passed by the State of Kerala in this regard, various Litho Maps and Estate Maps, old and present Basic Tax Registers, Old and Present *Thandaper Registers* kept in village offices, Kerala Government Land Assignment Act 1960, Kerala Government Land Assignment Rules 1964, Survey And Boundaries Act 1961 & Rules 1964, Transfer of

Registry Rules, 1966, Land Tax Act,1961 and Rules 1972, Kuthakapattom Rules, 1947 etc….

The Government of Kerala have been aggrieved by the continuance of the illegal occupation of Government land by some foreign companies, their tranferees and other intruders. For and on behalf of the landless poor and public interest Government constituted various enquiry committees, who have submitted reports regarding the illegal occupation of Government land by foreign companies, their transferees and other intruders. The State have found out that the old foreign companies, during the reign of the Maharajahs of the Erstwhile Travancore and Cochin, were holding large extent of Government land on freehold and leasehold right with strict conditions.

After the Indian Independence the foreign companies were holding Government land in India by violating the Independence Act 1947, Foreign Exchange Regulation Acts of 1947 & 1973, Indian Companies Act 1956 and Kerala Land Reforms Act 1963. More than everything, these companies have illegally sold vast extent of Government land in their occupation by challenging the State and its various laws. The stand of the State is that these companies have not derived any sort of title, right or interest on the property and that they are liable to be evicted, as per the Land Conservancy Act, from the land now alleged to be in occupation.

The following Preamble of the KLC Act, 1957 is to be observed.

> ***An Act to check the unauthorized occupation of Government land***

Preamble:-*WHEREAS it is necessary to enact a uniform law for checking the unauthorized occupation of Government land.*

As per Section 3, Explanation I and IA, the property of Government has been defined as follows:-

Explanation I :-" Land once registered in the name of a person but subsequently abandoned or relinquished, and all land held by right of escheat, purchase, resumption, reversion or acquisition under the Land Acquisition Act for the time being in force, are the property of Government within the meaning of this Section."

Explanation lA:-"Where the ownership and possession, or the possession, of any land are or is vested in the Government under Section 86 or Section 87 of the Kerala Land Reforms Act, 1963 (1 of 1964), such land shall, so long as it is in the possession of the Government, be the property of Government within the meaning of this Section"

Kerala Land Reforms Act 1963 has been enacted for a comprehensive legislation relating to land reforms in the State of Kerala. In view of the need for a comprehensive and uniform legislation for the entire State , by suspending the operation of the Kerala Agrarian Relations Act , 1960, the Government examined the provisions of the Act in the light of the judgment of the Hon'ble Supreme Court and High Court of Kerala ,the representations received suggesting amendments to the Act and anomalies and practical difficulties noticed in the course of its implementation , came to the conclusion that the Kerala Agrarian Relations Act required amendment in many important respects. Considering the nature and volume of the amendments contemplated,

Government considered that it would be more appropriate to enact a fresh legislation replacing the existing Act.

Accordingly, the Kerala Land Reforms Bill, 1963 had been drafted. The Government had kept in view the broad objectives of land reforms as laid down by the Planning Commission. The Government had been guided by the fact that the legislation should be fair and equitable.

The bill sought to confer fixity of tenure on tenants giving, at the same time, a limited right of resumption to landlords. The right of resumption is not available against tenants who were entitled to fixity of tenure immediately before 21.01.1961 under the law then in force, unless such a tenant has in his possession land in excess of the ceiling area.

The bill contained provisions enabling the cultivating tenants to purchase the right of the landowner and intermediaries in the holding. The land owner or the intermediary who is a public, religious, charitable or educational institution was entitled to choose whether its rights, title and interests may be permitted to be purchased by the cultivating tenant or whether they should be vested in the Government. If the institution chooses the second alternative, the rights would be vested in the Government and would be assigned to the cultivating tenant on his application .For the purchase of or assignment of the rights of the land owner and intermediaries, the cultivating tenants had to pay a purchase price equal to 16 times the fair rent, in addition to the value of permanent structures. This was of course the same as was given to other tenants. The entire purchase price so collected was payable as

compensation to the landowner and intermediaries. It was subjected to a deduction of 2.5 per cent thereof towards collection charges. The Bill provided that no tenancy shall be created in respect of any land in future. Any tenancy created in contravention of the provisions shall be invalid. As there are no persons or families who hold surplus land, future leasing of land is prohibited. The Bill provided for imposition of a ceiling on holdings. Ceiling will be calculated on a rational basis in terms of standard acres based on the net annual income from the land. A uniform extent of 12 standard acres has been prescribed as the ceiling limit for a family of 5 members. Where there are more members than 5 in a family, each additional member will be allowed an additional extent of one standard acre subject to an overall maximum extent of 20 ordinary acres – the Bill suggested.

After reserving the extent necessary for public purpose, the lands surrendered to Government will be assigned in accordance with the order of priority laid down in the Bill. The Bill provided for the constitution of Land Tribunals and Land Board for the administration of its provisions. **The purchase price payable by a cultivating tenant is the crucial aspect in the transfer of ownership to a tenant.**

The Constitutional validity of the KLR Act, 1963:-

The principal Act and the Amendment Acts have been added to the **IXth Schedule in the Constitution of India.** If a legislature amends any of the provisions contained in any of the Act included in the 9th schedule, the amended provision would not receive the protection of **Article 31 B of the constitution** and its validity may be liable to be examined on merits. The extinguishment of the rights under Article 31A

would save even legislation providing for the transfer of property from one person to another, if it relates to a scheme of agrarian reform. A measure of agrarian reform fixing the ceiling area for the holding for the personal cultivation of landlord and transferring the excess to his tenants, would be protected by the constitution. The abolition of all intermediaries and encouragement of self cultivation is also protected. The Act is a welfare legislation.

Kerala is one of the densely populated states in India. In the urban area land is very scarce. But this scarcity of land is in the midst of plenty of land which are in the hands of a minority even when the Kerala Land Reforms Act, 1963 has been implemented. Denying land and shelter to landless poor thrown out of the society's streets and slums is unjust and it is against the Constitution of India. We should see the reality that Ten Thousands of acres of land are occupied & enjoyed individually by a minority in the state. In this circumstance the Government have kept in view the broard objective of the distribution of the land among the poor landless agricultural labourers, who are the majority in the state. Land is the most valuable, imperishable from which people derive their economic independence, social status and a modest and permanent means of livelihood. Land also assures them of identity and dignity and creates condition and opportunities for realizing social equality. In order to provide the right of the Sovereign people over land, radically different and comprehensive approach shall be required. The inequitable distribution of benefits from the land use and insufficient rehabilitation are leading to enormous dissatisfaction among the affected people. The poor, especially the Scheduled Castes and Scheduled Tribes have been starving for days as they have no land for

cultivation. The grievances of those landless are met adequately through a revisit to a comprehensive land distribution in Kerala. The areas of land unfit for agricultural use are to be reserved for industrial and other non-agricultural purposes, ensuring the public nature. A very clear strategy of creating a large pool of land so that every family's right to land is fully honoured. A just and equitable method of allotting land on a priority basis to the marginalized, the poor and deprived, especially the Scheduled Castes, Scheduled Tribes and the other marginalized communities shall be ensured. We should ensure land and homestead rights to everybody in the society.

India, being a predominantly agricultural society, has a strong linkage between land and social status of an individual. Landlessness is a strong indicator of rural poverty in the state. According to the National Sample Survey Organization (NSSO) data (2003-2004) about 41.63, per centage of households in India do not own land other than homestead. The data also shows that while one third of the households are landless, those near to landless add upto one third more. The next 20 per cent hold less than 1 hector. In other words, 60 per cent of the country's population has right over only 5 per cent of the country's land! Whereas10 per cent of the population has control over 55 per cent of the land. More clearly 1.6 per cent hold 15.21 per cent of land and 0.52 per cent hold 11.77 per cent of country's land! Eventhough our State has implemented Kerala Land Reforms Act 1963 and its effective provisions determining the ceiling limits, the minority hold the lion portion of the State`s Land .The "modern landlords'' could gradually wipe out the provisions and essence of the Act. They as a group succeeded in misinterpreting the provisions through the continuous propagation

against the Act. That was why the cultivating tenants could acquire even thousands of acres overriding the ceiling provisions and the crucial cut off date 01.04.1964, from which tenancy could not be created as per section 74(1) & (2).Now the Government policy focuses on those aspects of land reforms which if implemented in true letter and spirit will have the potential to tilt the balance in favour of the landless and poor. The policy will guide the best utilization of each and every parcel of land ensuring effective distributions of land to landless poor, protecting them from losing their land, restoration of alienated land, effective safeguards for land of the Scheduled Castes and Scheduled Tribes, ensuring Homestead rights, land rights for the women and effective usage of common property resources. Even after the enactment of the KLR Act, 1963 the landlessness or near landlessness among the poor, especially the Scheduled Castes and Scheduled Tribes, is considerable and the demand for land is still being not met. Nomadic communities lead a pitiable existence in today's society. For those nomadic and de-notified tribes who are willing and keen to settle down, the state shall take up a programme on priority to settle them in an area of their choice. Each family, to begin with, shall be given homestead land and in due course the minimum agriculture land.

As the Constitution was originally drafted, the right to property was enshrined as a fundamental right, by the 44th Amendment to the Constitution, the right to property was removed as a fundamental right and instead, a new provision was added to the Constitution i.e. Article 300-A. In view of the special position sought to be given to fundamental rights, the right to property, would cease to be a fundamental right and become only a legal right. It would be ensured that the removal of

property from the list of fundamental rights would not affect the right of minorities to establish and administer educational institutions of their choice. Similarly, the right of persons holding land for personal cultivation and within the ceiling limit to receive compensation at the market value would not be affected. Property, while ceasing to be a fundamental right, would, however, be given express recognition as a legal right, provision being made that no person shall be deprived of his property save in accordance with law. The fundamental rights are to be treated as almost sacred and any trifling with them is bound to create a furore. The right to property is no longer a fundamental right but only a legal right. The ownership and control of the material resources of the community are so distributed as best to sub serve the common good. The operation of the economic system should not result in the concentration of wealth and means of production to the common detriment. Fundamental rights are also one of the essential features of the Constitution and based on the essential features doctrine, any law infringing fundamental rights would be violative. At the time of independence, India was still struggling under the yoke of many oppressive regimes. The chief among them was the Zamindari system which led to exploitation of various poor peasants at the hands of tyrannical landlords. Hence to abolish this system and introduce a series of agrarian reforms in order to achieve the ideal of "Justice – Social, Economic and Political" as enshrined in the preamble of our Constitution, right to property was removed from Part III of our Constitution i.e. Fundamental Rights via the Constitution that "No person can be deprived of his property except by authority of law".

Article 31 of the Constitution of India says about the compulsory acquisition of property. But there is a provision under Article 31A which provides as follows;

> *"Provided further that where any law makes any provision for the acquisition by the State of any estate and where any land comprised therein is held by a person under his personal cultivation, it shall not be lawful for the State to acquire any portion of such land as is within the ceiling limit applicable to him under any law for the time being in force or any building or structure standing thereon or appurtenant thereto, unless the law relating to the acquisition of such land, building or structure, provides for payment of compensation at a rate which shall not be less than the market value thereof".*

The above provision of our Constitution certainly prohibits the acquisition or sale of land above the ceiling limit that has been prescribed by the concerned Land Reforms Act enacted by the states. It is because the real ownership of land is limited to its ceiling limit. Kerala Land Reforms Act, 1963 also stipulated ceiling limit in Section 82. But plantation area has been exempted only for the limited purpose as per section 81. According to Section 83 no person in the state shall be entitled to hold, own or possess land exeeding the ceiling limit. But violating the Contitution and KLR Act land above ceiling limit is being acquired from a single family and, such family sells thousands of acres without being hit by ceiling limit. They nullify the KLR Act, 1963.

After the enacting of the Kerala Agrarian Relations Act, 1960 (Act 4 of 1961), which sought to introduce comprehensive land reforms in this State, Government was in view of the need for a comprehensive and uniform legislation for the entire State. As a result Government came to the conclusion that the Kerala Agrarian Relations Act required amendment in many important respects. Accordingly, the Kerala Land Reforms Bill, 1963 had been drafted. The Government have kept in view the broad objectives of land reforms as laid down by the Planning Commission and the basic aims of the Kerala Agrarian Relations Act. The Bill seeks to confer fixity of tenure on tenants giving, at the same time, a limited right of resumption to landlords. The right of resumption is not available against tenants who were entitled to fixity of tenure immediately before 21.01.1961, unless such a tenant has in his possession land in excess of the ceiling area. The Bill contains provisions enabling the cultivating tenant to purchase the rights of the landowner and intermediaries in the holding. The Bill provides that no tenancy shall be created in respect of any land in future. A tenancy created in contravention of the provisions will be invalid. The Bill provides for imposition of a ceiling on land holdings. Ceiling will be calculated as per Section 82 of the Act.

The Kerala Land Conservancy Act and Rules have been enacted to protect, preserve and conserve the Government land, for the interest of the public, from the unauthorized occupations and encroachments. The Government have every jurisdiction to safeguard the Government land for and on behalf of the public and for the future generation. The availability of public land in the state is very scarce and the demand has been increasing as Kerala is one of the densely populated states in India.

Section 4(1) of the KLC Act, 1957 stipulates as follows;

> ***4(1) "All officers of the Land Revenue Department shall have it as their primary duty to prevent unauthorized occupation of land which fall under any of the descriptions given in the definitions of 'property of Government' and ' puramboke' in Section 3 and Section 4 of the act"***

Hence, all officers are statutorily bound to protect the Government land from encroachments.

Article 296 of the constitution stipulates as following;

296. ***property accruing by escheat or lapse or as bona vacantia:-***

> *Subject as hereinafter provided, any property in the territory of India which, if this Constitution had not come into operation, would have accrued to His Majesty or, as the case may be, to the Ruler of an Indian State by escheat or lapse, or as bona vacantia for want of a rightful owner, shall, if it is property situated in a State, vest in such State, and shall, in any other case, vest in the Union:*
>
> *Provided that any property which at the date when it would have so accrued to His majesty or to the Ruler of an Indian State was in the possession or under the control of the Government of India or the Government of a State shall, according as the purposes for which it was then used or held were purposes of the Union or of a State, vest in the Union or in that State.*

The State of Kerala had filed OP(C) – 3508/11 against M/S Harrisons Malayalam Ltd. Though the Honourable High Court of Kerala have dismissed OP(C) 3508/11 on 09.09.2013, regarding the Constitutional issues under Articles 227 and 228, the Court have made some important observations on the landed property occupied by foreign companies in Kerala. Some of the important observations are quoted below;

> 11. *"At the outset, we may notice what we have now before us is not something new. We say so because, the TLB proceeding, referred to above had led to a civil revision petition under the KLR Act……., As rightly argued by the learned senior counsel appearing for the company, such issue is wholly outside the realm of the TLB proceeding because, no question as to the title of the respondent or the state is or was subject matter of those proceedings. Nor did the TLB have the jurisdiction to enter a finding on any such contention"*

> 12. *"Be that as it may, in so far as Article 296 of the Constitution is concerned, that provision, in its essence, is to the effect that only property that would have accrued by escheat or lapse or as 'bona vacantia' in favor of the predecessor of the Union or any state under the Constitution of India, vest in the appropriate state or the Union as stated in that Article. This is simply the effect of that Constitutional provision. Therefore, if under the law relating to escheat, lapse or the doctrine of bona vacantia, there is any piece or parcel that could have been accounted as accrued to any sovereign power before the coming in to force of the Constitution of India, in the territory to which that Constitution applies, that piece or parcel will come to the union or the state concerned……."*

The above verdicts of the Hon`ble High Court clearly shows that the status of Government property before the enacting of the Constitution sustains as same as after the enacting of the Constitution of India. The land granted by Government or the Government land encroached by the foreign companies before Independence shall come to the custody of the state concerned after the coming into force of the Constitution of India.

According to the Travancore State Manual Vol. III, published by the Travancore Government in 1940, the freehold land is defined as follows;

> *Land that are entirely freehold and exempted from payment of any kind of tax to Government under any circumstances called "FREEHOLD".*

As per the Travancore State Manual, Vol. IV. published by the Government of Travancore in 1940, Periyar Lease Agreement was signed on 29th October 1886 and it begins as follows;

> " ***The Agreement*"**
>
> > " *This INDENTURE made the twenty ninth day of October one thousand eight hundred and eighty–six BETWEEN THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJAH OF TRAVANCORE (hereinafter called the lessor) of the one part and the RIGHT HONOURABLE THE SECRETARY OF STATE FOR INDIA IN COUNCIL of the other part witnesseth that in consideration of the rents hereinafter reserved and……"*

As per the above manual, the agreements of some other Leases are as follows;

(a)"LEASE by the TRAVANCORE DARBAR to the BRITISH GOVERNMENT of the TRIVANDRUM RESIDENCY, - 1910."

> *" This **INDENTURE** made the fifth day of July one thousand nine hundred and ten between the state of Travancore (hereinafter called the lessor) of one part and the right Honorable secretary of state for India in council (hereinafter called the lessee……")*

(a) ***"INDENTURE** concluded between the TRAVANCORE STATE and the secretary of state for INDIA in COUNCIL for the LEASE of land in KORANDAKAD on the HIGH RANGE for a Residency,- 1913."*

> *"This **INDENTURE** made the nineteenth day of December one thousand nine hundred and thirteen between the state of Travancore hereinafter called " the lessor" of the one part and the Right Honorable the secretary of state for India in council hereinafter called " the lessee" (which)……"*

(b) *"AGREEMENT between HIS HIGHNESS THE MAHARAJAH OF TRAVANCORE and the SECRETARY OF STATE FOR INDIA in regard to the revenue administration of LIQUOR, OPIUM SALT, CUSTOMS and FERRIES in the British enclaves of ANJENGO AND TANGASSERI, - 1918."*

> *"This **INDENTURE** made with effect the first day of July one thousand nine hundred and eighteen between the Right Honorable the secretary of state of India in council (hereinafter referred to as the lesser) of the one part and His*

Highness the Maharajah of Travancore (hereinafter called the lessee) of the other part……."

(c) *"SUPPLEMENT to the **INDENTURE** made between the TRAVANCORE STATE and the SECRETARY OF STATE for INDIA in respect of the lease of ……."*
*"Whereas the above **INDENTURE** provides that the lessee shall pay an additional yearly rent of four rupees…."*

The above quoting clearly show that the term " *INDENTURE* " means mere "*agreement*", particularly lease or grant agreement.

As per section 55(1) of the Registration Regulation II of 1087 (ME) :-

" when a document is presented for registration under section 12,the translation shall be transcribed in the Register of documents of the nature of the original, and together with the copy referred to in section 12 shall be filed in the Registration office"

Section 14(1) and 14(2) of the Registration Regulation II of 1087(ME) stipulate as follows:-

Section14(1) *"No non – testamentary document relating to immovable property shall be accepted for registration, unless it contains a description of such property sufficient to identify the same"*

Section 14(2) *"Houses, gardens and paddy field shall be described by their name (if any), survey numbers, area, situation, boundaries, district, sub – district and pakuthy in which they are situated, and by such other particulars shall be suffice for the purpose of identification"*

As per page No. 624 and article No. (494) of **"*Travancore Land Revenue manual Vol. IV"*Sir. T.Madava Rao on his memo on Kanappattom Tenure** states that, *"……..Even in Travancore, any coffee planter, or indeed a ryot who holds land under grant from the sirkar etc. is or may called, a landlord. But such landlords are not `Jenmies`.*

> ***"A jenmie differs from such landlords in that he does not derive his title to land from the sirkar etc. His title to the jenmom land is inherent…..He is landlord of his jenmom domain exactly in the sense in which this `sirkar` is landlord of all the land it grants to planters and indeed to all ryots in general"***
>
> ***"If any person wants land in Travancore, he must obtain it from, and hold it of, someone of the body of Jemmies, ie; from the `sirkar`, which is the chief jenmie, or from some other jenmie".***
>
> ***"Be it remembered that the Government or the sirkar is itself a great jenmie……"***

Rules dated 30th karkidagom 1054 M.E (1879 AD)

(source: Travancore Land Revenue manual VoI - IV)

As Per the above Rule for registering transfers of property and for granting pokkuvaravoo pattayams, in Travancore there were many conditions and restrictions against the Europeans. Some of the important conditions are given below:-

> *"The term `land holder` shall refer to any person liable to the payment of land revenue. Explanation :-*

payment by an agent or by a `pauttakaren` (lessee) will be considered as payment by the proprietor.(c) A "registered land holder" is one who has his name enrolled in the thandapper accounts"

Part III:- *Pokkuvaravoo or Transfer of Registry will be made in the following case:-*

(a)"When a person occupy any land by inheritance, gift, purchase, stridhanam, Ookunthudama, or other settlements, mortgage, redemption, reversion etc mediatory or immediately from a registered land holder."

Explanation:-

"Land in the possession of a pattakaren (lessee) will for the purpose of these rules be considered as occupied by the proprietor or lessor"

Part IV:- (Explains how to apply for transfer of registry or pokkuvaravoo)

Exception:-

"Applications for transfers of registry by Persons who hold land granted by the Government under the rules for this sale of waste land on our hills will not come under these rules"

Part V *"The application should state the village, moonnila, or moori and the povertie in which the land situated, their tenure and revenue number and the assessment on them. It should also state as far as possible (a) the name of the registered land holder*

and (b) how the applicant came in possession of his land or to pay land revenue."

Part VI ***"Applications of Transfers of Registry from Europeans or Americans should be reported for the disposal of the Dewan by the Tahsildar or other officer referred to in rule IV, as it is not competent for such persons to purchase or otherwise acquire landed property in this country without the sanction of our Government."***

The Rules from part III to part VI quoted above show the strong restrictions of *pokkuvaravoo* or transfer of registry prevailed against the Europeans. The Europeans were never allowed to purchase or acquire landed property in the state of Travancore. Leases and grants were not the transfer of ownership or *janmom* right. But they were allowed to hold land under grants with strict conditions. Transfer of Registry or *pokkuvaravoo* in revenue records were not allowed to the English men. These facilities were allowed to the natives or the subjects of the Maharaja who held land under part III a. above. The applications from Europeans or Americans specified in part VI is applicable only for the land explained in part III a. The revised Rules dated 19th kumbhom 1056 ME (1881 AD) were also the same as above.

Rule dated 13th Edavom 1076 ME (1901 AD)
(Trvancore Government Gessette)

Revised Rules for the grant of waste land for cereal cultivation sanctioned by His Highness, the Maharajah on the 26th may 1901 in supersession of those sanctioned on the 4th may 1898.

I. *"waste grass land on the cardamom Hill and periyar Reserves will be granted for cereal cultivation for a period of 12 years to person who have holdings of cardamom land, under the following terms:- ……"*

II. *"At the expiry of 12 years from date of issue of pattam, it shall be competent to Government to renew it at such rate of assessments as Government may fix."*

VII. *Timber required for building purpose will be charged seigniorage at the usual rates (Any exception allowed to Royal Trees)*

XIII. *"No transfer of the holding or any portion thereof shall be valid unless and until it is ratified by Government"*

b. *"If the Muchilika is not executed and the pattah renewed within three months after the expiry of the old pattah, it will be considered that the ryot has abandoned his holding, and Government will dispose of it as they deem fit."*

XV. *"If any ryot contravenes any of the foregoing rules or any other rules which may be passed from time to time, it shall be competent to Government to take over his holding and deal with it in any manner they deem fit."*

XVI. *The superintendent of the cardamom Hills shall exercise the powers of a Division peishkar with respect to the land granted under these rules.*

The revised Rules dated 27th chingom 1078 ME (1903 AD) stipulated the conditions as same as above, but at the expiry of 30 years the Government would revise the assessment rate. And by the notification dated 3rd mithunam 1078 ME (1903 AD), the relinquishment of the entire holdings was permitted.

Notification dated 30th Mithunam 1076 ME (1901 AD) :-

"It is hereby notified, under sanction of His Highness the Maharajah, that para I and clause (c), para II, of the cardamom Land Tax Rules dated 23rd July 1901, published at page 622 of the Gazette of the 7th August 1900, part I, are notified as shown below-

"The whole area of the cardamom tract as per original survey (9635 acres) embraced in the 3 Divisions of Pooppara, Udumpanchola and Vandenmettoo shall be subject to an annual assessment at a uniform rate of British Rupees 6 ¼ per acre till the 32nd Audi 1076. From the first Avany 1077 Government will grant a renewal of the occupancy right for such further period as will make the form one of 12 years from date of registration of occupancy subject to the same assessment of British Rupees 6 1/4 per acres."

The following extracts from the 5th supplement to the *"TRAVANCORE LAND REVENUE MANUAL, VOL.II"* Published on 31.12.1944, clearly show that the Cardomom land in Idukki was Government land leased with strict conditions for a period of 7 to 12 years. Appendix I (pages -170 - 194)

And, the extracts from the 3rd supplement to the "TRAVANCORE LAND REVENUE MANUAL, VOL.II (Published on 15.08.1934) shows the regulations of kuthagapattom lands and trees Appendix II (pages - 195 to 199). The Manual also shows the application forms with the conditions of kuthaga pattom lease in Malayalam language.

GOVERNMENT CAN CANCEL ANY "*KUTHAGAPATTOM*" AGREEMENT WHEN IT THINKS *FIT* AND *THE LESSEE* IS BOUND TO SURRENDER THE LAND WITHOUT ANY CONDITION.

The agreements shown in Appendix III (pages - 200 to 211) show that "*Kuthaga Pattom"* was never a monopoly right on lease land. The interested parties badly defined the term as "Monopoly" only for protecting their interests.

KUTHAKA PATTOM AGREEMENTS.

The Conditions of the agreement are crucial and important. Government can cancel the Kuthaka pattom agreement at any time without notice and can resume the land. There are 3 types of Kuthaka Pattom agreements. Government have right to terminate the Agreement without notice. The lessee has never been allowed the monopoly right on the land under lease. Without any condition or hesitation the lessee

must vacate the land when Government ask him to do so. The Government have every right on its land to resume at any time it pleases. The following old Malayalam version of the above 3 agreements are the solid proofs which show that the Kuthaka Pattom land are owned by the Government of Kerala. Appendix III (pages - 200 to 211)

KUTHAKA PATTOM RULES, 1947.

In 1947 His Highness the Maharajah of Travancore revised rates of the Kuthaka Pattom land. These rules superseded all the existing rules on the subject of Kuthaka Pattom, including the Rules for the grant of the leases of Government land for cultivation contained in G.O. ROC. No. 4848/42/Rev. dt. 28.11.1944.

The relevant extracts from the above rules is given in Appendix IV (pages - 212 to 213)

KUTHAKA PATTOM RULES, 1947 - FORM D.

KUTHAKA PATTOM GRANT.

The agreement shown in Appendix V (pages - 214 to 215) are the revised agreements. But there are no changes in the conditions included in the Malayalam Version of Agreements.

The above facts are to be compared with the Historical **Judgment of the Honorable Supreme Court on 27th April 1972 in writ petition No. 44/1971 filed by Kannan Devan Hills produce company Ltd. against the State of Kerala and another challenging " Kannan Devan Hills (Resumption of Land) Act, 1971 (Kerala Act 5 of 1971)".** By dismissing the above petition the Hon`ble Supreme Court have made some important observations regarding the Government land

in Idukki as well as Kollam. Some of the Supreme Court observations are quoted below,

> *"The petitioner was in possession of an area of approximately 1,27,904 acres, commonly known as the `Concession Area` lying contiguously in the Kannan Devan Hills village. The concession was first given to the predecessor-in-interest of the appellant company in 1877 by the poonjar chief for a consideration of RS 5000/-. After some years a yearly sum of RS 3000/- was to be paid to the rent collector of the chief. In 1879 the Maharajah of Travancore ratified the concession on certain conditions. In 1886 the agreement called `the second poonjar concession` was entered into modifying the previous deed of ratification. A Royal proclamation was made on September 24, 1899 where by the poonjar chief surrendered the propriety rights which had excercised over the tract known as Anjanad and Kannan Devan Hills. According to the petitioner it had all times been holding, cultivating, Enjoying and dealing with the concession land as the absolute owner thereof, with factories in each estate for the manufacture of tea, hospital, quarters, township and shopping centres."*

> *"The Kannan Devan Hill (Resumption of Land) Act 1971 (Kerala Act 5 of 1971) the land agricultural and non – agricultural situated in the Kannam Devan Hills village vested in the Government of Kerala."*

> (II) "*On the material placed before the court it was difficult to resist the conclusion that the land in dispute fell within the expression `jenman right`. It is stated in `Travancore Land Revenue Manual` volume IV, there are no land that do not belong to a jenmam and the `sirkar` becomes a jenmi by escheat,*

confiscation or otherwise. The effect of the royal proclamation of 1899 must be that the sirkar became the jenmi."

(III) *"From the Travancore Land Revenue Manual it would appear that the state grants like kannam Devan Hills concession and Ten square miles concession and Munro land, were treated under the heading `Pandaravaka Land`, ie; land belonging to the sirkar."*

(IV) The three purposes mentioned in S.9 normally,

(1)Reservation of land for promotion of agriculture; (2) reservation of land for the welfare of agriculture population and (3) assignment of remaining land to agriculturists and agricultural labourers, were covered by the expression "agrarian reform" and the legislation was protected from challenge under Art.31-A"

"…. In a sense agrarian reform is wider than land reform…."

"The third object – settlement of agriculturists and agricultural labour is clearly covered by the expression "agrarian reform". The main object of agrarian reforms has been to acquire excess land and settle landless labourers and agriculturists."

"Before we refer to the terms of the second Poonjar concession, we may mention that H.H the Maharajah executed a deed of ratification, dated November 28, 1878, by which the Government ratified the first Poonjar concession dated July II, 1877. This deed of ratification laid down the terms and conditions in regard to Government assessment and other matters under which the Government permitted the grantee to hold the land. These terms and conditions were declared in the

deed to be independent of any rents or payments due to the Poonjar chief under the Grantee`s Agreement with him. Clause 5 of the deed of Ratification is important. It provides, inter alia, that " the grantee can appropriate to his own use within the limits of the grant all timber except the following and such as may hereafter be reserved namely, Teak, Black wood, Ebony, Karoontbaly, Sandal wood; should be carry any timber without the limits of the grant it will be subject to the payment of kuttikanom, or customs duty……"

"The eleventh clause reads:- the land granted shall be held in perpetuity as heritable or transferable property, but every case of transfer of the grant by the grantee shall be immediately made known to the Sirkar, who shall have the right of apportioning the tax, if a portion of the holding is transferred."

"The twelfth clause stipulates: The discovery of useful mines and treasures within the limits of the grant shall be communicated to the Sirkar, and the grantee shall in respect to such mines and treasures, abide by the decision of the sirkar."

"The sixteenth clause provides: The grantee shall be bound to preserve the forest trees growing on the banks of the principal streams…… similarly he shall also be bound to preserve the trees about the crest of the hill to the extent of a quarter of a mile on each side."

"A Royal proclamation was made on September 24, 1899. It recites: where as we deem it expedient to clearly declare the position of this state in respect of the tract known as Anjanad and Kannan Devan Hill, we are pleased to declare as follows:-

(1) *"The tract known as Anjanad and Kannan Devan Hills is an integral portion of our territory and all rights over it belong to and vest in us."*

(2) *"The inhabitants of the said tract and all others whom it may concern are hereby informed and warned that they are not to pay any taxes, rent or dues, or make any other payment to the Poonjar chief or his representatives or to any person other than an officer of our Government authorized on this behalf….."*

(3) *"The land within the said tract will be dealt with by our Government in the same manner as land in other parts of our territory……. The occupants has been or may be recognized or confirmed by our Government, and of such portions of the said tract as may from time to time hereafter, with the permission of our Government, be occupied, to the officers of our Government who may be authorized in this behalf."*

"According to the Land Revenue Manual (Vol. III, pt. 1, page 9): This proclamation was the outcome of an arrangement made the Government, with the Poonjar chief for the surrender of certain proprietary rights which he had been exercising over the tract known as Anjanad and Kannan Devan Hills."

"We have set out these facts in detail because it will be necessary to appreciate the significance of the documents in order to decide the question whether these land fall within expression `Janmam right` in article. 31A of the Constitution. According to the petitioner it has at all times been holding, cultivating, enjoying and dealing with the concession land as the absolute owner thereof. The petitioner further alleges that it has established 23 tea estates, with factories on each for the manufacture of tea, hospitals, quarters and township, and

shopping centers and is employing approximately 18,500 persons for the running of the said estates. The break – up of the area of 1,27,904 acres was given as follows……"

"*We may now notice the provisions of the impugned Act. The preamble reads as follows:-*

Whereas the land comprising the entire revenue village of Kannan Devan Hills in the Devikulam Taluk of the Kottayam district had been given on lease by the Poonjar chief to late Mr. John Daniel Munro of London and Peerumede on the 11th day of July, 1877 for coffee cultivation;

And whereas the right, title and interest of the lesser had been assumed by the former Government of Travancore;

And whereas by such assumption the land have become the property of the former Government of Travancore. And whereas the Government of Kerala have become the successor to the former Government of Travancore;……."

"section 3 may be set out in full:-3. Vesting of possession of certain land: (1) Not withstanding anything contained in any other law for the time being in force, or in any contract or other document, but subject to the provision of sub – section (2) and (3), with effect on and from the appointed day, the possession of all land situate in the Kannan Devan Hill village in the Devikulam Taluk of the Kottayam district shall stand transferred to and vest in the Government free from all encumbrances, and the right, title and interest of the lessees and all other persons, including rights of mortgagees and holders of encumbrances in respect of such land, shall stand extinguished."

"It will be noticed that what the section vest in the Government is not only agricultural land but all land situated in the Kannan Devan Hills village in the Devikulam Taluk of the Kottayam District. It extinguishes the rights of the lessees and other persons and vests the land in the state"

"It thus appears that the state grants like Kannan Devan Hills concession and Ten square Miles concession, and munro land, were treated under the heading `pandaravaka land`, ie; land belonging to the Sirkar."

"The third object – settlement of agriculturists and agricultural labourer, it seems to us is clearly covered by the expressions " agrarian reforms". The main object of agrarian reforms has been to acquire excess land and settle landless labourers and agriculturists.

We are accordingly of the opinion that the three purposes the first two reads as we have indicated are covered by the expression " agrarian reform" and the legislation is protected from challenge by Art.31A.

In the result the petition fails and is dismissed, but there will be no order as to costs"

The above quoted Supreme Court Judgment has established that the entire land in Kannan Devan Hills village in Devikulam Taluk in Idukki District and Ten square Miles in the present Aryankavu and Thenmala villages in pathanapuram taluk in Kollam District are Government land.

The Travancore Land Revenue Manual, Vol. II (3rd supplement published on 15.8.1934) shows the letter of Sri. K. George, the Chief

Secretary to Government of Travancore, to the Land Revenue & Income Tax Commissioner. The copy of the letter is given in Appendix VI (page 216 to 218)

The above letter of the Chief Secretary to the Land Revenue and Income Tax Commissioner definitely shows that all the estate maps now available at the Centeral Survey Office were prepared by the agency appointed by the British Companies in Kerala. Those estate maps prepared by the companies like M/S Malayalam Plantation (UK) Ltd, KDHP Company, Anglo American Company, Peermadu Tea Company, Travancore Rubber & Tea Company, East India Tea Company etc were not the maps prepared by Government Surveyors. But the estate maps are used as official maps. The illegal occupants of those estates abandoned by the English Company now use these estate maps as official maps and produce the copies to various authorities including various courts to claim their right on the land. The Central Survey Authority issues such maps as official maps, which had never been approved by the Erstwhile Government of Travancore, Cochin or Malabar. The above letter points out the Ceylon licensed surveyors as the agents of the foreign company, M/S Malayalam Plantations (UK) Ltd, who prepared their estate maps without the consent or approval of the Government of Travncore. Those estate maps are never the official maps of Government of Kerala.

The above letter clearly proved that the indenture 1600/1923 of SRO quilon was fabricated by the English Companies with false survey numbers which started from 875 on wards, because Government had not yet initiated any proceedings till 07.02.1931 (AD) or 25.6.1106 (ME) to survey the unassessed 10 Sq. miles concession area in old pathanapuram

pakuthi in Quilon District. The Estate maps were prepared by the *"Ceylon licensed surveyors"* which could not be accepted to the Government of Travancore. The above letter is a solid proof which shows M/S Malayalam Plantations (UK) Ltd was holding the 10 Sq. miles concession area freehold as grant of Government.

Stringent rules with strict conditions existed at the time of foreign occupation relating to grants & lease agreements, particularly regarding grant of land for the cultivation of coffee, tea, cardamom, grant of grass land, sale of waste land, lease agreements, edavaga lands etc. It is seen that most of the land occupied by British companies were either through these grants or lease agreements, having a definite time period. It has been mentioned in these grants that every case of transfer of land shall be made known to the Sirkar, as one of the condition. The renewal of lease was one of the conditions stated in lease agreement. Further it has been clearly stated that the violation of any conditions shall result in forfeiture and retaining of land by the Sirkar. It is seen that these lands obtained by virtue of grant or lease from the government were sold and transferred to others by the British on a large scale in gross violation of these agreements and deeds.

Many of such rules and agreements made during the period would be worthwhile for more reference. The relevant extracts of those from Travancore Land Revenue Manual are also included in this report as Appendix VII to XIX (pages 219 to 309)

Hiding these realities indentures were created depicting huge extents of Government lands as belonging absolutely to the English company without expressly specifying as to how these lands were obtained by the foreign companies.

A Land Board Proceedings, which determines the ceiling area, exempted area and surplus land area, is not a title to property. TLB or Land Board has no jurisdiction to decide the titles to the immovable property. The Hon`ble High court judgments in this regard have been quoted at the beginning of these proceedings.

THE FINDINGS THAT SHOW WHY THE LAND IN KANNAN DEVAN HILLS (KDH) VILLAGE IS GOVERNMENT LAND.

There had been 4 *'Edavagais'* under the Erstwhile Government of Travancore. They were the *Edavagais of Edappally Swaroopam, Kilimanoor Kottaram, Poonjar Koickal and Vanjipuzha Madom.* Those Edavagais were holding many villages or huge extent of land that were entirely *freehold* and exempted from payment of any kind of tax to Government under any circumstances. Of the 4 Edavagais, the Poonjar Koickal had been given freehold right in the Edavagai village of Poonjar in Meenachil Taluk. Kannan Devan and Anjanad Hills were being held by the Poonjar Koickal as part of their freehold land.

On 11.7.1877, the Edavagai Chief of Poonjar, Kerala Varma Valiya Raja, executed a Deed in favour of Mr. John Daniel Munroe, a coffee planter, in consideration of Rs 5000/- and an annual payment of rent of Rs 3000/- on an extent of 227 Sq. miles (Nearly 1,45,280 Acres) in the Kannan Devan Hills. As the Europeans and Americans were not allowed to hold immovable properties in the State of Travancore without

the permission of the Government of the Maharajah, the foreigner, Mr. John Daniel Munroe submitted an application before the Maharajah of Travancore to give permission to hold the land granted by the Poonjar Chief. On 28.11.1878 a deed of ratification was executed by the Diwan of Travancore on behalf of the Maharajah. But the transfer of grant by the grantee had to be immediately made known to the *"Sirkar."*

On 26.07.1879 another Deed known as "the Second Poonjar Concession" was executed between the Poonjar Chief and Mr. John Daniel Munroe. On 08.12.1879 the said J.D. Munroe transferred his right in the granted land to *the North Travancore Land Planting and Agricultural Society Ltd.* With some modifications in extent and rent the Government of Travancore again ratified the Deed on 02.08.1886.

As the chief of Poonjar had no '*Jenmom'* right on the Concession Area he surrendered the *'jenmom'* right to the Government of Travancore. Then the Maharajah of Travancore issued the Royal Proclamation on 24.09.1899 and declared inter alia that the tract known as Anjanad and Kannan Devan Hills are the integral part of the territory of the Maharajah and that all rights over it belong to and vest in the Government of Travancore.

There was an indenture dated 16.07.1900 between the said 'North Travancore Land Planting and Agricultural Society Ltd' and 'the Kannan Devan Hills Produce Co. Ltd'. The new company by an indenture dated 06.4.1936 transferred a portion of the concession land (Devikulam Estate) to the Anglo American Direct Tea Trading Company Ltd. All the above companies had been the foreign companies registered in the U.K

On 21.12.1976 the Anglo American Direct Tea Trading Company Limited, a company registered under the companies Act of the United Kingdom and having its Registered office at Hellenic House, 87 – 97 Bath Street, Glasgow G2 2EZ, Scotland, transferred 5,250.60 Acres to Tata – Finlay Limited, a company incorporated under the Indian Companies Act, 1956. For this transfer a Deed of Transfer was registered in the Sub Registrar Office, Devicolam as No. 380/1977, dated 18.04.1977. And, the consideration of sale was for Rs 34,82,864/-. The payment was in such a way that the Vendor was to be allotted 80,000 equity shares of the purchaser company worth Rs 8,00,000/- and for the remaining amount of Rs 26,82,864/- credit should be given to the vendor in the Books of the purchaser company as holder of an unsecured loan carrying simple interest at the rate of 5% per annum. In short there was not a dealing of any money.

And, on the same day of 21.12.1976 the Kannan Devan Hills Produce Company Limited, a company registered under the companies Act of the United Kingdom and having its Registered Office at Hellenic House, 87 – 97 Bath Street, Glasgow, G2 2EZ, Scotland transferred 95,783.94 Acres including the area measuring 57,235.57 Acres, which had been exempted by the State Land Board in 1974 after the enactment of the Kannan Devan Hills (Resumption Of Land) Act, 1971, to Tata – Finlay Limited, a company registered under the Indian Companies Act, 1956. And, the Deed of Transfer was registered as document No. 381/1977, dated 18.4.1977. The consideration of sale was for Rs. 1,58,41,825/-. From this amount Rs 38,95,000/- was to be paid for 3,89,500 equity shares allotted to the vendor in the capital of the purchaser company and for the remaining amount of Rs1,19,46,825/-

credit should be given to the vendor in the Books of the purchaser as holder of an unsecured loan carrying simple interest at 5% per annum. There also was not any dealing with money.

Another document No. 3704/1994 was registered on 31.10.1994 in the office of the Sub Registrar, Devicolam between 'The Anglo American Direct Tea Trading Co. Ltd'. a company registered under the companies Act of the United Kingdom and having its Registered Office at Hellenio House, 87 – 97 Bath Street, Glasgow G2 282, Scotland and 'Tata Tea Limited' a company incorporated under the companies Act, 1956. The document says that the registration was for effecting some corrections in the Deed No. 380/1977, dated 18.04.1977 which had been executed by the two companies in 1977. In this document the name of Tata Finlay Limited was changed into Tata Tea limited.

On 22.07.2005 a lease Deed No. 2434/2005 was executed by Tata Tea Ltd in favour of 'Kannan Devan Hills Plantations Company Private Limited'. Through this deed Tata Tea Ltd transferred 1721.59 Acres to the new company. And, the land was included in the document No. 380/1977 dated 31.12.1976. In the same year another Lease Deed No. 1280/2005 dated 30.3.2005 was executed by Tata Tea limited in favour of Kannan Devan Hills Plantations Company Private Limited and transferred 57,250.10 Acres equivalent to 23,168.80 Hectares. This land was included in the Deed No. 381/1977, dated 18.04.1977.

Travancore state manual Vol. III published by the Travancore Government in 1940, the jenmom land are divided into three classes. The class first is as given below:-

1. ***Land that are entirely freehold and exempted from payment of any kind of tax to Government under any circumstances, called "FREEHOLD".***

Under the first class are comprised:-

(1).The kilimanoor adhikaram belonging to the Koil Thampuran.

(2).The desoms of the Edappally Raja outside Edappally proper or Edappally Edavakay – Changanassery, Karthikapplly and Thiruvalla.

(3).The desoms of Punjat Perumal (Minachil).

(4).The desoms belonging to Vannippula Pandarathil (Chengannur).

The above mentioned Edavagais are Kilimanur, Edapally, Poonjar and Vanjipuzha, whose rights had been acquired by the Government of Kerala in 1955 through The Edavagai Rights Acquisition Act, 1955.

The Edavagai Rights Acquisition Act, 1955.
(Act xxvi of 1955)

Published in the Gazette Extra ordinary of T.C. No.69.dated 31th December 1955. An Act to provide for the acquisition or extinguishment of Edavagai rights. The Act stipulates the followings:-

Preamble: ***"Where as it is necessary, in the public interest, to acquire or extinguish all the Edavagai rights over the Edavagais of Edappally, Kilimanoor, Poonjar and Vanjipuzha, Vested respectively in the Edapally swaroopam, the Kilimanoor Kottaram, the Poonjar Koickal and Vanjipuzha madom;"***

1. *Short title, extent and commencement:-*

   (1) This Act may be called the Edavagai Rights Acquisition Act 1955.

   (2) It extends to the whole of the state of Travancore – cochin

   (3) *It shall come in to force on the Ist day of January 1956.*

2. Definitions:-

   (1) ***`Edavagai of Edapally`*** *means the Edavagai Estate of Edapally swaroopam comprising the freehold land in the Edavagai villages of (a) Edapally north in Parur Taluk (b) Edapally south in parur taluk (c) Kunnapuzha in Karthikapally taluk (d)Kallooppara in Thiruvalla Taluk (e)Vazhakulam in Kunnathunadu taluk, recognized as such in the revenue accounts and not owned by Government.*

   (2) ***`Edavagai of Kilimanoor`*** *means the Edavagai Estate of Kilimanoor Kottaram comprising the freehold land in the Edavagai village of (a) Pazhayakunnumel in Chirayinkil Taluk (b) Kilimanoor in Chirayinkil recognized as such in the revenue account and not owned by Government*

   (3) ***`Edavagai of poonjar`*** *means the freehold land of Poojar Koickal in the edavagai village of Poojar in Meenachil Taluk, recognized in the revenue accounts and not owned by Government.*

(4) ***`Edavagai of Vanjipuzha`*** *means the freehold land of the Vanjipuzha matom comprised in the Edavagai village of (a) cheruvally in Changanacherry Taluk, (b) Chirakkadavu in Changanacharry Taluk, and Peruvanthanam in Peerumedu Taluk, recognized as such in the revenue accounts, and not owned by Government.*

(5) *`Edavagai rights` means all the rights and privileges vested in ……their respective Edavagais*.

3. Acquisition or Extinguishment of Edavagai rights:-

(1) On and from the commencement of this Act, the privileges of the Edapally Swaroopam and the Poonjar Koickal relating to Excise Revenue of the Edavagais of Edappally and Poonjar shall stand Extinguished.

(2) All the Edavagai Rights of the Edappally swaroopam and Poonjar Koickal other than mentioned in sub – section (1) and the Edavagai rights of the Kilimanoor kottaram and the Vanjipuzha Madom over their respective Edavagais, and all rights, title and interest vested in the chiefs, in respect of Waste land or Thanathu land which have been assigned by them on Kuttagapattom or other demises and all rights, title and interests vested in the chiefs in respect of waste land or Thanathu land which have not been assigned by them are hereby acquired by Government, and all the rights, title and interests shall be vest in Government free of all encumbrances.

4. Compensation*:[1]The compensation payable by the Government to the Edavagais for the extinguishment of their privileges mentioned in sub section [1] of section 3, shall be the amount as specified in the schedule.*

5. Compensation payable for the extinguishment of privileges :-

(1) …….

(2) The amount of compensation retained by Govt…….

6. Compensation payable for the acquisition of Edavagai rights etc:-

7. ……..

THE SCHEDULE
(see Section 4)

			Rupees
1	***(a)***	***Compensation to the Edappally Swaroopam for the extinguishment of the privileges mentioned in sub – section (1) of Section 3.***	***2,20,000***
	(b)	***Compensation to the Edappally Swaroopam for the acquisition of the rights, title and interests mentioned in sub-section (2) of Section 3.***	***5,25,000***
2	***(a)***	***Compensation to the Poonjar Koickal for the extinguishment of the privileges mentioned in sub-section (1) of Section 3.***	***150***
	(b)	***Compensation to the Poonjar Koickal for the acquisition of the rights, title and interests mentioned in sub-section (2) of Section 3.***	***5,47,714***

3	***Compensation to the Kilimanoor Kottaram for the acquisition of the rights, title and interests mentioned in sub-section (2) of Section 3.***	***2,56,475***
4	***Compensation to the Vanjipuzha Matom for the acquisition of the rights, title and interests mentioned in sub-section (2) of Section 3.***	***4,16,358***

After the ***`I$^{st}$ pooniat concession,`*** **dated 11.07.1877 and** ***`II$^{nd}$ pooniat concession`*** **dated 26.07.1879** the Government of Kerala, after the independence, passed ***the Edavagai rights acquision Act of 1955***, in which the Government again acquired all and every rights of Poonjar Koickal and their assignees, even if His Highness of Maharaja of Travancore acquired the rights of the Edavagai of poonjar in 1879.

Before passing the Edavagai Rights Acquisition Act of 1955, an Articles of Agreement was registered in SRO Kanjirappally as doc. No. 4581/1955 date 15.10.1955 between Uzhuthirar – Uzhuthirar, the Chief of Vanjipuzha Madom and other family members as the one part and His Highness the Raj Pramukh of the State of Travancore – Cochin referred to as the Government as the other part. The agreement included the terms and conditions of the compensation which was to be paid by Government to the madom and portion of amount which was to be retained by Government etc. Even still the Government have been rendering financial assistance to the living members of all Edavagais at the rate of the present Value of money. The reality is surprising because

on one side the Government have been paying compensation to the living members of all the Edavagais whose rights had been acquired by Government in 1955, and on the other side the estates and land possessed by the Edavagais have now been occupied, sold and being enjoyed all the fruits without any obstacle using the name of British companies! For example the Government have passed the ordinance No.19 of 2005 ie: the Edavagai Rights Acquisition (Amendment) Ordinance, 2005 for redetermining the cash annuity and interest payable to the members of *Edavagais*. And, by authorizing Sri – Avitam Nal P.R. Rama Varma Raja of Poonjar Koickal to receive the quarterly payment of interest on Trust Funds as the senior most member, Government have issued G.O(MS) No.121/83/RD dated 04.02.1983.

For determining the compensation payable to the Koickal, on 18.11.1955 an Articles of Agreement was also registered in SRO, Poonjar as doc. No. 2744/1955, between the Poonjar Koickal Hindu Kshathriyas (82 members and their minors) and His Highness the Rajapramukh of the State of Travancore – Cochin referred to as the Government. These documents show that all the Estates and properties held by the Vanjipuzha madom and Poonjar Koickal were acquired by the Government of Kerala by giving compensation. In this sense the Government was purchasing the rights of the immovable properties including various Estates, which are now illegally occupied by various companies by forging documents or indentures and revenue records.

The first and fourth conditions of **the agreement No. 2744/1955 dated 29.12.1955** are quoted below:-

(*1*) *"The compensation payable by the Government for the acquisition of all the Edavagai Rights of Koickal, including*

the rights and privileges in respect of land revenue and the rights in respect of tharavila and thadivila on unsettled land, and the right to make assignments of thanathu land and also the right to collect – Melvaram in respect of land situate within the Edavagai shall be Rupees 5,47,714 and 9 annas."

(4) *"Without prejudice to the right of the Government under the provisions of the Estates Rent Recovery Act IV of 1068, and the Edavagai Act III of 1109 the Koickal authorities the Government to collect from the tenants of the Koickal the rents and other dues payable by such tenants to the Koickal,* ***under contract or otherwise, in respect of the Edavagai land, with effect from the 1st January 1956, and the chief or any other member of the Koickal shall have no manner of right to make such collections."***

The above articles of Agreements were made on 18.11.1955 and registered on 29.12.1955 at SRO Poonjar. **Sri B.V. K. Menon, the Chief Secretary to Travancore - Cochin Government,** for and on behalf of His Highness the Rajpramukh on one side and the Chief & other 81 members were on the other side for executing the registration.

The first condition of the articles of agreement made on 15.10.1955 and registered as No. 4581/1955 in SRO Kanjirapally is given below:-

(*1) " The compensation payable by the Government for the acquisition of all the Edavagai Rights of the Matom including the rights and privileges in respect of land revenue, the rights in respect of Tharavila and Thadivila if any on*

unsettled land, and the right to make assignments of Thanathu land shall be Rupees 4,16,358/"-

The above articles of Agreements were made on 15.10.1955 and registered on 27.12.1955 at SRO Kanjirapally. Sri B.V. K. Menon, the Chief Secretary to Travancore - Cochin Government, for and on behalf of His Highness the Rajpramukh on one side and the Chief, Uzhuthirar Uzhuthirar & other members of Vanjipuzha Matom were on the other side for executing the registration. The above two agreements were completed before passing the Edavagai Rights Acquisition Act of 1955.

Government have also passed Act 32 of 2007, The Edavagai Rights Acquisition (Amandment) Act, 2007 for re - estimating the life time cash annuity of the Chief and members of the *Edavagais*. The living Chiefs and members have been applying to Government for getting more and more interest and annuity till date.

The compensation to Poonjar Koickal for the extinguishment of the privileges mentioned in sub section (1) of Section 3 was Rs 150/- and the compensation for the acquisition of the right, title and interests mentioned in sub section (2) of Section 3 was Rs 5,47,714/-. And, the Government of Kerala have been paying cash annuity and interest payable to the members of the Edavagais ever since the acquision of their rights in freehold land in 1956. After the passing of the 'Edavagai Rights Acquisition Act, 1955' no Edavagais, including Poonjar Koickal has authority in the freehold land. Hiding these realities some descendants of Poonjar Rajah instituted a suit O.S.No. 37/2005 before the Munsiff`s Court, Devikulam against M/S Tata Tea Limited seeking to restrain the said company from transferring its holding as proposed. After the passing of the Indian Independence Act, 1947 the agreement

between foreign company/citizen and the Erstwhile Government of Travancore has no validity. All the foreign companies involved in the land in KDH village had been registered in the United Kingdom as per the companies Act of that country.

As per subsection 5 of section 6 of the Indian **Independence Act 1947,**

> ***"No order in council made on or after the appointed day under any Act passed before the appointed day, and no order, rule or other instrument made on or after the appointed day under any such Act by any United Kingdom Minister or authority, shall extend, or be deemed to extend, to either of the new Dominions (India and Pakistan) as part of the law of that Dominion"***

And, subsection (1) (b) of section 7 stipulates as follows,

> ***"the suzerainty of His Majesty over the Indian states lapses, and with it, all treaties and agreements in force at the date of the passing of this Act between His majesty and the rulers of Indian states, all functions exercisable by His Majesty at that date with respect to Indian states, all obligation of His Majesty existing at that date towards Indian states or the rulers thereof and all powers, rights, authority or jurisdiction exercisable by His Majesty at that date in or in relation to Indian states by family, grant, usage, sufferance or otherwise; and"***

The above Section 6(5) and 7(1)(b) of the Indian Independence Act, 1947 have prohibited the applicability of any of the Acts and Rules of the United Kingdom including the companies Acts of that country in India. In short after the Independence we have our own Acts and Rules and we are Independent but not dependent on British Rule – After the

Independence a foreign company, who abandoned their business in India, was not able to assign or sell the land in free India in 1977.

The Anglo American Direct Tea Trading Company Limited, a company registered under the Companies Act of the United Kingdom and having its registered office at Hellenic House, 87 – 97 Bath Street, Glasgow, G2 2EZ, Scotland illegally and without the permission of the Reserve Bank or the Central Government, assigned and sold 5,250.06 acres of land to Tata Finlay Limited vide document No. 380/1977 dated 18.04.1977 through the Sub Registry Office, Devicolam in Idukki. And, another document No. 381/1977 dated 18.04.1977 was executed between another foreign company, the Kannan Devan Hills Produce Company limited, a company registered under the Companies Act of the United Kingdom and having its Registered Office at Hellenic House, 87 – 97 Bath Street, Glasgow, G2 2EZ, Scotland and the said Tata – Finlay Limited, an Indian Company. The foreign company transferred 95,783.94 Acres of land to the Indian company. After the Indian Independence, the foreigners illegally intruded in to the sovereign India and forged the documents mentioned as Deed Nos.380/1977 and 381/1977. Those two foreign companies were registered in the United Kingdom and situated at the office under the same roof in Scotland. The above foreign companies were not the existing foreign companies in India, registered under any of the prior Indian companies Acts of 1866, 1882, 1913 or the Registration of Transferred Companies Ordinance, 1942. But they had always been registered in the united Kingdom as per the Companies Act of that country. After Independence foreign Acts cannot be implemented in India.

As per **Companies Act, 1956 [Act No 1 of 1956]** the foreign companies could not be registered in India. This fact is stipulated in section 3 of the Act as follows:-

> ***3. DEFINITIONS OF "COMPANY", "EXISTING COMPANY", "PRIVATE COMPANY" AND "PUBLIC COMPANY"***
>
> *3(1) (i) "Company" means a company formed and registered under this Act or an existing company as defined in clause (ii)*
>
> *(ii)"existing company" means a company formed and registered under any of the previous companies laws specified below:-*
>
> *(a) any Act or Acts relating to companies in force before the Indian companies Act, 1866 (10 0f 1866), and repealed by that Act;*
> *(b) the Indian Companies Act, 1866 (10 of 1866);*
> *(c) the Indian Companies Act, 1882 (6 of 1882);*
> *(d) the Indian Companies Act, 1913 (7 of 1913);*
> *(e) the Registration of Transferred Companies Ordinance, 1942 (54 of 1942); and*
> *(f) any law corresponding to any of the Acts or the Ordinance aforesaid and in force*

The Ordinance of 1942, dated 08.09.1942, referred to as 3 (1) (ii) (e) above is summarized as follows:-

> ***ORDINANCE No. LIV OF 1942-*** *" WHEREAS an emergency has arisen which makes it necessary to provide for enabling companies incorporated by or under the law in force in certain*

parts of His Majesty`s dominions outside British India to continue to operate effectively by removal to British India;"

1. *(1) "This Ordinance may be called the Registration of Transferred Companies Ordinance, 1942.*

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *(1) If the Central Government is satisfied as respects any company incorporated by or under the law in force in any Dominion ……being exercised by His Majesty`s Government in the United Kingdom, that is expedient for any of the purposes specified in sub section (1) of Section 2 of the Defence of India Act, 1939, to exercise the powers conferred on the Central Government by this Ordinance, the Central Government may by order direct that the company shall be registered under and in accordance with this Ordinance by a Registrar of companies in British India, and, subject to the provisions of this Ordinance, where such a company is so registered, it shall, except so far as the order of the Central Government otherwise provides, be treated for all purposes as if it were a company incorporated under the Indian Companies Act, 1913, and registered under that Act (Act VII of 1913) in British India and not elsewhere".*

(3) The Central Government may make Rules –

(b)imposing upon registrars of companies under the Indian Companies Act, 1913, such duties in respect of the keeping of registers, Books and other documents relating to the companies so registered as may be specified in the Rules……..

……
….."

Linlithgow, Viceroy & Governor General.

The above foreign companies illegally forged 2 major documents consisting of 1,01,034 Acres of land in KDH Village. The documents of 1977 clearly say that the companies are registered in the United Kingdom. And, again one of the above the foreign companies registered another document No. 3704/1994, dated 31.10.1994 in the name of rectifications. Nobody knew the intruding of the foreigners in the free India asif we are being ruled by the British. As per section 591 and 592 of the Indian Companies Act, 1956 the restrictions on foreign companies in the Indian Soil is as follows;

As per Part XI Companies incorporated outside India and Section 591 of the Indian Companies Act 1956:-

> ***591. Application of Sections 592 to 602 to foreign companies.***
>
> > *(1) (a) Companies incorporated outside India which, after the commencement of this Act, establish a place of business with in India; and*
> >
> > *(b) Companies incorporated outside India which have, before the commencement of this Act, established a place of business within India and continue to have an established place of business within India at the commencement of this Act.*

As per Section 592 of the Companies Act 1956:-

> *592. Documents, etc., to be delivered to Registrar by foreign companies carrying on business in India*
>
> *(1)* ***Foreign companies which, after the commencement of this Act, establish a place of***

business within India shall, within [thirty days] of the establishment of the place of business, deliver to the Registrar for Registration-

The 2 foreign companies, the Anglo American Direct Tea Trading Company Limited and. The Kannan Devan Hills produce Company Limited were, unlawfully and violating our Constitution, running their business in free India. They were violating the various provisions of the Foreign **Exchange Regulation Act of 1947. As per Section 18A of the Act of 1947;**

"Restriction on appointment of certain companies and firms as agents or technical advisers in India – Without prejudice to the provisions of Section 21 and not withstanding anything contained in any other provision of this Act, a company (other than a banking company) which is not incorporated under any law in force in India or which is controlled directly or indirectly by persons resident outside India, or any branch or office of any such company in India, or a firm consisting wholly or in part of persons resident outside India, shall not accept appointment as

(a) agent in India of any person, company or firm in the trading or commercial transactions thereof, or

(b) technical or management adviser in India of any person, company or firm, except with the general or special permission of the Central Government or the Reserve Bank; and where such appointment is accepted without such permission, it shall be void.

The company neither produced the special permission obtained from the Central Government nor the Reserve Bank of India as per the Foreign Exchange Regulation Act 1947.

As per Section 18A of the Act the sales documents of 1977 are null and void. The Foreign Exchange Regulation Act, 1947, as amended by Act 8 of 1952, section 18(3A) provided that any transfer of interest in any business in India is not valid till such time it is confirmed by Reserve Bank, on application made to it. Under Section 18(3B), no transfer shall be made to such company without permission of the Reserve Bank. Section 18A provided that accepting appointment of any foreign company as agents of such foreign company or its branch, without the permission of the Reserve Bank or central Government, will be void. The provisions contained in Section 18(A) of 1947 Act are contained in Section 28(1) and (2) of the foreign Exchange Regulation Act, 1973.

As per **Foreign Exchange Regulation Act, 1973** restrictions on the appointment of certain persons and companies as agents is stipulated in Section 28 (1) and 28 (2) as follows:-

> ***28(1)*** *Without prejudice to the provisions of Section 47 and notwithstanding anything contained in any of other provision of this Act or the Companies Act, 1956, a person resident outside India (whether a citizen of India or not) or a person who is not a citizen of India but is resident in India, or a company (other than a banking company) which is not incorporated under any law in force in India or any branch of such company, shall not, except with the general or special permission*

of the Reserve Bank act, or accept appointment, as agent in India or any person or company, in the trading or commercial transactions of such person or company, or

(2) Where any such person or company (including its branch) as is referred to in subsection (1) acts or accepts appointment as such agent, without the permission of the Reserve Bank, such acting or appointment shall be void.

For all these years the companies have been violating the above provisions of FERA 1973. The companies have not obtained any permission from the Reserve Bank of India for all the functions it had performed till date. The companies have not produced any copies of such permissions granted by the R.B.I. before any forum.

As per Foreign Exchange Regulation Act, 1973 the provisions of prior permission of Reserve Bank required for practising profession, etc. in India by nationals of foreign state is stipulated in Section 30 (1).

30.(1) No national of a foreign state shall, without the previous permission of the Reserve Bank, practise any profession or carry on any occupation, trade or business in India in a case where such national desires to acquire any foreign exchange (such foreign exchange being intended for remittance outside India) out of any moneys received by him in India by reason of practising of such profession or the carrying on of such occupation, trade or business, as the case may be.

As per Foreign Exchange Regulation Act, 1973 restriction on acquisition, holding etc., of immovable property in India is stipulated in Section 31(2).

> ***31.(2) No person who is not a citizen of India and no company (other than a banking company) which is not incorporated under any law in force in India shall, except with the previous general or special permission of the Reserve Bank, acquire or hold or transfer or dispose of by sale, mortgage, lease, gift, settlement or otherwise any immovable property situate in India:***
>
> ***Provided that nothing in this subsection shall apply to the acquisition or transfer of any such immovable property by way of lease for a period not exceeding 5 years.***

The companies have violated all the provisions of Section 28 & Section 30 and section 31 of the FERA 1973 by holding immovable property in the State of Kerala and selling more than 1 lakh acres of Government land without the prior permission obtained from the RBI.

Agent, as per the explanation includes a company or its branch also. Further, Section 31 provides that holding of any immovable property shall be with the permission of the Reserve Bank. The companies have never produced the permission granted under section 31(2) of FERA, 1973 other than Section 29(2) which allow to continue its business in India, on conditions stipulated. Section 30 of the Act provides that no foreign national shall, without the previous permission of the Reserve Bank practice any profession or carry on any occupation,

trade or business in India. They were to get permission in order to hold immovable properties and any of their acts as an agent or branch of foreign company in India. The land holdings and transferring without permission were void in the light of the provisions contained in 1947 and 1973 of the Act. Under the provisions contained in sections 596 to 603 of the Indian Companies Act, 1956, they were to furnish return before the Registrar of companies at New Delhi as well as with the Registrar at the place of business. The above foreign companies have nothing to produce as proof as they have obtained nothing as stipulated in the above section 28, 30 and 31 of FERA 1973. ***The coming into effect of FERA, 1973 tempted the foreign companies to transfer its assets, illegally acquired in India, to the Binami Company, 'Tata – Finlay Limited' without accepting a single Rupee as sales price. It is evident from the history posted in their networks as follows;***

> ***"In 1976, as a result of FERA, the James Finley Group of Companies entered into an agreement with the Tatas in India, forming the Tata – Finley Limited, which in the year 1983 was fully acquired by the Tatas…."***

Before the enacting of FERA, 1973 the Erstwhile Government of Travancore issued the Royal Proclamation, dated 24th September 1899, declaring inter alia that the tract known as Anjanad and Kannan Devan Hills were the properties of the Government of Travancore. Since 1899 the property has been vested in the Government. After this proclamation and after Independence, the newly formed Government of Kerala enacted 2 important legislations. The first was ***The Edvagai Rights***

Acquisition Act of 1955 and the second was The ***Kannan Devan Hills (Resumption of Land) Act, 1971.*** As per the Act of 1955, the new Government was acquiring all the freehold rights of Poonjar Koickal on the land granted by the Maharajah of Travancore by giving compensation of Rs 5,47,864/- in 1955. Knowingly or unknowingly the enactment of the Act of 1955, the Government of Kerala enacted another legislation in 1971 for vesting all rights and title of Anjanad and Kannan Deven Hills in Government. ***The Royal Proclamation of 1899, The Edavagai Rights Acquition Act of 1955 and The Kannan Devan Hills (Resumption of Land) Act,1971 are the concrete proofs which show that the above land is pucca Government land.***

Again as per Article 296 of the Constitution:-

> 296. Property accruing by escheat or lapes or as bona vacantia.-
>
> *Subject as hereinafter provided, any property in the territory of India which, if this Constitution had not come into operation, would have accrued to His Majesty or, as the case may be, to the Ruler of an Indian State by escheat or lapse, or as bona vacantia for want of a rightful owner, shall, if it is property situate in a State, vest in such State, and shall, in any other case, vest in the Union:*
>
> *Provided that any property which at the date when it would have so accrued to His Majesty or to the Ruler of an Indian State was in the possession or under the control of the Government of India or the Government of a State shall, according as the purposes*

of which it was then used or held were purposes of the Union or of a State, vest in the Union or in the State.

The Anglo American Company and the KDHP Company were holding the Government land before Independence. Those companies have never registered in India as per any prior companies Act of 1956. Therefore those foreign companies Registered in the United Kingdom were not the existing companies in India after Independence. After the passing of the Independence Act, 1947, the Act and Rules of the foreign countries could not be effected in India. Therefore the Companies Acts of the United Kingdom had no application in free India. Before or after the Independence in 1947 the British Companies abandoned the land and they left India. Absolutely they abandoned the right of cultivation in Government land. Those abandoned Government land granted by the Erstwhile Government of Travancore had been vested in Independent India and as per Article 296 of the constitution of India the right and title of the property has been vested in the Government of Kerala. This is the truth and reality. The constitution provides equal justice to every citizen of India. The Multinational Corporations are not beyond the constitution of India and the various laws enacted by the Government of Kerala in 1955 and 1971.

The Deed Nos. 380/1977 and 381/1977 dated, 18.04.1977 shamelessly says as follows;

"In terms of the Exchange Control Act, 1947 and of Section 482 of the Income and Corporation Taxes Act, 1970 of the United Kingdom the consent of the Bank of England and Her Majesty`s Treasury in the United Kingdom has been obtained by the vendor for sale of the undertaking including

the entire assets and liabilities in India of the Vendor as aforesaid."

The foreign company sought permission of the British Government. The foreign companies had not sought the permission of the Reserve Bank of India or the Government of India under FERA, 1947 or 1973. ***They neglected the freedom of India. They had sought and acquired the permission of Her Majesty of the United Kingdom to sell 1,01,034 Acres in Kerala, one of the States of the Indian Union, which is a Sovereign Republic.***

As per Section 51A, 51B, 72(1) and 86(4) of the Kerala Land Conservancy Act, 1963 all leasehold land have been vested in the Government of Kerala. Now there arise only the question of the fixity of tenure under Section 13 which were being allowed to the cultivating tenants of Kerala. At the crucial cutoff date 01.4.1964, the above companies were registered in the United Kingdom based on that country`s Companies Act. The preamble of the KLR Act,1963 envisages that the Act extends to the whole State of Kerala. The Act does not extend even to the neighboring States of Kerala. Therefore the Act cannot be extended to the United Kingdom to declare the companies of that nation as the cultivating tenants of Kerala. Really the landless poor citizens of Kerala are the cultivating tenants. As per Section 86 (6) of the Kerala Land Reforms Act, the Government can implement KLC Act, 1957 to vacate the unauthorized occupations in the KDH village. It is because the land is under Explanation I and II of Section 3 of the KLC Act.

The next question is whether a foreign company is entitled to any benefit under the KLR Act, 1963. Section 2 of the KLR Act defines

'cultivate' and 'tenant' in subsections 7 and 57 respectively. The definition of 'person' becomes relevant in this context, which is defined as follows:

> *"2(43). 'person' shall include a company, family, joint family, association or other body of individuals, whether incorporated or not and any institution capable of holding property."*

Thus a company whether incorporated or not comes under the definition of 'person'. But can that be a company incorporated in Scotland in the United Kingdom under English Companies Act? Company is defined in the Indian Companies Act, 1956 under subsection 10 of Section 2, to mean a company as defined in Section 3 as follows;

> ***"2.(10) 'company' means a company defined in Section3;***
>
> ***3. Definitions of "company" "existing company", "Private company" and "public company" – (1) In this Act, unless the context otherwise required the expressions "company" "existing company", "Private company" and "public company" shall subject to the provisions of sub – section (2), have the meanings specified below-***
>
> *(i) "company" means a company formed and registered under this Act or an existing company as defined in clause (ii)*

(ii) "existing company" means a company formed and registered under any of the previous companies laws specified below

(a) Any Act or Acts relating to companies in force before the Indian Companies Act, 1866 and repealed by that Act;

(b) The Indian Companies Act, 1866;

(c) The Indian Companies Act, 1882;

(d) The Indian Companies Act, 1913;

(e) The registration of Transferred Companies ordinance, 1942 and

(f) Any law corresponding to any of the Act or the Ordinance aforesaid and in force-

(1) In the merged territories or in a Part B State (other than the State of Jammu & Kashmir), or any part thereof, before the extension thereto of the Indian Companies Act, 1913; or

(2) In the State of Jammu and Kashmir, or any part thereof, before the commencement of the Jammu and Kashmir (Extension of Laws) Act, 1956 [in so far as banking, insurance and financial corporations are concerned, and before the commencement of the Central Laws (Extension to Jammu and Kashmir) Act, 1968, in so far as other corporations are concerned"

It is an admitted fact that the Anglo American Company and KDHP Company were the companies incorporated under English (Consolidation) of Companies Act, and registered in Scotland in the U.K. It is not one registered under any of the Companies Act mentioned in section 3(2) and hence does not come under the definition of "existing company". Therefore it cannot be reckoned as a company as envisaged

in the definition of 'person' in Section 2(43) of the KLR Act. In this view, it can be seen that as on 01.4.1964 and as on 01.01.1970 when the provisions in KLR Act, 1963 came into force and till the Tata – Finlay (India) Ltd. incorporated under the Indian Companies Act was formed, the land on leasehold and freehold grants and claimed to have fixity of tenure were held by the foreign companies which do not come under the definition of a ***'Company'*** as defined under the Indian Companies Act. Therefore such companies will not come under the definition of 'person' under Section 2(43) of the KLR Act.

Now arises the question of exemption granted for an extent of 57,359.14 acres to the foreign company by the State Land Board on 29.03.1974 after the enactment of the Kannan Devan Hills (Resumption of Land) Act,1971. Government was resuming 1,37,424.02 acres of Government land. Plantation were given exemption. Such exemption was to be given to the planters of Kerala. As per Section 4 of the Act of 1971, the State Land Board was given authority for the restoration of possession of Lands in certain cases. The Land Board was to exempt the land necessary for the ancillary purposes of the plantations under Section 2(44) of the KLR Act, 1963. The State Land Board is a statutory Authority acting under Sections 100 and 101 of the KLR Act. On 29.3.1974 The State Land Board was giving exemption for an extent of 57,359.14 acres of plantation under Sections 81(1)(e) and 2(44) of the Act. Certainly the KDH (Resumption of Lands) Act,1971 have authorised the State Land Board to implement KLR Act on the occupants of the Concession Area whether they held plantations or other Dry Land. But illegally and after the stipulated time of 60 days from the date of publication of the Act of 1971, the State Land Board granted

exemption for an extent of 57,359.14 acres of land on 29.3.1974 to a foreign company registered in the United Kingdom. The story behind the delay about 4 years throws light to another fraud committed by the foreign company. Kannan Devan Hill Produce Company Ltd had filed Writ Petition No. 44/1971 against the Kannan Devan Hills (Resumption of Land) Act, 1971 in the Hon`ble Supreme Court of India. On 27.4.1972 the Apex Court dismissed the petition holding the concession land was Government Land. The judgment is still in force as nobody has challenged it. The Hon`ble Apex Court has held that the legislation is protected under "agrarian reforms". But the judgment has not yet been executed. The landless poor remain as landless in the State. The land to be reached in the hands of the landless poor had been plundered by the companies including the foreign companies in the name of British invasion in Kerala. After failing in W.P. No. 44/1971, the KDHP Company, slowly turned to the KDH (Land Resumption) Act and using the company`s influence in Revenue Department illegally obtained the exemption under KLR Act for an extent of 57,359.14 acres in 1974. This exemption is invalid under KLR Act because the company was a foreign company.

Illegally obtained 57,359.14 acres in 1974 had not satisfied the foreign companies. In 1977 they, with the sanction of Her Majesty of the United Kingdom, forged 2 documents viz, 380/1977 and 381/1977 and sold 1,01,034 acres to their Binami company, Tata – Finlay Limited for zero amount as selling price because all amounts were adjusted as expenses for equity shares and the balance for unsecured loan for simple interest. Everybody blinks his/her eyes on the above forgery. Even the legislations enacted by the Government of Kerala have no effect on

these foreign companies. How dare they sold 1,01,034 acres in Kerala after the Government acquired the above lands through 2 enactments**,** ***the Edavagai Rights acquisition Act, 1955 and the Kannan Devan Hills (Resumption of Lands) Act, 1971.*** Every Indian has to think against the invasion of the British Companies in Kerala in 1977 to assign the Indian soil!

The delay in unearthing the forgery and fraudulent activities of foreign companies is not an excuse to permit them to continue such activities in free India. The Hon`ble Supreme Court of India in Appeal (Civil) No. 3535/2006, dated 18.8.2006, filed by Sri. Hamza Haji against the State of Kerala and Another, observe as follows;

> *10.It is true, as observed by De Grey, C.J., in Rex Vs. Duchess of Kingston [2 Smith L.C. 687] that: "'Fraud' is an intrinsic, collateral act, which vitiates the most solemn proceedings of courts of justice. Lord Coke says it avoids all judicial acts ecclesiastical and temporal".*
>
> *In Kerr on Fraud and Mistake, it is stated that: "in applying this rule, it matters not whether the judgment impugned has been pronounced by an inferior or by the highest Court of Judicature in the realm, but in all cases alike it is competent for every Court, whether superior or inferior, to treat as a nullity any judgment which can be clearly shown to have been obtained by manifest fraud."*
>
> *In paragraph 269, it is further stated, "Fraud or collusion in obtaining judgment is a sufficient ground for opening or vacating it, even after the term at which it was rendered, provided the fraud*

was extrinsic and collateral to the matter actually or potentially in issue in the action.

It is also stated:

"Fraud practiced on the court is always ground for vacating the judgment, as where the court is deceived or misled as to material circumstances, or its process is abused, resulting in the rendition of a judgment which would not have been given if the whole conduct of the case had been fair."

13.The law in India is not different. Section 44 of the Evidence Act enables a party otherwise bound by a previous adjudication to show that it was not final or binding because it is vitiated by fraud. The provision therefore gives jurisdiction and authority to a court to consider and decide the question whether a prior adjudication is vitiated by fraud. In paranjipe Vs. Kanade [ILR 6 BOMBAY 148], it was held that it is always competent to any Court to vacate any judgment or order, if it be proved that such judgment or order was obtained by manifest fraud. In Lakshmi Charan Saha Vs. Nur Ali [ILR 38 CALCUTTA 936], it was held that the jurisdiction of the Court in trying a suit questioning the earler decision as being vitiated by fraud, was not limited to an investigation merely as to whether the plaintiff was prevented from placing his case properly at the prior trial by the fraud of the defendant. The Court could and must rip up the whole matter for determining whether there had been fraud in the procurement of the decree.

14.In Manindra Nath Mittra Vs. Hari Mondal [24 Calcutta Weekly Notes 133], the Court explained the

elements to be proved before a plea of a prior decision being vitiated by fraud could be upheld. The Court said "with respect to the question as to what constitutes fraud for which a decree can be set a side, two propositions appear to be well established. The first is that although it is not permitted to show that the Court (in the former suit) was mistaken, it may be shown that it was misled, in other words where the Court has been intentionally misled by the fraud of a party, and a fraud has been committed upon the Court with the intention to procure its judgment, it will vitiate its judgment. The second is that a decree cannot be set aside merely on the ground that it has been procured by perjured evidence."

The Court went on to observe that the High Court in that case was totally in error when it stated that there was no legal duty cast upon the plaintiff to come to the Court with a true case and prove it by true evidence. Their Lordships stated, " The courts of law are meant for imparting justice between the parties.

One who comes to the court, must come with clean hands. We are constrained to say that more often than not, process of the Court is being abused. Property grabbers, tax evaders, Bank loan dodgers, and other unscrupulous persons from all walks of life find the court-

Process a convenient lever to retain the illegal-gains indefinitely. We have no hesitation to say that a person, whose case is based on falsehood, has no

right to approach the Court. He can be summarily thrown out at any stage of the litigation".

"No judgment of a Court, no order of a minister, can be allowed to stand if it has been obtained by fraud. Fraud unravels everything."

16.According to Story`s Equity jurisprudence, 14th Edn., Volume 1, paragraph 263:

"Fraud indeed, in the sense of a Equity, properly includes all acts, omissions, and concealments which involve a breach of legal or equitable duty, trust, or confidence, justly reposed, and are injurious to another, or by which an undue and unconscientious advantage is taken of another."

Although, negligence is not fraud, it can be evidence of fraud."

21.We thus confirm the decision of the High Court and dismiss these appeals with costs. We hope that this judgment will act as an eye opener to the Forest Tribunals and the High Court exercising appellate jurisdiction in dealing with claims……

The following points show how the properties in KDH village held by the English companies are the properties vested in the Government of Kerala.

- Properties held by the KDHP company & Tata Tea limited are Government properties coming under the purview of Explanation 1 and 1A of the KLC Act;

- The predecessors in interest of the above companies were foreign companies registered under English Consolidation of Companies Act, and not a company as defined under Indian Companies Act;
- Consequent to the Indian Independence Act the properties held by foreign companies got vested in Government under Article 296 of the constitution of India;
- Foreign company did not have jenmam right over the properties held by it; admittedly all those properties were either leasehold land or freehold land on grant, which got vested in Government under Section 51A, 51B,72 and 86(4) of KLR Act;
- The foreign company did not get permission from Reserve Bank under FERA, 1947 and 1973 to continue the business or to hold immovable property; certificates under Section 29(2) alone are produced;
- Foreign company does not get any benefit under KLR Act; it is not entitled to get fixity of tenure;
- Foreign company does not come under the definition of tenant or cultivating tenant;
- KLR Act is intended for the benefit of the landless poor in the State of Kerala and not to foreign company;
- The judgments and orders rendered without considering these aspects are not binding;
- The state Land Board has not adjudicated the title over the land;

- Indenture Nos. 380/1977 and 381/1977 Devicolam are concocted, fabricated document;
- By virtue of Edavagai Rights Acquisition Act, the land held on lease from it got vested in Government and further holding of those lands by lease is unauthorised;
- The judgments and orders were rendered on account of the fraud played by the petitioners and their predecessors in interest and fraud nullifies all such judgments and orders;
- Huge extent of Government land which is to be distributed to the landless in the depressed class of the State, grabbed by the foreign company is held by the present occupants in KDH village;
- Jenmam right over the properties held on grant from Maharaja of Travancore vested in Government;

The legislature of KLR Act has not envisaged a situation where in foreign companies are able to enjoy the benefits available to the landless cultivating tenants in the country for fixity of tenure or to avail the benefit of exemption to hold such huge extent of land without being hit by the ceiling provisions. The above foreign companies produced nothing to show permission under Section 31 or Section 18 before the formation of the Indian Companies as Tata – Finlay Ltd or Tea Tea Limited in 1978 or in 1994. The foreign companies cannot be considered as a person and they cannot even be considered as an institution capable of holding property, as on the date on which the provisions contained in the KLR Act, 1963 came into force, within the

meaning of those terms under the KLR Act read with the provisions of FERA when, even acting as an agent of a foreign company even through its branch was void. Once it is found that the foreign lessees or companies cannot be treated as a *person* coming under the purview of the KLR Act, the present occupants, who claim to be the successors in interest of those foreign companies, are not eligible to get any exemptions under KLR Act. All the above land in KDH village is the land of the Government of Kerala and the properties come under the purview of Section 3 and its Explanations of the KLC Act. The unauthorized occupants have to be subjected to Section 7 of (as amended in 2009) the KLC Act, 1957.

Section 3 of THE KANNAN DEVAN HILLS (RESMPTION OF LAND) ACT, 1971

(Act 5 of 1971) dated 21/01/1971, stipulates as follows;

> *3."Vesting of possession of certain land – (1) Notwithstanding anything contained in any other law for the time being in force, or in any contract or other document, but subject to the provisions of sub sections (2) and (3), with effect on and from the appointed day, the possession of all land situate in Kannan Devan Hills village in the Devicolam taluk of the Kottayam District shall stand transferred to and vest in the Government free from all encumbrances and the right, title and interest of the lessees and all other persons including rights of mortgagees and holders of encumbrances, in respect of such land, shall stand extinguished."*

MORE ABOUT EDAVAGAI LANDS

Travancore state manual Vol. III published by the Travancore Government in 1940, the jenmom land are divided into three classes. The class first is as given below:-

> ***2. Land that are entirely freehold and exempted from payment of any kind of tax to Government under any circumstances, called "FREEHOLD".***
>
> *Under the fist class are comprised:-*
>
> *(2).The kilimanoor adhikaram belonging to the Koil Thampuran.*
>
> *(3).The desoms of the Edappally Raja outside Edappally proper or Edappally Edavakay – Changanassery, Karthikapplly and Thiruvalla.*
>
> *(4).The desoms of Punjat Perumal (Minachil).*
>
> *(14).The desoms belonging to Vannippula Pandarathil (Chengannur).*

The above mentioned Edavagais are Kilimanur, Edapally, Poonjar and Vanjipuzha, whose rights had been acquired by the Government of Kerala in 1955 through The Edavagai Rights Acquisition Act, 1955.

The Edavagai Rights Acquisition Act, 1955.

(Act xxvi of 1955)

Published in the Gazette Extra ordinary of T.C. No.69.dated 31th December 1955. An Act to provide for the acquisition or extinguishment of Edavagai rights. The Act stipulates the followings:-

> **Preamble:** ***"Where as it is necessary, in the public interest, to acquire or extinguish all the Edavagai rights over***

the Edavagais of Edappally, Kilimanoor, Poonjar and Vanjipuzha, Vested respectively in the Edapally swaroopam, the Kilimanoor Kottaram, the Poonjar Koickal and Vanjipuzha madom;"

8. Short title, extent and commencement:-

(4) This Act may be called the Edavagai Rights Acquisition Act 1955.

(5) It extends to the whole of the state of Travancore – cochin

(6) *It shall come in to force on the Ist day of January 1956.*

9. Definitions:-

(6) ***`Edavagai of Edapally`*** *means the Edavagai Estate of Edapally swaroopam comprising the freehold land in the Edavagai villages of (a) Edapally north in Parur Taluk (b) Edapally south in parur taluk (c) Kunnapuzha in Karthikapally taluk (d)Kallooppara in Thiruvalla Taluk (e)Vazhakulam in Kunnathunadu taluk, recognized as such in the revenue accounts and not owned by Government.*

(7) ***`Edavagai of Kilimanoor`*** *means the Edavagai Estate of Kilimanoor Kottaram comprising the freehold land in the Edavagai village of (a) Pazhayakunnumel in Chirayinkil Taluk (b) Kilimanoor in Chirayinkil recognized as such in the revenue account and not owned by Government*

(8) ***`Edavagai of poonjar`*** *means the freehold land of Poojar Koickal in the edavagai village of Poojar in Meenachil*

Taluk, recognized in the revenue accounts and not owned by Government.

(9) ***`Edavagai of Vanjipuzha`*** *means the freehold land of the Vanjipuzha matom comprised in the Edavagai village of (a) cheruvally in Changanacherry Taluk, (b) Chirakkadavu in Changanacharry Taluk, and Peruvanthanam in Peerumedu Taluk, recognized as such in the revenue accounts, and not owned by Government.*

(10) *`Edavagai rights` means all the rights and privileges vested in ……their respective Edavagais*.

10. Acquisition or Extinguishment of Edavagai rights:-

(3) On and from the commencement of this Act, the privileges of the Edapally Swaroopam and the Poonjar Koickal relating to Excise Revenue of the Edavagais of Edappally and Poonjar shall stand Extinguished.

(4) All the Edavagai Rights of the Edappally swaroopam and Poonjar Koickal other than mentioned in sub – section (1) and the Edavagai rights of the Kilimanoor kottaram and the Vanjipuzha Madom over their respective Edavagais, and all rights, title and interest vested in the chiefs, in respect of Waste land or Thanathu land which have been assigned by them on Kuttagapattom or other demises and all rights, title and interests vested in the chiefs in respect

of waste land or Thanathu land which have not been assigned by them are hereby acquired by Government, and all the rights, title and interests shall be vest in Government free of all encumbrances.

11. Compensation*:[1]The compensation payable by the Government to the Edavagais for the extinguishment of their privileges mentioned in sub section [1] of section 3, shall be the amount as specified in the schedule.*

12. Compensation payable for the extinguishment of privileges :-

(3) …….

(4) The amount of compensation retained by Govt…….

13. Compensation payable for the acquisition of Edavagai rights etc:-

14. ……..

THE SCHEDULE

(see Section 4)

			Rupees
1	***(a)***	***Compensation to the Edappally Swaroopam for the extinguishment of the privileges mentioned in sub – section (1) of Section 3.***	***2,20,000***

	(b)	***Compensation to the Edappally Swaroopam for the acquisition of the rights, title and interests mentioned in sub-section (2) of Section 3.***	***5,25,000***
2	***(a)***	***Compensation to the Poonjar Koickal for the extinguishment of the privileges mentioned in sub-section (1) of Section 3.***	***150***
	(b)	***Compensation to the Poonjar Koickal for the acquisition of the rights, title and interests mentioned in sub-section (2) of Section 3.***	***5,47,714***
3		***Compensation to the Kilimanoor Kottaram for the acquisition of the rights, title and interests mentioned in sub-section (2) of Section 3.***	***2,56,475***
4		***Compensation to the Vanjipuzha Matom for the acquisition of the rights, title and interests mentioned in sub-section (2) of Section 3.***	***4,16,358***

The Land Revenue Manuals of Travancore shows that the freehold land were not taxable land. All the Edavagai land were freehold land which had been exempted from land tax by the Maharajahs of Travancore. But the freehold right given on such land has been acquired

by the Government of Kerala as per the Edavagai Rights Acquisition Act 1955. Thus the Government of Kerala have resumed the freehold land from Edavagais.

11. After the **`*I^st^ pooniat concession,*` dated 11.07.1877 and `*II^nd^ pooniat concession*` dated 26.07.1879** (as specified in paragraph No.15 Kannan Devan Hills and concession area relating to Poonjar Koickal), the Government of Kerala, after the independence, passed ***the Edavagai rights acquision Act of 1955***, in which the Government again acquired all and every rights of Poonjar Koickal and their assignees, even if His Highness of Maharaja of Travancore acquired the rights of the Edavagai of poonjar in 1879.

Before passing the Edavagai Rights Acquisition Act of 1955, an Articles of Agreement was registered in SRO. Kanjirappally as doc. No. 4581/1955 dated 15.10.1955 between Uzhuthirar – Uzhuthirar, the Chief of Vanjipuzha Madom and other family members as the one part and His Highness the Raj Pramukh of the State of Travancore – Cochin referred to as the Government as the other part. The agreement included the terms and conditions of the compensation which was to be paid by Government to the madom and portion of amount which was to be retained by Government etc. Even still the Government have been rendering financial assistance to the living members of all Edavagais at the rate of the present Value of money. The reality is surprising because on one side the Government have been paying compensation to the living members of all the Edavagais whose rights had been acquired by Government in 1955, and on the other side the estates and land possessed by the Edavagais have now been occupied, sold and being

enjoyed all the fruits without any obstacle using the name of a British company! For example the Government have passed the ordinance No.19 of 2005 ie: the Edavagai Rights Acquisition (Amendment) Ordinance, 2005 for redetermining the cash annuity and interest payable to the members of *Edavagais*. And, by authorizing Sri – Avitam Nal P.R. Rama Varma Raja of Poonjar Koickal to receive the quarterly payment of interest on Trust Funds as the senior most member, Government have issued G.O(MS) No.121/83/RD dated 04.02.1983.

For determining the compensation payable to the Koickal, on 18.11.1955 an Articles of Agreement was also registered in SRO, Poonjar as doc. No. 2744/1955, between the Poonjar Koickal Hindu Kshathriyas (82 members and their minors) and His Highness the Rajapramukh of the State of Travancore – Cochin referred to as the Government. These documents show that all the Estates and properties held by the Vanjipuzha madom and Poonjar Koickal were acquired by the Government of Kerala by giving compensation. In this sense the Government was purchasing the rights of the immovable properties including various Estates, which are now illegally occupied by the objector company & its assignees by forging documents or indentures and revenue records.

The first and fourth conditions of **the agreement No. 2744/1955 dated 29.12.1955** are quoted below:-

(*1*) *"The compensation payable by the Government for the acquisition of all the Edavagai Rights of Koickal, including the rights and privileges in respect of land revenue and the rights in respect of tharavila and thadivila on unsettled land, and the right to make assignments of thanathu land*

and also the right to collect – Melvaram in respect of land situate within the Edavagai shall be Rupees 5,47,714 and 9 annas."

(4) *"Without prejudice to the right of the Government under the provisions of the Estates Rent Recovery Act IV of 1068, and the Edavagai Act III of 1109 the Koickal authorities the Government to collect from the tenants of the Koickal the rents and other dues payable by such tenants to the Koickal, under contract or otherwise, in respect of the Edavagai land, with effect from the 1st January 1956, and the chief or any other member of the Koickal shall have no manner of right to make such collections."*

The above articles of Agreements were made on 18.11.1955 and registered on 29.12.1955 at SRO Poonjar. **Sri B.V. K. Menon, the Chief Secretary to Travancore - Cochin Government,** for and on behalf of His Highness the Rajpramukh on one side and the Chief & other 81 members were on the other side for executing the registration.

The first condition of the articles of agreement made on 15.10.1955 and registered as No. 4581/1955 in SRO Kanjirapally is given below:-

(*1) " The compensation payable by the Government for the acquisition of all the Edavagai Rights of the Matom including the rights and privileges in respect of land revenue, the rights in respect of Tharavila and Thadivila if any on unsettled land, and the right to make assignments of Thanathu land shall be Rupees 4,16,358/"*-

The above articles of Agreements were made on 15.10.1955 and registered on 27.12.1955 at SRO Kanjirapally. Sri B.V. K. Menon, the Chief Secretary to Travancore - Cochin Government, for and on behalf of His Highness the Rajpramukh on one side and the Chief, Uzhuthirar Uzhuthirar & other members of Vanjipuzha Madom were on the other side for executing the registration. The above two agreements were completed before passing the Edavagai Rights Acquisition Act of 1955.

Government have also passed Act 32 of 2007, The Edavagai Rights Acquisition (Amandment) Act, 2007 for re - estimating the life time cash annuity of the Chief and members of the *Edavagais*. The living Chiefs and members have been applying to Government for getting more and more interest and annuity.

The Hon`ble High court in its judgment in WP(c) Nos. 14251/2012 and 213/2013 dated 28.02.2013, have declared as follows:-

> *"One thing is certain; even if land are covered by orders issued by the Land Board in a ceiling case, if the Government were to contend specifically that the land are Government land or are land which the Government are entitled to reach at, through the process of the LC Act, it would be within the jurisdiction of the competent statutory authority to initiate action. This is because, title to property is not what is decided in the Land Board proceedings in a ceiling case as between the declarant and the state, though such issues may be germane while exemptions or identification of excess, are to be decided by the Land Board, as between the declarant and other parties appearing before the Land Board. If the Government have the case that the paramount title to the land rests with them, they would be at liberty to initiate action in accordance with law"*

From the above verdict it is clear that the Taluk Land Boards have no jurisdiction to determine the title to property. The proceedings No TLB (SW) 37/81 dated 2/7/82 was related to the ceiling case of M/S Malayalam Plantations (UK) Ltd. In KLR Act, there were no provisions to initiate ceiling case against a foreign company in 1972. And, no foreign company can enjoy the benefit of Kerala Land Reforms Act 1963. More than everything exemption under section 81 of the Kerala Land Reforms Act 1963 is not a title to property as observed by the Hon`ble High Court in the judgment in WP(C) - 14291/12 & 213/2013 dated 28/02/2013. In the same issue, the Hon`ble High Court in another verdict No OP(C) 3508/11 dated 09.09.2013, have observed as follows:-

> *"At the outset, we may notice what we have now before us is not something new. We say so because, the TLB proceeding, referred to above had led to a civil revision petition under the KLR Act……., **As rightly argued by the learned senior counsel appearing for the company, such issue is wholly outside the realm of the TLB proceeding because, no question as to the title of the respondent or the state is or was subject matter of those proceedings. Nor did the TLB have the jurisdiction to enter a finding on any such contention"***

The foreign companies like M/S Malayalam Plantations (UK) Ltd, Kannan Devan Hills produce Company (UK) Ltd or the Anglo American Company were illegally running their business in India violating the provisions of the Foreign Exchange Regulation Acts of 1947 & 1973, Independence Act 1947, Kerala Land Reforms Act, 1963 and the Article 296 of the Constitution of India. How can a foreign company assign the soil of India after the Indian Independence without

the permission of the Reserve Bank of India and the Union Government?.

As per **section 18A of the Foreign Exchange Regulation Act 1947** :-

> *"Restriction on appointment of certain companies and firms as agents or technical advisers in India – Without prejudice to the provisions of Section 21 and not withstanding anything contained in any other provision of this Act, a company (other than a banking company) which is not incorporated under any law in force in India or which is controlled directly or indirectly by persons resident outside India, or any branch or office of any such company in India, or a firm consisting wholly or in part of persons resident outside India, shall not accept appointment as –*
>
> *(b) agent in India of any person, company or firm in the trading or commercial transactions thereof, or*
>
> *(b) technical or management adviser in India of any person, company or firm,*
>
> *except with the general or special permission of the Central Government or the Reserve Bank; and where such appointment is accepted without such permission, it shall be void.*

The Foreign companies neither produced the special permission obtained from the Central Government nor the Reserve Bank of India as per the Foreign Exchange Regulation Act 1947. And, the ceiling return filed for Harrisons & Cross field (UK) Limited in 1972, as per Kerala Land Reforms Act 1963, was illegal and the ultimate violation of Section 18A of the Foreign Exchange Regulation Act 1947. And, M/S Malayalam Plantations (UK) Ltd, registered in England under the English Companies (Consolidation) Act 1908, situated at Great Tower

Street, London EC. were not permitted to run their business in India. The exemption granted under section 81(e) of the Kerala Land Reforms Act to those foreign companies like Kannan Devan Hill Produce Company (UK) Ltd, the Anglo American Company, M/S Harrisons Cross Field Company (UK) Ltd, M/S Malayalam Plantation (UK) Ltd etc are null and void as those companies had never been registered in India on the crucial cut off date of 01.04.1964 stipulated in the Act. The State Land Board illegally exempted more than 57,000 acres from the ceiling provisions of the Act in favour of the British Company, M/S Kannan Devan Hills Produce Company (UK) Ltd. And, more than 59,000 had been exempted in favour of M/S Malayalam Plantations (UK) Ltd.

As per subsection 5 of section 6 of the Indian Independence Act 1947,

> *"No order in council made on or after the appointed day under any Act passed before the appointed day, and no order, rule or other instrument made on or after the appointed day under any such Act by any United Kingdom Minister or authority, shall extend, or be deemed to extend, to either of the new Dominions (India and Pakistan) as part of the law of that Dominion"*

And, subsection (1) (b) of section 7 stipulates as follows,

> *"the suzerainty of His Majesty over the Indian states lapses, and with it, all treaties and agreements in force at the date of the passing of this Act between His majesty and the rulers of Indian states, all functions exercisable by His Majesty at that date with respect to Indian states, all obligation of His*

Majesty existing at that date towards Indian states or the rulers thereof and all powers, rights, authority or jurisdiction exercisable by His Majesty at that date in or in relation to Indian states by family, grant, usage, sufferance or otherwise; and"

The above sections 6(5) and 7(1) (b) of the Indian Independence Act have Prohibited the applicability of the English Companies (Consolidation) Act of 1908 in India. *"Malayalam Plantations (UK) Limited"* and the KDHP Company Ltd, the Anglo American Company Ltd ect were running their business in India under the above said Act of the United Kingdom. After the Indian Independence, the holding of huge extent of land in Kerala under the guise of English Companies (Consolidation) Act of 1908 was illegal as per the Indian Independence Act of 1947 passed by the United Kingdom itself.

The Land Tribunals have misinterpreted the provisions of the Kerala Land Reforms Act 1963 in favour of the foreign companies. The Land Tribunals forged the Purchase Certificate without jurisdiction. The cultivating Tenant should be at least an Indian. As per section 13(ii), 53(ii) and 72 B (1) (a) and (b) the maximum extent under fixity of tenure for a cultivating tenant to purchase his right is within the ceiling limits as specified under section 82. As per section 82(5) an institution is to be considered as " *a person"* for fixing the ceiling limits. The forgery can be seen from the number of Purchase Certificates issued and the huge extents contained in the Purchase Certificates by neglecting, intentionally and deliberately, the provisions of the KLR Act. After the crucial date of 01.04.1964, tenancy cannot be created. If created, they are null and void ab initio. This facts are stipulated in section 74 (1) and

74 (2) of the Act. A family or an institution is subjected to only one time in the process of fixity of tenure under section 13.

ARTICLE 296 OF THE CONSTITUTION OF INDIA IS AS FOLLOWS;

> ***296. Property accruing by escheat or lapse or as bona vacantia****.- Subject as hereinafter provided any property in the territory of India which, if this Constitution had not come into the operation, would have accrued to His Majesty or as the case may be, to the ruler of an Indian State by escheat or lapse, or as bona vacantia for want of a rightful owner, shall,if it is property situate in a State, vest in such State, and shall, in any other case, vest in the Union:*
>
> *Provided that any property which at the date when it would have so accrued to His Majesty or to the Ruler of an Indian State was in the possession or under the control of the Government of India or the Government of a state shall, according as the purposes for which it was then used or held were purposes of the Union or a State, vest in the Union or in that State.*
>
> *Explanation.- In this article, the expressions "Ruler" and "Indian State" have the same meanings as in article 363.*

As per section 3(1) (Viii) of chapter II of the KLR Act, the provisions regarding Tenancies, there is no tenancy right on Plantations exceeding 30 acres in extent. And, how can a foreign company be a cultivating tenant in Kerala? How can M/S Harrisons Malayalam Ltd, Tata Finlay Ltd, Tata Tea Ltd established in 1984, 1977 and 2005 respectively be the cultivating tenants before the cut off date 01.04.1964?

The company, M/S HML had produced the copy of judgment in RFA **No 336/2011.**

The observations of the Hon`ble High Court in Judgment No.RFA. 336/2011, dated 31.01.2013 are in favour of the Government.

The important observations are quoted below;

> *7.Section 3 of the Kerala Land Reforms Act falls in chapter II of the said Act. It deals with exemption. Section 3 (i)(Viii) provides that nothing in the chapter shall apply inter alia to tenancies in respect of Plantations exceeding thirty acres in extent: there is a proviso which we need not refer to. Section 13 of the Act provides for fixity of tenure in favour of tenants. Section 72 of the Act which also falls in chapter II provides inter alia as follows:-*
>
> *"72. Vesting of landlord`s rights in Government.- (1) on a date to be notified by the Government in this behalf in the Gazette, all right, title and interest of the land owners and intermediaries in respect of holdings held by cultivating tenants (including holders of kudiyiruppus and holders of karaimas) entitled to fixity of tenure under section 13 and in respect of which certificates of purchase under sub-section (2) of section 59 have not been issued, shall subject to the provisions of this section, vest in the Government free from all encumbrances created by the landowners and intermediaries and subsisting thereon on the said date:*
>
> *Provided that nothing contained in this sub-section shall apply to a holding or part of a holding in respect of which an application for resumption under the provisions of this Act is*

pending on such date before any court or Tribunal or in appeal or revision"

10.We have already extracted section 72 of the Act. In view of the fact that exemption claimed under section 3 (1) (Viii) is not applicable, the rights of the landlord would vest in the Government. ***Section 72 of the Act would appear to contemplate vesting when there is no certificate of purchase issued under section 59 (2). No certificate of purchase has been issued under section 59 (2) of the Act. Therefore, irrespective of whether the tenants have applied under section 72 if other conditions are satisfied there will be vesting. If that be so, the plaintiff who claims to be the successor in interest of the original landlord cannot establish the existence of any right upon extinguishment of right of the landlord by virtue of the provisions contained in section 72 of the Act. This would necessarily also mean that the plaintiff would also not have the right to maintain a claim for arrears of rent or for mesne profits. In other words, none of the reliefs sought by the plaintiff could possibly be granted.***

11. Then there remains the question as to whether the manner in which the Special Tribunal constituted under the Act, namely, the Land Tribunal has dealt with matter in the manner in which a Tribunal is expected to deal with. What the Tribunal has done is that it has referred to the pleadings of both the parties and it has written a rather cryptic order. It reads as follows:

"In the circumstances stated above I hold the view that the first petitioner Harrisons Malayalam Ltd. and the second petitioner Stephen Abraham (the plaint schedule properties mentioned in document No. 2925/1963) and their predecessors

and successors have possessed and are cultivating the Rubber Plantations of the plaint schedule properties uninterruptedly from 1910 onwards and entitled to fixity of tenure."

12. " we are also not very much satisfied with the way in which the Land Tribunal has written the order……..."

The above judgment of the Hon`ble High Court establishes the Government`s. right over all the leasehold land as per section 72 of Kerala Land Reforms Act. No landlord can claim the ownership, title or interest on any of the prior leasehold land after the commencement of the Act. The lessees can claim fixity of tenure as per section 13, 53 and 72 with the ceiling limits specified in section 82. Ceiling limit is applicable both to the landlord and to the cultivating tenant. As per section 72(1) all the leasehold land on which the purchase certificates had not been issued between 01.4.1964 and 01.01.1970 were vested in Government. The Government, in tern, were not permitted to assign the land as per section 72(K) to a foreigner or foreign company within 2 years from 01.01.1970 as stipulated in section 72B(3) of the Act. The Act extents only to the whole state of Kerala and it cannot be extended to Great Britain, America or Ceylon. The Foreigners and foreign companies were not the cultivating tenants of Kerala. As per section 51A & B the landlords are prohibited from entering into the abandoned leasehold land. Therefore the vesting under section 72(1) is perfeet and complete.

Now it is a case of solid proof that the companies had indulged in fraudulent creation of documents and claiming absolute title over huge extents of Government land based on forged and fraudulent documents

of title; such a conduct intended to defraud the State Government, the Judiciary and the entire people of the State has to be depricated and has to be sternly dealt with as per the various decisions of the Hon`ble High court and the Hon`ble Supreme Court.

The following judgment was issued by the Hon`ble Supreme Court of India in Appeal (Civil) No. 3535/2006 dated 18.8.2006, filed by Sri. Hamza Haji against the State of Kerala and Another. An extract from the judgment is given below;

> *10.It is true, as observed by De Grey, C.J., in Rex Vs. Duchess of Kingston [2 Smith L.C. 687] that: "'Fraud' is an intrinsic, collateral act, which vitiates the most solemn proceedings of courts of justice. Lord Coke says it avoids all judicial acts ecclesiastical and temporal".*
>
> *In Kerr on Fraud and Mistake, it is stated that: "in applying this rule, it matters not whether the judgment impugned has been pronounced by an inferior or by the highest Court of Judicature in the realm, but in all cases alike it is competent for every Court, whether superior or inferior, to treat as a nullity any judgment which can be clearly shown to have been obtained by manifest fraud."*
>
> *It is also clear as indicated in Kinch Vs. Walcott [1029 APPEAL CASES 484] that it would be in the power of a party to a decree vitiated by fraud to apply directly to the Court which pronounced it to vacate it. According to Kerr, "In order to sustain an action to impeach a judgment, actual fraud must be shown; mere constructive fraud is not, at all events after long delay, sufficient ooobut such a judgment will not be set aside upon mere proof that the judgment was obtained by perjury."*

(See the Seventh Edition, Pages 416-417)

11.InCorpus Juris Secundum, Volume 49, paragraph 265, it is acknowledged that, "Courts of record or of general jurisdiction have inherent power to vacate or set aside their own judgments".

In paragraph 269, it is further stated, "Fraud or collusion in obtaining judgment is a sufficient ground for opening or vacating it, even after the term at which it was rendered, provided the fraud was extrinsic and collateral to the matter actually or potentially in issue in the action.

It is also stated:

"Fraud practiced on the court is always ground for vacating the judgment, as where the court is deceived or misled as to material circumstances, or its process is abused, resulting in the rendition of a judgment which would not have been given if the whole conduct of the case had been fair."

12.In Amarican Jurisprudence, 2nd Edition, Volume 46, paragraph 825, it is stated, "Indeed, the connection of fraud with a judgment constitutes one of the chief causes for interference by a court of equity with the operation of a judgment.

The power of courts of equity in granting such relief is inherent, and frequent applications for equitable relief against judgments on this ground were made in equity before the practice of awarding new trials was introduced into the courts of common law.

Where fraud is involved, it has been held, in some cases, that a remedy at law by appeal, error, or certiorari does not preclude relief in equity from the judgment. Nor, it has been said, is their

reason why a judgment obtained by fraud cannot be the subject of a direct attack by an action in equity even though the judgment has been satisfied."

13.The law in India is not different. Section 44 of the Evidence Act enables a party otherwise bound by a previous adjudication to show that it was not final or binding because it is vitiated by fraud. The provision therefore gives jurisdiction and authority to a court to consider and decide the question whether a prior adjudication is vitiated by fraud. In paranjipe Vs. Kanade [ILR 6 BOMBAY 148], it was held that it is always competent to any Court to vacate any judgment or order, if it be proved that such judgment or order was obtained by manifest fraud. In Lakshmi Charan Saha Vs. Nur Ali [ILR 38 CALCUTTA 936], it was held that the jurisdiction of the Court in trying a suit questioning the earler decision as being vitiated by fraud, was not limited to an investigation merely as to whether the plaintiff was prevented from placing his case properly at the prior trial by the fraud of the defendant. The Court could and must rip up the whole matter for determining whether there had been fraud in the procurement of the decree.

14.In Manindra Nath Mittra Vs. Hari Mondal [24 Calcutta Weekly Notes 133], the Court explained the elements to be proved before a plea of a prior decision being vitiated by fraud could be upheld. The Court said "with respect to the question as to what constitutes fraud for which a decree can be set a side, two propositions appear to be well established. The first is that although it is not permitted to show that the Court (in the former suit) was mistaken, it may be shown that it was misled, in other words where the Court has been intentionally misled by the fraud of a party, and a fraud has been committed upon the Court with

the intention to procure its judgment, it will vitiate its judgment. The second is that a decree cannot be set aside merely on the ground that it has been procured by perjured evidence."

15. It is not necessary to multiply authorities on this question since the matter has come up for consideration before this Court on earlier occasions. In S.P.Chengalvaraya Naidu (Dead) by LRs. Vs. Jagannath (Dead) by LRs & Ors. [(1993) Supp.3 SCR 422], this Court stated that, " it is the settled proposition of law that a judgment or decree obtained by playing fraud on the court is a nullity and non est in the eyes of law. Such a judgment / decree--- by the first court or by the highest court --- has to be treated as a nullity by every court, whether superior or inferior. It can be challenged in any court even in collateral proceedings."

The Court went on to observe that the High Court in that case was totally in error when it stated that there was no legal duty cast upon the plaintiff to come to the Court with a true case and prove it by true evidence. Their Lordships stated, " The courts of law are meant for imparting justice between the parties.

One who comes to the court, must come with clean hands. We are constrained to say that more often than not, process of the Court is being abused. Property grabbers, tax evaders, Bank loan dodgers, and other unscrupulous persons from all walks of life find the court-

Process a convenient lever to retain the illegal-gains indefinitely. We have no hesitation to say that a person, whose case is based on falsehood, has no right to approach the Court. He can be summarily thrown out at any stage of the litigation".

In Ram Preeti Yadav Vs. U.P. Board Of High School and Intermediate Education & Others [(2003) Supp.3 SCR 352], this Court after quoting the relevant passage from Lazarus Estates Ltd. Vs. Beasley [(1956) 1 All ER 341] and after referring to S.P. Chengalvaraya Naidu (Dead) by LRs & Ors. (supra) reiterated that fraud avoids all judicial acts. In State of A.P & Anr. Vs. T. Suryachandra Rao [(2005) 6 SCC149], this Court after referring to the earlier decisions held that suppression of a material document could also amount to a fraud on the Court. It also quoted the observations of Lord Denning in Lazarus Estates Ltd. Vs. Beasley (supra) that, "No judgment of a Court, no order of a minister, can be allowed to stand if it has been obtained by fraud. Fraud unravels everything."

16.According to Story`s Equity jurisprudence, 14th Edn., Volume 1, paragraph 263:

"Fraud indeed, in the sense of a Equity, properly includes all acts, omissions, and concealments which involve a breach of legal or equitable duty, trust, or confidence, justly reposed, and are injurious to another, or by which an undue and unconscientious advantage is taken of another."

In Patch Vs. Ward [1867 (3) L.R. Chancery Appeals 203], Sir John Rolt, L.J. held that:

"Fraud must be actual positive fraud, a meditated and intentional contrivance to keep the parties and the Court in ignorance of the real facts of the case, and obtaining that decree by that contrivance."

This Court in Bhaurao Degdu Paralker Vs. State of Maharashtra & Ors. [2005(7)SCC 605] held that: "Suppression of a material document would also amount to a fraud on the court.

Although, negligence is not fraud, it can be evidence of fraud."

21.We thus confirm the decision of the High Court and dismiss these appeals with costs. We hope that this judgment will act as an eye opener to the Forest Tribunals and the High Court exercising appellate jurisdiction in dealing with claims……

Puthuval Rules:-

Under section 7 of the Government Land Assignment Regulation III of 1097 (1922 AD), the following Rules for the assignment of Government land are passed, by His Highness the Maharajah under date the 19th April 1935.

PART VI - AUCTION SALE OF LAND

Rule-20:- ***"A puduval list as per Form – D** appended shall be attached to every case before auction sale is confirmed or is submitted for confirmation."*

Rule-21:- *"When the entire extent of a land notified for sale in a compact area is 10 acres or less, that may be confirmed by the Tahsildar (even through the land may have been sold in more blocks than one); When the entire extent sold exceeds 10 acres but does not exceed 25 acres in Taluks in the Revenue Sub – Divisions directly under the charge of assistant Peishkar (vide schedule III) the sale conducted by the Tahsildars shall be subject to confirmation by the assistant Peishkar concerned, although the land may be split up into blocks of about 5 acres before such sale; when the entire area sold exceeds*

10 acres but does not exceed 50 acres in Taluks directly under the control of the Division Peishkar and also when it does not exceed 50 acres but is above 20 acres in the other Taluks in the Division, the sale shall be confirmed by the Division Peshkar. When the entire extent of the land exceeds 50 acres and in the case of tank beds, whatever be the area thereof, the auction sale shall be conducted by the Division Peishkar or by his Assistant and the result of such sale should be reported to the Land Revenue and Income Tax Commissioner. It shall be competent to the Land Revenue and Income Tax commissioner to confirm the sales when the entire extent of the land sold exceeds 50 acres but does not exceed 100 acres. In all other cases, the sales are confirmable by the Government."

PART VII – REGISTRY OF LAND WITHOUT AUCTION

Rule – 22 *"Land of following descriptions shall be registered to the applicants or occupants without auction consistently with the provisions of parts V to X.*

(ii) *"Land not exceeding half an acre in extent contiguous to a registered holding when it is the only property between the registered holding and a road, lane, river, canal or back – water, shall be assigned to the owner of such registered holding by the Tahsildar without auction subject to the payment of tharavila and other dues. When area of such land exceeds half an acre but does not exceed 2 acres the Tahsildar shall obtain the sanction of the Division Peishkar or assistant peishkar, as the case may be, before ordering its assignment. No case shall be brought under this rule when the extent of the land applied for exceeds 2 acre".*

(iii) *"Dry land up to a width of chains and exceeding 5 acres adjoining wet land may be assigned for the beneficial enjoyment of the latter to the owner of such wet land without auction by the Tahsildar subject to the payment of tharavila and other dues".*

(iV) *"Land not exceeding 5 acres required by the holder of registered wet land in the neighbourhood for growing green manure or fodder crops may be assigned by the Division Peishkar or the Assistant Peishkar after due enquiry subject to the payment of tharavila and other dues.*

Rule – 25 *"A Puthuval list in Form – D appended shall be prepared and attached to every case before the registry is sanctioned."*

PART VIII - CONCESSIONAL REGISTRY OF LAND.

Rule – 28 *"Land will be assigned under these rules subject to the following conditions to the members of the depressed classes or to indigent families belonging to other communities on their application to the Tahsildar of the Taluk in which the land is situate.*

(ii) ***"All area not exceeding a maximum limit of 3 acres for a single family*** *will be assigned to each family by the Tahsildar in the case of application from members of the depressed classes and by the Assistant Peishkar or Division Peishkar in the case of indigent families. The grant of an area exceeding 3 acres to a single family shall not be made without the sanction of Government. Provided however that, in the case of co – operative societies composed mainly of members of depressed classes and working exclusively for their*

benefit, an area not exceeding a maximum limit of 30 acres for a single society may be assigned under this rule by the Division Peishkar without the previous sanction of Government".

(V) Note:-***"The above concession will be applicable to member of the depressed classes and indigent families irrespective of their religion provided they are subjects of His Highness the Maha Raja".***

Rule – 29 *"The Tahsildar conduct a preliminary investigation whether the applicant is a member of the depressed classes and whether he is a subject of His Highness, the Maha Raja …… The extent of the land owned by or applied for by the applicant together with other such land, if any, in the same or any other taluk should not exceed three acres."*

Rule – 30 (a) ***"Land granted under these rules shall be, on no account, alienable. Both voluntary and involuntary alienation are prohibited."***

(b) ***" If any alienation is made in contraventions of this rule, an order for resumption may be passed by the authority who sanctioned the assignment."***

Rule – 31 (a) ***"In case it is subsequently found that the applicant owned at the time of registry other land which together with the extent of the registry in***

question exceeds three acres the registry shall be liable to be cancelled and the land resumed."

(b) *"In every patta issued under the above rules shall be inserted the above prohibition against alienation in rule 30 (a) and also the condition for resumption under rule 31 (a) above."*

Rule – 46 ***"No land shall be assigned without the sanction of Government to any persons other than a subject of His Highness the Maha Raja."***

The above regulations and Rules of puthuval assignments show that the entire puthuval pattayam held by the foreign companies and its assignees are forged ones.

The old foreign companies were holding land in Kerala on the basis of leases and grants. They could not claim ownership or title to property on such land after the commencement of Kerala Land Reforms Act 1963 on 01.04.1964 and provisions such as section 72 (1) which enables the Government to vest all the rights, titles and interests on all the leasehold, freehold and granted land after fixing the cultivating tenants of Kerala the rights on the property which is below the ceiling limits specified under section 82.

There are provisions regarding `*Tenancies*` in chapter II of the Kerala Land Reforms Act – 1963, section 3 stipulated of tenancy right as follows:-

3."Exemption – (1) nothing in this chapter shall apply to –

(Viii) ***tenancies in respect of Plantations exceeding thirty acres in extent: provided that the provision of this chapter, other than section 53 to (72.5) shall apply to tenancies in respect of agricultural land which are treated as Plantations under sub – clause (c) of clause (44) of section 2;"***

Sections 2(8), 2(57) and 2(60) of the Kerala Reforms Act 1963 stipulate as follows;

Section – 2(8) ***"Cultivating tenant" means a tenant who is in actual possession of, and is entitled to cultivate, the land comprised in his holdings.***

Section 2(57) *"Tenant" means any person who has paid or has agreed to pay rent or other consideration for his being allowed to possess and enjoy any land by a person entitled to lease that land, and includes ……..*

Section 2 (60) *"Varam" means an arrangement for the cultivation of nilam with paddy and sharing the produce, made between the owner or other person in lawful possession of the nilam and the person who undertakes cultivation under such arrangement, and includes the arrangements known as pathivaram, pankuvaram and pankupattam; and "varamdar" means the person who undertakes cultivation under a varam arrangement.*

(Chori Ouso V. Sasoon Helegua, 1968 KLT 397; 1968 KLT 428):- "section 2(8)- <u>cultivating tenant</u> :- A Varamdar is a cultivating tenant if the expression "tenant" is understood in the light of section 2(57)"

(Lakshmi V. Hendry, 1981 KLT, SN 71):- " A cultivating tenant must be a person in possession entitled to cultivate the land comprised in his holding."

(M.D. Seminary V. John 1987 (2) KLT 748):- "Cultivating tenant is one who is in actual possession of land is entitled to cultivate the land comprised in his holding."

CREATING FUTURE TENANCIES AFTER 01.4.1964 IS NULL AND VOID.

Section 74(1) and 74(2) of the KLR Act, 1963 stipulate as follows-

Section 74(1): "After the commencement of this Act, no tenancy shall be created in respect of any land"

Section 74(2): "Any tenancy created in contravention of the provision of subsection (1) shall be invalid"

The lessees of Kerala were the cultivating tenants of Kerala. The above sections stipulated that tenancy shall not be created after 01.04.1964. This means that leasing of private land after 01.04.1964 is prohibited. The leasing of land is the creation of tenancy, which is null and void after 01.04.1964.

As section 74 was come into force on 1st day of April, 1964, a company, M/S Harrisons Malayalam Ltd., which came into being only in 1984, cannot be considered as a cultivating tenant of Kerala. As per section 74(1) and 74(2), all the tenancies created after 01.04.1964 are invalid. The foreign company`s tenancy right shall not be approved

under section 3 (1) (Viii). And, ceiling under Section 82 is applicable to the tenants. The landlords were able to resume land upto ceiling limit, if their tenants were holding land more than ceiling limit.

Section 13 :- **FIXITY OF TENURE:-**

Section 13(2) (ii):- ***"provided that no such landlord shall resume any land from his tenant , if he is already in possession of an extent of land not less than the ceiling area, and where he is in possession of an extent of land less than the ceiling area, the extent of land that may be resumed shall not, together with the land in his possession, exceed the ceiling area;"***

Section 16 *"Resumption for personal cultivation from tenant holding more than ceiling area :- A landlord, who requires the holding bona fide for cultivation by himself, or any member of his family, may resume from his tenant, who is in possession of land exceeding the ceiling area, the whole or portion of the holding, subject to the condition that, by such resumption, the total extent of land in the possession of the landlord is not raised above the ceiling area and the total extent of land in the possession of the cultivating tenant is not reduced below the ceiling area."*

Section 23(1) *"Tenant`s right to sue for restoration of possession of land:-…… provided that a cultivating tenant shall not be entitled to restoration under this sub section if he is in possession of land equal to or*

exceeding the ceiling area, nor shall a cultivating tenant be entitled to restoration of an extent of land which together with the extent of land in his possession will exceed the ceiling area."

Section 50. "*Rights of tenant to be heritable and alienable. - Subject to the provisions of this Act, all rights which a tenant has in his holding shall be heritable and alienable."*

Section 51A. **"*Abandonment by a tenant. - No landlord shall enter on any land which has been abandoned by a tenant."***

Section 51B. **"*Landlord not to enter on surrendered or abandoned land. - If any landlord enters into the possession of any abandoned land or any land which has not been surrendered in accordance with the provisions of section 51, he shall be deemed to have contravened the provisions of section 6 of the Kerala Prevention of Eviction Act, 1966, and shall be punished accordingly"***

All English companies had abandoned the leasehold and granted land before Indian Indepenence. Nobody, except the Government of Kerala, can enter into those abandoned land. Article 296 of the constitution is strengthened by sections 51A & B of the KLR Act, 1963.

Section 54 ***"Application for purchase of Landlord`s rights by cultivating tenant"***

(1)(4) ***"where a cultivating tenant entitled to purchase the right, title and interest in respect of only a***

portion of the land held by him, he may indicate in the application, his choice of the portion, the right, title and interest over which he desires to purchase."

The above provision stipulates that fixing of tenure is limited to the ceiling limits of 15 ordinary acres. But a foreign company cannot claim fixity of tenure in Kerala, because foreign companies do not come under the category of a cultivating tenant under a landlord in Kerala. The foreign company had never been under a landlord in Kerala. Hence the claim of companies that their predecessors had been the cultivating tenants in Kerala is to be rejected.

Section 53 of the KLR Act , 1963 stipulated as follows.

"PURCHASE OF LANDLORD`S RIGHTS BY CULTIVATING TENANT"

Section 53:- *"Cultivating Tenants right to purchase landlords rights-*

(I) (A cultivating tenant (including the holder of a Kudiyiruppu, and the holder of a karaima)), entitled to fixity of tenure under section 13, shall be entitled to purchase the right, title and interest of the landowner and the intermediaries, if any, in respect of the land comprised in his holding:

Provided that-

(i) if the landlord is entitled to resume any portion of the holding under this Act and he applies for such resumption, the cultivating tenant shall be entitled to purchase the right, title and interest of the landowner and the

intermediaries only in respect of the remaining portion of the holding;

(ii) no cultivating tenant shall be entitled to purchase the right, title and interest in respect of any land under this section if he, or if he is a member of a family, such family, owns an extent of land not less than the ceiling area;

(iii) where the cultivating tenant or, if he is a member of a family, such family, dose not own any land or owns an extent of land which is less than the ceiling area, he shall be entitled to purchase the right, title and interest in respect of only such extent of land as will, together with the land, if any, owned by him or his family, as the case may be, be equal to the ceiling area"

(2) *"The provision of section 82 shall, so far as may be, apply to the calculation of the ceiling area for the purpose of subsection (I)"*

And, as per section 65 to 68 of the Act all the rights of religious, charitable, or educational institution of public nature vest in the Government, but the cultivating tenants on these land are entitled to purchase the right, title and interest on the land based on the above conditions stipulated in section 53.

Section 72(1) Vesting of landlord`s right in Government:-

(From 01.01.1970*) **"……. all right, title and interest of the land owners and intermediaries in respect of holdings held by cultivating tenants entitled to fixing of tenure under section 13***

and in respect of which certificates of purchase under sub – section (2) of section 59 have not been issued, shall, subject to the provisions of this section, vest in the Government free from all encumbrances created by the land owners and intermediaries and subsisting there on the said date: (1.01.1970)

Section 72(3):-

Where any land or portion of a land is restored to the possession of any person under the provisions of this Act after the date (01.01.1970) notified under subsection (1) the right, title and interest of the land owner and intermediaries, if any, in respect of such land or portion of land shall, from the date of such restoration, vest in the Government free from all encumbrances created by the land owner and intermediaries and subsisting there on the said date.

Section 72(4)(a);-

On the expiry of six months from the commencement of the Kerala Land Reforms (Amendment) Act 1969 or on the date (01.01.70) notified and sub – section (1), whichever is later, in cases where no application for resumption of the holding or part of the holding has been preferred;

Section 72 (5):-

Where an intermediary has resumed any land under the provisions of this Act, the right, title and interest of the land owner and the other intermediaries, if any, in respect of the said land shall vest in the Government free from all encumbrances created by the land owner and the other intermediaries with

effect from the date of resumption or the date (01.01.70) notified under sub – section (1), whichever is later.

Section 72 B (1): cultivating tenant`s right to assignment:-

"The cultivating tenant of any holding or part of a holding, the right, title and interest in respect of which have vested in the Government under section 72, shall be entitled to assignment of such right, title and interest:-

Provided that-

(a) "No cultivating tenant shall be entitled to assignment of the right, title and interest in respect of any holding or part of a holding under this section if he, or if he is a member of a family, such family, owns an extent of land not less than the ceiling area."

(b) Where the cultivating tenant or, if he is a member of a family, such family, does not own land or owns an extent of land which is less than the ceiling area, he shall be entitled to the assignment of the right, title and interest in respect of only such extent of land as will, together with the land, if any, owned by him or his family, as the case may be, be equal to the ceiling area.

No foreigner can enjoy the benefit of section 72 B (1) and 72 B (1) (a) & (b) and, it is clear that the total land holding shall be within the ceiling limit stipulated in section 82.

Section 72E:-

> *"Rent of holdings vested in Government but not assigned to cultivating tenants.- Where in respect of any holding or part thereof, the right, title and interest of the landowner and intermediaries have vested in the Government under section 72 and the cultivating tenant is not entitled to the assignment of such right, title and interest by virtue of sub-section (1) of section 72B, the cultivating tenant shall be liable to pay to the Government the rent payable under this Act from the date of vesting under section 72.*

The above section underlines that the vesting of land in Government is perfect and complete as it stipulates that the unassigned land is Government land. The unauthorised occupants shall pay rent from 01.01.1970.

Section 82 and 83 stipulates as follows:-

"82.Ceiling area – (1) The ceiling area of land shall be,-

> *(a) In the case of an adult unmarried persons or a family consisting of a sole surviving member, five standard acres, so however that the ceiling area shall not be less than six and more than seven and a half acres in extent;*
>
> *(b) In the case of a family consisting of two or more but not more than five members, ten standard acres, so however that the ceiling area shall not be less than twelve and more than fifteen acres in extent;*

(c) *In the case of a family consisting of more than five members, ten standard acres increased by one standard acre for each member in excess of five, so however that the ceiling area shall not be less than twelve and more than twenty acres in extent. And"*

Section 82(5):-

"The land owned or held by a private institution shall be deemed to be land owned or held by the person creating the trust or establishing the institution, or, if he is not alive, by his successors – in – interest."

Section (83):-

"No person to hold land in excess of the ceiling area – with effect from such date as may be notified by the Government in Gazette, no person shall be entitled to own or hold or to possess under a mortgage land in the aggregate in excess of the ceiling area."

Section 84 stipulates that all the transfers and registrations of land after 01.04.1964 intending to defeat the provisions of the Kerala Land Reforms Act 1963 shall be invalid.

There are reported rulings of the Hon`ble High Court regarding the Purchase Certificates issued under section 72K

"It is only in extra ordinary circumstances when it can be shown on definite evidence that the certificate of purchase was obtained fraudulently then the Land Board can ignore the certificate of purchase" _ (Thanka V. State of Kerala, 1998 (2) KLT SN 16)

"The Taluk Land Board can disregard the evidentiary value of the Purchase Certificate issued by Land Tribunal only when it was found that earlier finding of the Tribunal was vitiated by fraud" (Lakshmi Bai V. TLB, 1986 KLT 332)

"when there is inaccuracy on the face of the certificate of purchase issued by the Land Tribunal it cannot have the special benefit provided in section 72K" (Chacko V. Joseph, 1986 KLT SN 34)

"A tenant who has already obtained a Purchase Certificate in respect of the tenancy cannot file another application under s. 54 of the Act for the assignment of the appurtenant land for his beneficial enjoyment" (Damayanthi V. Karthayani, ILR 1997 (2) Ker. 428)

Section 86. "*Vesting of excess land in Government :- 1[(1) On the determination of the extent and other particulars of the land, the ownership or possession or both of which is or are to be surrendered under section 85, the ownership or possession or both, as the case may be, of the land shall, subject to the provisions of this Act, vest in the Government free from all encumbrances and the Taluk Land Board shall issue an order accordingly]*."

Section 86 (4).*"Where the ownership of any land vests in the Government under the sub-section (1), the rights of the intermediary, if any, in respect of the land shall stand extinguished, and where possession of any land which was in the possession of a cultivating tenant vests in the Government under that sub-section, the ownership of such land shall vests in the Government and the rights of the intermediary, if any, in respect of such land shall stand extinguished.]"*

86(6) ***Nothing contained in this Chapter shall be deemed to affect the powers of the Government or any authority or officer, conferred by or under the provisions of the Kerala Land Conservancy Act,1957, in respect of unauthorized occupation of lands which are the property of the Government.***

The English companies had been holding huge extent of land in Kerala. Those leasehold and granted land have been vested in Government under section 72(1) of the Act. Those land are now in unauthorised occupation. All such land are the properties of the Government. Section 86(6) provides the Government to evict the unauthorised occupation from the Government land by implementing Kerala Land Conservancy Act, 1957.

As per Section 86(1) the possession, ownership or both of the surplus land shall vest in the Government free from all encumbrances. And as per Section 86(4) above, the possession, ownership or both of any land which was in the possession of a cultivating tenant vests in the Government under subsection (1) of Section 86, the ownership of such land shall vests in Government and the rights of the intermediary, if any, in respect of such land shall stand extinguished. This Section of the KLR Act has swept away the claims of the foreign companies.

The companies have misinterpreted the Kerala Land Reforms Act and its provisions in favour of the British companies and British citizens in their representations in Government, Government offices, and even in various courts. The most important provisions, the companies misinterpreted are the provisions regarding the tenants of Kerala and fixity of tenure – The Companies argue that their predecessors in

interest, more clearly the British people, were once the cultivating tenants of Kerala. Even the British citizens shall not accept this finding as the foreigners had been ruling us by threatening and using force and weapons. The companies have vehemently been trying to establish that their predecessors were the landless poor cultivating under the landlords of Kerala! But KLR Act has been enacted to protect the landless slaves like citizens of Kerala and not for the British citizens or the foreigners who had been plundering our property and wealth using the administrative facilities, making forged documents, threatening the then officers to act in their favour.

The famous **Kundara Proclamation of Velu Tampi Dalawa of Travancore in January 1809** has been recorded in the Travancore State Manual Volume I (V. Nagam Aiya). The Proclamation briefs how the East Indian Companies had cheated us and had taken steps to exterminate us from our land. The following extract is taken from the above proclamation.

> *"…….While the land was thus in peace and tranquility, two great powers appeared, Tippoo Sultan and The English East India Company. It was believed that of the two, the English East India Company was more to be relied on, and that they would not betray their trust, and in view to secure their friendship and assistance every long time above, they were allowed to build a fort and to establish themselves at Anjengo, and this led to hostilities, breaking out with Tippoo Sultan, but we have known to our cost how our trust was betrayed, and our friendliness taken advantage of to bring harm upon us by this very English Nation, who, as is well known to the whole world, is unequalled for base ingratitude and treachery. Now see, what*

they have done. They gradually curtailed the power of the Nabab who gave them shelter and helped so much towards attaining their present importance, till they had destroyed his dynasty entirely and taken away his territories; next they laid hold of the neighbouring countries which were enjoying peace and comfort until at last the lights of their dwellings were extinguished, and themselves plunged into misery, and following up their treacherous inclination the English came over to Travancore; first, by craft, and then forcibly, they have taken steps to exterminate us from our land……"

Whatever be the arguments of the present beneficiaries of those English Companies, the reality and truth is as explained above.

As per **Companies Act, 1956 [Act No 1 of 1956]** the foreign companies could not be registered in India. This fact is stipulated in section 3 of the Act as follows:-

3. DEFINITIONS OF "COMPANY", "EXISTING COMPANY", "PRIVATE COMPANY" AND "PUBLIC COMPANY"

3(1) (i) "Company" means a company formed and registered under this Act or an existing company as defined in clause (ii)

(ii)"existing company" means a company formed and registered under any of the previous companies laws specified below:-

(f) any Act or Acts relating to companies in force before the Indian companies Act, 1866 (10 0f 1866), and repealed by that Act;

(g) the Indian Companies Act, 1866 (10 of 1866);

(h) the Indian Companies Act, 1882 (6 of 1882);

(i) the Indian Companies Act, 1913 (7 of 1913);

(j) the Registration of Transferred Companies Ordinance, 1942 (54 of 1942); and

(f) any law corresponding to any of the Acts or the Ordinance aforesaid and in force

The Ordinance of 1942, dated 08.09.1942, referred to as 3 (1) (ii) (e) above is summarized as follows:-

ORDINANCE No. LIV OF 1942- *" WHEREAS an emergency has arisen which makes it necessary to provide for enabling companies incorporated by or under the law in force in certain parts of His Majesty`s dominions outside British India to continue to operate effectively by removal to British India;"*

1. *(1) "This Ordinance may be called the Registration of Transferred Companies Ordinance, 1942.*

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. (1) If the Central Government is satisfied as respects any company incorporated by or under the law in force in any Dominion ……being exercised by His Majesty`s Government in the United Kingdom, that is expedient for any of the purposes specified in sub section (1) of Section 2 of the Defence of India Act, 1939, to exercise the powers conferred on the Central Government by this Ordinance, the Central

Government may by order direct that the company shall be registered under and in accordance with this Ordinance by a Registrar of companies in British India, and, subject to the provisions of this Ordinance, where such a company is so registered, it shall, except so far as the order of the Central Government otherwise provides, be treated for all purposes as if it were a company incorporated under the Indian Companies Act, 1913, and registered under that Act (Act VII of 1913) in British India and not elsewhere".

(3) The Central Government may make Rules –

(b)imposing upon registrars of companies under the Indian Companies Act, 1913, such duties in respect of the keeping of registers, Books and other documents relating to the companies so registered as may be specified in the Rules……..

……

….."

Linlithgow, Viceroy & Governor General.

In the light of the above Sections, the argument that M/S Malayalam Plantations (UK) Ltd., Harrisons Cross Field (UK) Ltd., The KDHP company, Anglo American company etc had been the predecessor companies that existed in India before 1956 is baseless because the said companies had been registered in England under the English companies (Consolidation) Act 1908. They were not the companies registered under any of the prior Indian companies Acts that prevailed in India. Therefore they are not the existing companies of India. They do not deserve any benefit under KLR Act.

As per Part XI Companies incorporated outside India and Section 591 of the Indian Companies Act 1956:-

> ***591. Application of Sections 592 to 602 to foreign companies.***
>
> *(1) (a) Companies incorporated outside India which, after the commencement of this Act, establish a place of business with in India; and*
>
> *(b) Companies incorporated outside India which have, before the commencement of this Act, established a place of business within India and continue to have an established place of business within India at the commencement of this Act.*

As per Section 592 of the Companies Act 1956:-

> *592. Documents, etc., to be delivered to Registrar by foreign companies carrying on business in India*
>
> *(1) Foreign companies which, after the commencement of this Act, establish a place of business within India shall, within [thirty days] of the establishment of the place of business, deliver to the Registrar for Registration-*

At the point of the crucial cut off date, 01.4.1964 under KLR Act all those companies had been registered in England.

As per **Foreign Exchange Regulation Act, 1973** restrictions on the appointment of certain persons and companies as agents is stipulated in Section 28 (1) and 28 (2) as follows:-

> ***28(1)*** *Without prejudice to the provisions of Section 47 and notwithstanding anything contained in any of other provision of*

this Act or the Companies Act, 1956, a person resident outside India (whether a citizen of India or not) or a person who is not a citizen of India but is resident in India, or a company (other than a banking company) which is not incorporated under any law in force in India or any branch of such company, shall not, except with the general or special permission of the Reserve Bank act, or accept appointment, as agent in India or any person or company, in the trading or commercial transactions of such person or company, or

(2) Where any such person or company (including its branch) as is referred to in subsection (1) acts or accepts appointment as such agent, without the permission of the Reserve Bank, such acting or appointment shall be void.

As per Foreign Exchange Regulation Act, 1973 the provisions of prior permission of Reserve Bank required for practising profession, etc. in India by nationals of foreign state is stipulated in Section 30 (1).

30.(1) No national of a foreign state shall, without the previous permission of the Reserve Bank, practise any profession or carry on any occupation, trade or business in India in a case where such national desires to acquire any foreign exchange (such foreign exchange being intended for remittance outside India) out of any moneys received by him in India by reason of practising of such profession or the carrying on of such occupation, trade or business, as the case may be.

As per Foreign Exchange Regulation Act, 1973 restriction on acquisition, holding etc., of immovable property in India is stipulated in Section 31(2).

31.(2) No person who is not a citizen of India and no company (other than a banking company) which is not incorporated under any law in force in India shall, except with the previous general or special permission of the Reserve Bank, acquire or hold or transfer or dispose of by sale, mortgage, lease, gift, settlement or otherwise any immovable property situate in India:

Provided that nothing in this subsection shall apply to the acquisition or transfer of any such immovable property by way of lease for a period not exceeding 5 years.

The companies have violated all the provisions of Section 28 & Section 30 and section 31 of the FERA 1973 by holding immovable property in the State of Kerala. For overriding FERA, 1973 the KDHP company transferred 1,01,034 Acres in 1977 to TATA - Finlay Ltd and controlled the land through the share holdings. The extent was far beyond the illegal Land Board exemption of 57,359.14 Acres. The foreign company was boldly resuming and assigning the land resumed by the Government through the legistation in 1971 known as the Kannan Devan Hills (Resumption of Land) Act, 1971. The remaining land after the Land Board Award was assigned by the company itself even after the Hon`ble Supreme Court of India approved the Act in 1972 vide judgment in WP(C) No. 44/1971, dated 27.4.1972. M/S Malayalam Plantation (UK) Ltd registered M/S HML in 1984 for evading FERA, 1973. But both the companies were forgetting FERA, 1947.

As per subsection 5 of section 6 of the Indian **Independence Act 1947,**

> ***"No order in council made on or after the appointed day under any Act passed before the appointed day, and no order, rule or other instrument made on or after the appointed day under any such Act by any United Kingdom Minister or authority, shall extend, or be deemed to extend, to either of the new Dominions (India and Pakistan) as part of the law of that Dominion"***

And, subsection (1) (b) of section 7 stipulates as follows,

> ***"the suzerainty of His Majesty over the Indian states lapses, and with it, all treaties and agreements in force at the date of the passing of this Act between His majesty and the rulers of Indian states, all functions exercisable by His Majesty at that date with respect to Indian states, all obligation of His Majesty existing at that date towards Indian states or the rulers thereof and all powers, rights, authority or jurisdiction exercisable by His Majesty at that date in or in relation to Indian states by family, grant, usage, sufferance or otherwise; and"***

The above sections 6(5) and 7(1) (b) of the Indian Independence Act have prohibited the applicability of the English Companies (Consolidation) Act of 1908 in India. "Malayalam Plantations (UK) Limited and KDHP Company" were running their business in India under the above said Act of the United Kingdom. After the Indian Independence, the holding of huge extent of land in Kerala under the guise of English Companies (Consolidation) Act of 1908 was illegal as per the Indian Independence Act of 1947 passed by the United Kingdom itself.

ROLE OF KLC ACT, 1957 AGAINST THE ENGLISH COMPANIES:

Rule 11 of the KLC Rules 1958 stipulates as follows:-

> **11. "*The final order of the Collector shall be in writing in his own hand, and shall contain the reasons for the decision. The decision shall be communicated to the party in writing and simultaneously a notice in Form 'C' upended to these Rules shall be served on him requiring him to vacate the land within specified period. The notice shall also contain a direction that everything, found on the land encroached upon shall be forfeited to the Government in the event of the encroacher failing to vacate the land within that period specified.*"**

The final order of the Collector should contain all the reasons as stipulated above. There is no provision in the KLC Act to show all the reasons in the Form 'B' notice under Section 12 and Rule 9. Every reason to the satisfaction of the Government that the land held by the companies are Government land have been established in this report. All the supporting materials to conclude that the land held by the English companies are Government land have been referred to in this report.

A foreign company registered in India under any of the prior companies Acts, which had been existed in India before the companies Act 1956, could alone be considered as the existing company. The Malayalam Rubber & produce Company (UK) Ltd, the Harrisons Cross Field (UK) Ltd, M/S Malayalam Plantations (UK) Ltd, the KDHP company Ltd, the Anglo American Company Ltd etc were registered in

England under the English Companies (Consolidation) Act, 1908 and had their registered offices situated at London in England. Every copy of indentures produced by the companies show that the said predecessor companies were foreign companies registered only in England. They had never been the existing company in India under any of the prior Companies Acts before Indian Independence. The prior Companies Acts, were the Indian Companies Act 1866, 1882 & 1913 and the Registration of Transferred Companies Ordinance, 1942, dated 08.09.1942. These realities and facts have well been explained with necessary quoting. The said predecessors had only been the lessees and grantees who held land for plantation purposes only. After the passing of the KLR Act 1963, the entire such land has been vested in Government of Kerala under Section 72(1) of the Act and Article 296 of the constitution of India. KLR Act is enacted under the Constitution of India. Hence the protection under the KLR Act is limited only to the people of Kerala. As the Indian Constitution does not give any protection to foreigners as citizens of India the claim of protection under KLR Act is baseless and illegal. Fixity of Tenure under Section 13 is intended to protect the interest of the cultivating tenants, who had led slaves like life under the landlords of Kerala. If the tenant directly purchased the landlords right, as per section 59(2), he had to pay purchase price at State Land Board which issued the Purchase Certificate. The time period allowed was from 01.04.1964 to 01.01.1970. After 01.01.1970 all land under tenants, who had not purchased the right, title and interest of the landlord as per section 59(2) has been vested in Government under section 72(1). If any cultivating tenant who did not purchase the landlords right within 01.01.1970, they were allowed a further period of 2 years as per section 72.B(3) for

getting assigned the right, title and interest of their holding vested in Government under section 72(1). The Purchase Certificate after 01.01.1970 was issued under section 72K. And, creating future tenancy has been closed as per section 74(1) & (2). More than everything the ceiling limit of land under various provisions of the Act is applicable both to the landlord and to his tenant. Section 85(3) stipulates that after purchasing the landlord`s right, title and interest under section 72K or 59(2) by keeping the ceiling provisions under section 53(ii), 72B(a) & (b) and Rule 13 of the KLR Act (Vesting & Assignment) Rules 1970, the cultivating tenants were bound to surrender the surplus land in their occupation. In order to surrender the surplus land they had to file a statement before the Land Board as stipulated under Section 85(3A) of the Act. In the statement the tenants had to show the total extent of surplus land. He had also to state the extent of land that he was willing to surrender and the extent he was willing to be exempted under Section 81 of the Act. The above facilities were given only to the cultivating tenants of Kerala and not for the East Indian Companies of Great Britain. All exempted land under Section 81 is surplus land vested in Government. The company`s claim, that their predecessors, the British East India Companies, were the cultivating tenants and they had got right, title and interest under Fixity of Tenure under Section 13 and 72 of the Act, is baseless, illegal and against all the provisions of the Kerala Land Reforms Act, 1963. Within 2 years from the cut off date of 01.01.1970, the cultivating tenants had to file application before the Land Tribunal under Section 72 B(3) to get the Purchase Certificate under Section 72K of the Act. No foreign company within the stipulated time period applied before any Land Tribunal under Section 72 B (3) to get the title and interest assigned within ceiling limit in respect of their

holding under a landlord and they had not paid any purchase price of their land holding to Government. It was because the foreign companies do not come under the purview of the Kerala Land Reforms Act, 1963. After purchasing "the Purchase Certificate" within ceiling limit, the tenants had to surrender the excess land to Government as stipulated under section 85(3) and they had to file a statement under Section 85(3A) before the Land Board showing the details of land to be surrendered and the extent of land to be exempted under section 81. But a foreign company cannot enjoy the benefits of the Kerala Land Reforms Act 1963, which has been enacted to protect the interest of the poor landless cultivating tenants of Kerala.

For decades Government had been verifying the copies of various indentures between the erstwhile Government of Travancore and the foreigners, the East India companies and between the lessors of Kerala and lessees of England, examining the laws and rules existed in the reign of the Maharajahs of Travancore and Cochin. The committees were going through various Land Revenue Manuals and Registration Regulations published by the old Government.

Section 86(6) of Kerala Land Reforms Act 1963 stipulates that the land vested in Government is under the purview of the Kerala Land Conservancy Act, 1957. And, Section 3 and its Explanation in LC Act, describing the properties of Government, provides that the land vested in Government under Section 86 & 87 of the KLR Act comes under LC Act, 1957. KLR Act, 1963 and KLC Act 1957 has been interlinked by many provisions as explained above.

Paying Basic Tax is not ownership right or title; As per section 19 of the Kerala Land Tax Act, 1961 paying land tax does not affect the conditions of any agreement, grant or deed relating to any land, and does not affect any rights which have been accrued to Government before the date on which the Act comes into force.

According to Land Revenue Manuals, 'freehold land' is not taxable land. But lessee pays rent to Government or jenmie. Freeholding and lease holding are not jenmom right or title. Government have been implementing the provisions of LC Act to resume the land occupied by the English East India Companies in Kerala before the enacting of the Indian Independence Act, 1947.

The freehold and leasehold rights are not ownership right. All lease land have been vested in Government under section 72(1) of the KLR Act and Article 296 of the Constitution of India. The cultivating tenants are allowed to hold land within ceiling limit. After obtaining the Purchase Certificate within ceiling limit under section 53(ii) and 72B (a) & (b) for his tenancy holding, he had to surrender the surplus land to Government as stipulated under section 85(3). In order to surrender surplus he had to file a statement before the Land Board under section 85(3A). Finally the Taluk Land Board would declare the surplus land or exempted land under section 81. But these facilities are allowed only to the poor, slave like cultivating tenant of Kerala. The British East India companies, registered in England cannot be considered as the cultivating tenant of Kerala. If we do so, we have to call back all the English families and companies who had held land as freehold and leasehold in Kerala and we have to declare that once they had been the cultivating

tenants of Kerala. And, all foreigners who had ruled us are to be declared as the cultivating tenants of Kerala! But we, the people of India, cannot extend the provisions of the KLR Act to the Great Britain. The companies by neglecting the essence and objectives of the Kerala Land Reforms Act 1963, vehemently arguing that once their predecessors, more clearly the British companies, had been the cultivating tenants of Kerala and now the companies like M/S HML, KDHP company and their assignees are the successors of those foreigners. Future tenancies have been prohibited after the cut off date 01.04.1964 as per section 74 (1) & (2) of the KLR Act. If future tenancy is created after this cut off date, it will be invalid by law. Before Independence in 1947 the British East India companies, registered in England, had been holding land in Kerala. They were not the cultivating tenants of Kerala. So it is very clear that the companies and their assignees are trying to grab the public property in the name of the British companies who once had been ruling us and plundering our wealth. No civil court has jurisdiction to interfere in the subject matter of implementing laws and rules under KLR Act and KLC Act.

As per rule 11 of the KLC Rules 1958, the Collector has to point out and prove with each and every reason why those properties shown in the land schedule are owned by Government. The companies have no title on those properties. M/S HML had produced some photo copies of indentures or agreements of freehold and leasehold land which had been held by some foreigners and East India Companies, registered in England. All those land has been vested in Government after the passing of the Indian Independence Act 1947, FERA 1947 & 1973, KLR Act 1963, Article 296 and Indian Companies Act 1956. The Land Revenue

Manuals show that even during the reign of the Maharajahs of Travancore and Cochin the foreigners were not allowed to own landed property in the state. “Pokkuvaravu or Mutation” on land was denied to the foreigners. But they could hold land on freehold or leasehold right with strong conditions. The Government had granted land for only cultivation purposes. The jenmom right of those grants are vested in Government.

After independence, the foreigners abandoned the land and left India. Using this situation the land had been widely encroached in the name of foreign companies by the very Indians like the present occupants, who had no title on those Government land. The preamble of the Kerala Land Reforms Act, 1963 makes it clear that the Act extends only to the whole State of Kerala. If the argument of M/S HML and KDHP companies to be accepted then we will have to concede the strange proposition that benefits under the KLR Act are applicable to the British citizens residing in Britain!!

THE ARGUMENTS OF M/S HARRISONS MALAYALAM LIMITED ARE HUMILIATIONS TO THE NATION.

On one side the company, M/S HML, argue that their predecessors in interest had been the cultivating tenants of Kerala, and they had right to fixity of tenure under section 13 and on the other side they argue that they had absolute title on those land. As per KLR Act, the cultivating tenants are the landless poor, who had no title to property. They had been cultivating under the landlords who had absolute title on the land occupied by tenants. If the predecessors of the company had absolute title with land document, why do they argue that their predecessors had been the cultivating

tenants in Kerala? As per the KLR Act the landlords are not cultivating tenants. If a family or person had land more than the ceiling limit specified under section 82, he would not come under the category of a cultivating tenant. The argument of the company is very pathetic since they willingly and deliberately pretending that they and their counsels do not know the provisions regarding the situation and condition of a cultivating tenant`s right on his holding. Is there any such Purchase Certificate issued to the foreign company within the cut off date 01.01.1970? Section 72.B(3) stipulated that the cultivating tenants should purchase their right, title and interest from the Government by remitting the purchase price within 2 years from 01.01.1970. How can a person, a family or an institution simultaneously be a landlord and a cultivating tenant under the Kerala Land Reforms Act, 1963? According to the Act the foreign company is neither the landlord nor the cultivating tenant as there is no provision in the Act to support such claim put forward by the company and its assignees.

Explanation IA of section 3 of the KLC Act, 1957 and sub section (6) of section 86 of the Land Reforms Act, 1963 authorise the Government to initiate proceedings under various provisions of the KLC Act, 1957 to resume the property vested in Government from the unauthorized occupations. For this purpose the two Acts have been interlinked by the provisions, explanation IA of section 3 and subsection 6 of section 86 of the KLC Act, 1957 and KLR Act, 1963 respectively. As the company argue that their predecessors in interest had once been the cultivating tenants, the land in their illegal occupation is under the purview of the KLR Act, 1963. At the same time both the Acts stipulate

that the unauthorized occupation in the land vested under KLR Act is to be evicted as per KLC Act 1957. Thus the land occupied by the company and its assignees is bound by section 3 of the KLC Act 1957. And, Government have jurisdiction to evict the unauthorized occupants from Government land.

Land Tax Act 1961 has been enacted to provide for the levy of basic tax on lands in the state of Kerala. It was intended to increase the revenue of the Government by opening new sources of income. Government land is exempted from paying land tax.. Paying land tax is not ownership right as it has been well defined in section 19 of the Land Tax Act, 1961 as follows;

> *"19. Savings:- Nothing in this Act shall-*
>
> *(a). affect the conditions of any agreement, grant or deed relating to any land except to the extent hereinbefore provide;*
>
> *(b). affect any rights which accrued to the Government before the date on which this Act comes into force."*

The above provisions assure Government that paying land tax to a piece of land is not a hindrance to the Government to resume government lands from unauthorised occupations. In KLC Act, 1957 there is no provision to intimate the reasons to the occupants in advance before issuing statutory notices under Rule 9 and section 12, but every reason is to be shown in the final order as stipulated in Rule 11 of the KLC Rules, 1958. As the preamble of the Act makes it clear, the KLC

Act is intended to the checking procedures, whether a piece of land is of Government or private. Government have various Acts and Rules to initiate resumption procedures in respect of Government lands.. It is known to the company and its assignees. Both the central and State Governments have enacted many Acts and Rules to protect the interest of the Government and public.

The company, M/S HML produced a copy of the Purchase Certificate issued by Kottayam Special Munsiff Land Tribunal dated 30.09.1976. The purchase certificate No. 3062/1976 was issued under section 72.K of the KLR Act, 1963. The Purchase Certificate was issued to M/S Malayalam Plantation (UK) Ltd, a company registered in England under the English Companies (Consolidation) Act 1908 and situated at 1 - 4 Great Tower Street London. After the passing of the Independence Act 1947, FERA 1947 and 1973, Companies Act 1956 a foreign company cannot be considered as a cultivating tenant of Kerala. The Land Tribunal violated the ceiling limit of land in a Purchase Certificate. Though the Act stipulates ceiling limit under section 53(ii) and 72.B(a) &(b), the Tribunal illegally Assigned 763.11 acres! The Tribunal violated the provisions under section 74 (1) and (2) which stipulate that future tenancy should not be created after 01.4.1964. The East India Company cannot be considered as the landless 'Kudiyan' of Kerala. Obviously, the fraudulent activity of the Land Tribunal could not be accepted by the Government. The Land Tribunal issued an unauthorized purchase certificate which itself is invalid by law under section 74 (1) and (2). Section 72B (3) states that, the cultivating tenant should apply before the Land Tribunal within 2 years from the cut off

date 01.01.1970. Suo Moto case under section 72.C is only intended to the illiterates, the poor slaves like cultivating Tenants including the member of the scheduled castes and scheduled Tribes who feared the landlord to purchase his land through the Land Tribunal. As per section 85(3), after purchasing the land within ceiling limit, the tenant should surrender the surplus land. In order to do so he should file a statement before the Land Board under section 85 (3A). As per KLR Act, 1963 the above purchase certificate issued by the Land Tribunal is invalid. Invalid documents could not be accepted as proof. Any statutory officer can neglect such fraud Purchase Certificate issued illegally by the Land Tribunal. The land contained in the Purchase Certificate is the land vested under section72 (1) of the KLR Act. As per section 86(6) of the Act, unauthorized occupants are to be vacated by implementing KLC Act 1957 and its various provisions and Rules, 1958.

The statutory officers are bound to find and declare the violations and fraudulent activities. It is the duty of every public servant to protect the interest of the public. I, as the Special Officer, have been empowered to comply with the statute law and principles of natural justice. . The English companies had never obtained any permission from RBI as per FERA 1947. Regarding KLR Act, 1963, foreign company does not come under the purview of a cultivating tenant under the Act. It has well been established. The said English predecessors had been only the lessees and grantees who held land for plantation purposes only. After the implementation of the Constitution and the KLR Act 1963, the entire such land has been vested in Government of Kerala under Article 296 and Section 72(1) of the Act respectively. KLR Act is enacted under the

Constitution of India. Hence the protection under the KLR Act is limited only to the people of Kerala. As the Indian constitution does not give any protection to foreigners as Indian citizens, the claim of protection under KLR Act is baseless and illegal. Fixity of Tenure under Section 13 is intended to protect the interest of the cultivating tenants, who had led a slave like life under the landlords of Kerala.

More than everything the ceiling limit of land under various provisions of the Act is applicable both to the landlord and to his tenant. Section 85(3) stipulated that after purchasing the right, title and interest under section 72K by keeping the ceiling provisions under section 53(ii), 72.B(a) & (b) and Rule 13 of the KLR Act (Vesting & Assignment) Rules 1970; the cultivating tenants are bound to surrender the surplus land in their occupation. In order to surrender the surplus land they have to file a statement before the Land Board as stipulated under Section 85(3A) of the Act. In the statement the tenants must show the total extent of surplus land. He must also state the extent of land that he is willing to surrender and the extent he is willing to be exempted under Section 81 of the Act. The above facilities are given only to the cultivating tenants of Kerala and not for the East India companies of Great Britain.

On one side the company M/S HML contends that the Special Officer issued proceedings without the support of any law. On the other hand they contend that he is referring laws and rules beyond his jurisdiction. This is contradictory. The Hon`ble High Courts have never examined the fraud Purchase Certificates obtained by the English Company by violating the provisions of Kerala Land Reforms Act, 1963. The land, to be assigned to the cultivating tenants within ceiling

limit, has been plundered in the name of an English East India Company. Every public servant is bound to point out and declare this plundering.

THE FRAUDULENT ACTIVITIES OF THE OTHER FOREIGN COMPANIES:-

The judgment of the Hon`ble Supreme Court in WP(C). 44/1971, dated 24.07.1972 was against the Kannan Deven Hills produce company Ltd, who challenged the Kannan Devan Hills (Resumption of Land) Act, 1971 (Kerala Act 5 of 1971). The company contended that they had been running plantation in the KDH village for more than 100 years and had employed 18,500 persons in their plantation. But the Hon`ble Supreme Court dismissed the petition which challenged the State. It was because the entire land in KDH village was the property of the erstwhile Government of Travancore, who had granted the land for cultivation. On mentioning various volumes of Land Revenue Manuals published by the Government of Travancore, the Hon`ble Supreme Court observed and held the truth that all Government grants including the land in KDH village, the Munro Land, 10sq. miles in Quilon etc. are the land of the state. . All those illegal activities of the English have been explained with solid proofs.

Examining the judgment of the Hon`ble High Court in CP Nos. 11 and 20 of 1984, dated 10.4.1984, it is very clear that the sales of Ambanad & nearby estates in kollam were the compensation for withdrawing the company petition No 5/1983 filed by the "Aiyer Group" of companies which consists of the Peninsular Plantations,

Travancore Rubber & Tea Company Ltd., Peerumadu Tea Company Ltd., The Breamnore Estates Ltd., Kanthimathi Plantations Ltd, Woodland Estates, Vardhani Plantations and Parvatha Vardhani etc. All these companies are operated by the members of the same family. It is only for evading the ceiling provisions under KLR Act, 1963. Thousands of acres is occupied by this family. The jenmom right of these landed property is to be verified. The said Aiyer Group filed the above C.P. No. 5/1983 under section 155 of the companies Act for rectification of the share register of the company alleging that the Board of the company illegally refused to register the shares purchased by that company. The petitioners in CP. Nos. 11 and 20 of 1984 were the share holders of M/S Malayalam Plantations (UK) Ltd. CP No. 11/84 was filed by Sri. M. Nandakumar and CP. No. 20/84 was filed by Sri. Philip Mathew and Smt. Marykutty John. They contended that the company setting agreed to sell Ambanad and nearly estates measuring 2700 Acres at a cheap rate of Rs 96 lakhs and really the expected price would be at least Rs 8 crores. The sale agreement was with the Peninsular Plantations Ltd., a sister company of M/S Travancore Rubber & Tea Company Ltd. The Board of Directors of Malayalam Plantations Ltd. held on 21.02.1984 authorised the sale for a price not less than Rs. 90 lakhs. The court directed that whatever resolution is passed in that meeting its validity, legality and propriety would be subject to the final orders of the Hon`ble High Court. But the sale deed was executed on 22.2.1985. According to the petitioners, the sale was effected in order to safeguard the continuance of the Management of the company since there was threat of takeover by a group of companies called, `Aiyer Group'. The Hon`ble High Court`s important observations and

directions in CP. Nos. 11 and 20 of 1984 dated 10.4.1984 were as follows;

> *"No reasonable owner of a property would have accepted a valuation like this"*
>
> *"No reasonable owner would have sold these items for that amount."*
> *"So also there is no evidence that consent was given by any of the shereholders for a short of notice."*
>
> *"Ext. P2 agreement was to sell the estate to Peninsular Plantations Ltd. The name of the purchaser was not mentioned in the explanatory statement."*
>
> *" It was also stated that the name of S. Menon was also duplicated. The name of K. George Mathew was also duplicated."*
>
> *"The Madras stock Exchange had raised objections in respect of the sale of Ambanad estate. Many journals had published articles against the sale. The fortnightly `India Today' dated 30.6.1984 contained an article about this sale under the main title "mystery sale".*
>
> *"The sale of Ambanad estate was prejudicial, pre-determined and obligatory sale between two erstwhile rivals".*
>
> *"The Chairman of the company Mr. P.J. Weavers was authorised to negotiate and sell the estate."*

"The sale deed was signed by Mr. P.K. Menon because Mr. Weavers had already left India before that."

" The witness does not know whether Travancore Rubber & Tea Company held any shares in Malayalam Plantations."

"The draft for the sale deed, Ext. P-3, was prepared by Sri. P.K. Kurien of M/S Menon and Pai, Advocates, who is the director of the company."

"38.There is no explanation for the unreasonable hurry with which the estate was sold ……This undue haste casts a cloud on the entire transaction. The company has not attempted to remove it by adducing evidence justifying the hurry."

"39…….the evidence in this case indicates that there were some reasons which are not disclosed to this court for selling the estate hurriedly, for a very low price."

"42. ……the company has not disclosed to this court the entire facts and circumstances under which the sale was effected. The files relating to the sale were not produced in these proceedings……the company has not explained the circumstances under which Ext. P – 3 sale deed was executed in favour of Travancore Rubber and Tea Company Ltd., even though under Ext. P – 2 agreement possession was given to the third respondent namely Peninsular Plantations Ltd".

"44.Under the circumstances discussed above, I hold that the affairs of the company are being conducted in a manner prejudicial to the interests of the company and therefore it is ordered as follows:-

(1) It is declared that Ext. P – 2 agreement as well as Ext. P – 3 sale deed are prejudicial to the interests of the company. The said agreement and sale deed are accordingly set aside. Respondents 3 and 4 are directed to hand over possession of Ambanad estate to the first respondent on or before 31.5.1990.

To sum up my reasoning, I have been appointed under section 15 of the KLC Act 1957. As I have been appointed for checking the unauthorized occupation of Government land as stated in the very preamble of the Kerala Land Conservancy Act, 1957, I had to refer every Acts and laws applicable. The companies and their assignees are repeatedly arguing untenable propositions. They could not disprove effectively with concrete proof the findings of the Special Officer, but their only contention is that the Special Officer has no jurisdiction. The English Companies like M/S Malayalam Plantation (UK) Ltd, the KDHP Company, Anglo American Company etc had never been in India after Independence. Instead of contending the jurisdictional issue, they have to prove whether the English Companies had been registered in India under any of the prior Companies Acts which had been prevailed in India before the companies Act 1956. The company, M/S HML has to prove how 763.11 acres of Government land could be

assigned to a foreign company violating the ceiling limit specified under sections 53(ii), 72B(a) & (b) and 82 of the KLR Act. Since the land vested in Government under section 72(1) had been assigned to a foreign company, the company is bound to prove whether the assignee under the Purchase Certificate under section 72K included in the category of a cultivating tenants of Kerala. The company could not point out with provisions how the company M/S Malayalam Plantation (UK) Ltd., incorporated in England under the English Companies (Consolidation) Act 1908, can run their business in India after the passing of the Indian Independence Act 1947 and the Constitution of India. The company failed to prove how the leasehold land, vested in Government under section 72(1) of the KLR Act, has been reached in the hands of the said English East India Company. The Company, instead of contending against jurisdiction, has to prove under which provisions of the KLR Act, the foreign company becomes a cultivating tenant. Since the company points out that their predecessors had valid land documents consisting of thousands of acres in Kerala, how can they claim the fixity of tenure which is allowed only to the landless cultivating tenants of Kerala. The company, M/S HML has miserably failed to prove with provisions whether the said landlords with thousands of acres are eligible for fixity of tenure under section 13. This statement does not mean that the English company had owned thousands of acres. During the British Rule they had been operating cultivation in the granted and leased lands. The above statement is only to disclose the contradictory stand of the companies. On one side they argue that their predecessors had been the landless cultivating tenants! But on the other side they argue that they had valid land documents containing thousands of acres. The landless cultivating tenants are the slaves like people, the

working class, with bare hands as they had no title on land. The title is conferred by Government by way of the Purchase Certificates. The company or its assignees have not proved with provisions whether the English East India Companies are eligible for obtaining such Purchase Certificate under sections 59(2) or 72K. The ceiling limit of land in purchase certificate under section 59 (2) is stipulated in 53 (ii) and such limit of land in purchase certificate under section 72K is stipulated in section 72B (a) & (b). The ceiling limit is well defined in section 82. I was disclosing the forgery committed by the company, M/S HML and its assignees and other intruders. The company, its assignees and other intruders are to prove how the Special Officer could accept an illegal Purchase Certificate as a proof of claim. They have failed to explain how the Statutory Authority could declare a foreign company registered in England as a cultivating tenant of Kerala and failed to produce proof that the foreign company had been registered in India before 1956.

Article 300A of the constitution allows everybody the right to land and property. The concentration of wealth and property under a minority is against our Constitution. The proceedings, issued under LC Act, is based on the findings of facts amply supported by documents. The constitution does not allows foreigners to be placed at par with the citizens of India. Plundering of Indian property by the foreigners before Independence could not be prevented as we were ruled by the English people with force and weapon. But plundering of our wealth at the costs of the poor and landless, cannot be approved in name of the British citizens and the English Companies (Consolidation) Act 1908. M/S Malayalam Plantation (UK) Ltd. was incorporated in England under the above said Act. The sons of the soil of Kerala are the cultivating tenants.

Kerala Land Reforms Act extents only to the whole State of Kerala. The Act does not extent to England or even to the other states of India. The Britishers had once been ruling us. But at the same time they had been enjoying all the fruits of the improvements, depriving the sons of the soil. The case of M/S Malayalam Plantations (UK) Ltd registered in England is equally applicable for each and every foreign company who had occupied land in Kerala prior to our Independence in 1947.

THE LATEST STAND OF THE HONOURABLE HIGH COURT AGAINST THE ENGLISH COMPANIES IN KERALA

WP(C) Nos. 7711/2013, 33122/2014, 5510/2015, 10320/2015, 10640/2015, 10962/2015 and 11598/2015; were filed by M/S Harrisons Malayalam Ltd, its transferees and others who occupy Government land. The petitioners have challenged the proceedings, under Kerala Land Conservancy Act, 1957 initiated against them, in the Hon`ble High Court of Kerala. As I have been appointed as the Special Officer & Collector conferring jurisdiction in all districts of Kerala under Section 15 of the KLC Act, 1957, I have issued 18 final proceedings under Rule 11 of the KLC Rules, 1958. I have already ordered to take over 38,171 acres of Government land in Kollam, Pathanamthitta, Kottayam and Idukki districts from the unlawful occupation of M/S Harrisons Malayalam Ltd, its transferees and other intruders. The above writ petitions were filed challenging the jurisdiction of the Special Officer under KLC Act and Rules on the land occupied by them. The Hon`ble High Court have issued the Reference Order on 25.11.2015 and have made it clear that the Special Officer has jurisdiction on the land occupied by the petitioners. The summary of the High Court Order is as follows;

M/S Harrisons Malayalam Ltd and its transferees had filed the above writ petitions against the Government and the State Special Officer regarding the proceedings issued under KLC Act & Rules, ordering to take over 38,171 acres of Government land in 4 districts of Kollam, Pathanamthitta, Kottayam, and Idukki. The petitioners claimed before the Hon`ble High Court that they have been in possession of the properties on the strength of valid title for a very long period and all those lands are freehold, leasehold and those are liable to be granted on fixity of tenure under the Kerala Land Reforms Act, 1963 and therefore the respondents have no authority to proceed under KLC Act.

On the other hand Government have argued that all those lands under the proceedings come under explanation I and IA of the KLC Act. The petitioners were claiming title through a foreign company, M/S Malayalam Plantations (UK) Ltd and its predecessors. The foreign companies did not have any right to hold any property in India, after the Indian Independence Act, 1947. The freehold grants from erstwhile rulers of the state have vested in Government. The petitioners have no right to hold any of those properties on the strength of indentures executed between the foreign companies. And, foreign companies do not have any right to enjoy any benefit under the KLR Act.

The Special Officer issued his proceedings on 28.11.2014 in which he found that he is having the jurisdiction to initiate action under the KLC Act. The Special Officer, there after issued proceedings on 01.12.2014, describing it as final order under section 11 of the KLC Act issued in compliance of the judgments in WP(C) No. 4877/2014 etc. The final proceedings were followed by notices in form No. C under

Rule 11 of the KLC Rules, directing the petitioner to vacate the premises within a period of one month of the judgment. The petitioners in all the other writ petitions, who are assignees of M/S HML, also received such notices and orders there after. The Writ Petitions were filed in the above background, challenging the jurisdiction as well as the proceedings initiated by the Special Officer under the KLC Act.

The Hon`ble High Court have passed an interim order directing to maintain statu quo and directing that the petitioners shall not alienate or encumber the property without permission from the court. Although the purpose of admission was restricted to the issue of jurisdiction and propriety of the order, the parties were heard at length. According to the petitioners the Special Officer has no jurisdiction to resume any of those parcels of land.

According to the Governmunt the appoindment of the Special Officer was as per provisions in the KLC Act, and he has discharged his bounden duties to take action to protect the Government land in terms of the provisions in the Act. The petitioners are holding large extent of precious land of the Government, illegally grabbed by their predecessor in interest, a foreign company through fabricated indentures or agreements and without any title.

According to the High Court the impugned proceedings in these cases relate to resumption of huge extent of land from HML and its assignees lying in 7 districts in the state. HML is a company incorporated in 1984 under the Indian Companies Act, 1956. The company and others hold the large extent of land, which were originally

in the hands of foreign companies registered under the English Companies (Consolidation) Act, 1908.

According to HML, the properties are held by it on valid title, being either leasehold or on freehold grants or those liable to be granted on fixity of tenure under KLR Act. The company argued that it has got permission from the Reserve Bank to continue its business activities and non of those properties got vested in the Government. They claimed that there is no prohibition against foreign companies in holding the lands in India or against the successors in interest to enjoy the benefit of the KLR Act. They contended that their title was recognised by way of judgments / orders in innumerable cases of the High Court, subordinate courts and statutory Authorites like Taluk Land Board, Land Tribunal etc. They argued that the Taluk Land Board, Vythiri exempted 57,568 acres of land out of 59,428 acres in 1982 in favour of the company.

The above contentions were refuted by the Government saying that the genuineness of the documents had never been examined by any of the courts or authorities. The entitlement of the foreign company to claim rights to hold the properties, after the enactment of Indian Independence Act, the Foreign Exchange Regulation Acts, Indian Companies Act, KLR Act and other land laws, was never examined. Foreign company cannot come within the purview of the term, *`cultivating tenant'*. HML cannot derive any right over the land which were held by the foreign company as on 01.4.1964 or 01.01.1970 when the provisions of the KLR Act came into force. Hence Purchase Certificates should not be issued to foreign companies. The Land Board does not have any right to adjudicate on the title over the properties. The

Government strongly argued that the procedure and the issuance of all those fraudulent and fabricated Purchase Certificates were as a result of the fraud played by the petitioners and their predecessors in interest on judiciary, executive and the public at large. The Government contended that fraud vitiates everything and nullifies the judgment / orders resulted out of fraud and that the petitioners have been abusing the jurisdiction of the Court. It was pointed out that the permission obtained by the company from the Reserve Bank of India and furnished were those obtained for continuing business transactions under section 29 and no permission was sought, granted or produced under section 31 of FERA in order to hold immovable properties, and no permission sought for continuance of its activities, as provided under section 28 of the Act.

But the indenture No. 1600/1923, the properties of M/S Malayalam Rubber & Produce Company (UK) Ltd which included the land granted from erstwhile State of Travancore were assigned to M/S Malayalam Plantation (UK) Ltd, both of which were foreign companies incorporated and registered in London, under the English Companice (Consolidation) Act, 1908 and having the very same address. The indenture was executed by Mr. John Mackies as both the vendor and the purchaser. The schedule to the indenture contains only the leasehold and freehold lands.

In the above circumstance the Hon`ble High Court have gone through each and every contention raised by the petitioner companies and the Government. The Court have examined whether the company could continue to hold these immovable properties and carry on its business without permission under the provisions of FERA 1947 as well

as FERA 1973 and whether the permission under section 29(2) of FERA 1973 alone was sufficient. The next question the Court examined was whether a foreign company is entitled to any benefit under the KLR Act. The Hon`ble High Court have observed the definition of a person, which is relevant in this context.

Section 2 (43) defines a 'person' as follows;

> *"2(43) 'Person' shall include a company, family, joint family, association or other body of individuals, whether incorporated or not, and any institution capable of holding property."*

Thus a company whether incorporated or not comes under the definition of *'person'*. The court have seriously examined whether a company incorporated in London under the English Companies (Consolidation) Act, 1908 can be a *person* under KLR Act. The court have found out that "*the existing company",* as on the date of enactment of the Indian Companies Act, 1956, must be a company formed and registred under any of the previous companies laws as The Indian Companies Act, 1866; The Indian Companies Act, 1913; The Registration of Transferred Companies Ordinance, 1942. According to Hon`ble High Court it is an admitted fact that M/s Malayalam Plantations (UK) Ltd, was a company incorporated under the English Companies (Consolidation) Act, 1908 and registered in England. The Foreign Company was never registered in India as stipulated in section 3(2) of the Companies Act, 1956. Therefore the High Court have declared that it cannot be reckoned as a company as envisaged in the definition of '*person*' in section 2(43) of the KLR Act. As the status of

cultivating tenant under KLR Act is determined on the cut off date on 01.4.1964, M/S Malayalam Plantations (UK) Ltd incorporated in England in this period cannot be considered as a tenant in Kerala. The company, who held land only on freehold grants and leasehold, claimed to have fixity of tenure, is not eligible to get the benefit of a cultivating tenant under the Act. The foreign company does not come under the definition of a company as defined under the Indian Companies Act. Therefore such company shall not come under the definition of '*person'* under section 2(43) of the KLR Act - the Court observed.

In the Foreign Exchange Regulation Act, 1947, as amended by Act 8 of 1952, section 18 (3A) provided that any transfer of interest in any business in India is not valid till such time it is confirmed by the Reserve Bank, on application made to it. Under section 18(3B), no transfer shall be made to such company without permission of the Reserve Bank. Section 18A provided that accepting oppointment of any foreign company as agent of such foreign company or its branch, without permission of the Reserve Bank or Central Government, will be void the Hon`ble High Court pointed out. The provisions contained in section 18A of 1947 Act are contained in section 28(1) and (2) of the 1973 Act, restricting foreign companies, its branches, or any foreign national to act or accept appointment of certain persons and companies as agents or technical or management advisers in India. Agent includes a company or its branch also. The Court also points out that section 31 of FERA, 1973 provides that holding of any immovable property shall be with the permission of the Reserve Bank. **The Hon`ble High Court have seriously observed that M/S HML has furnished several letters it received from the Reserve Bank of India stating that it has got**

permission to carry on business activities. But none of those letters refer to permission granted under section 31(2) of the Act or under any provision other than section 29(2). The court have found out that those letters furnished by the company show permissions granted under section 29(2) of the Act which is permission to continue its business in India, on conditions stipulated. Section 30 of the Act provides that no foreign national shall, without the previous permission of the Reserve Bank of India practise any profession or carry on any occupation, trade or business in India.

From the above provisions, **the Hon`ble court have admitted that foreign companies were to get permission in order to carry on their business in the country. They were to get permission in order to hold immovable properties and any of their acts as an agent or branch of foreign company in India without permission was void in the light of the provisions contained in 1947 and 1973 of the Act.**

The Hon`ble High Court also viewed that under the provisions contained in section 596 to 603 of the Indian Companice Act, 1956, they were to furnish return before the Registrar of companies at New Delhi as well as with the Registrar at the place of business. **The court have prima facie viewed that in the absence of any document to show permission obtained under section 18 and 18A of FERA 1947 Act and sections 28, 30 and 31 of the FERA 1973 Act, the foreign companies were not legally entitled to continue their business in India or to hold immovable properties in India.**

In the above background the Hon`ble High Court have strictly examined the provisions in KLR Act whether such a foreign company

could hold immovable property and carry on business, subject to the restrictions in the aforesaid provisions and whether it was entitled to any benefit under KLR Act, 1963. Going by the provisions contained in the KLR Act, taking into account the intent and object behind the Act, **the Court is of the prima facia view that a foreign company cannot be treated as a person coming under the definition of *'person'* as defined in KLR Act and hence the company cannot be considered either as a *cultivating tenant* or *tenant.***

The Hon`ble High Court have noted that the KLR Act was enacted in implementation of the national policy on agrarian reforms with the main object to protect the landless lot from the clutches of the landlords. And, the court viewed that the provisions in the Act have therefore to be construed keeping in mind the object behind this socio - economic legislation.

The hon`ble High Court are of the considered view that the legislature has not envisaged a situation wherein a foreign company is able to enjoy the benefits available to landless cultivating tenants in the country for fixity of tenure or to avail the benefit of exemption to hold such huge extent of land without being hit by the ceiling provisions.

The Hon`ble High Court admitted the above writ petitions making it clear that the admission was for the limited purpose of deciding the question of jurisdiction, propriety of the order and the decision making process leading to the final proceedings. The court have examined how the Special Officer found the existence of

jurisdictional fact, how he arrived at the finding that the properties held by petitioners are Government land and how their possession became unauthorised.

The important findings of the Special Officer as observed by the Hon`ble High Court are as follows:

- *The predecessor in interest of M/S HML was a foreign company registered under the English Companies (Consolidation) Act, 1908 and not a company as defined under the Indian Companies Act, 1956.*
- *Consequent to the Indian Independence Act the properties held by the foreign companies got vested in Government under article 296 of the constitution of India.*
- *Admittedly all those properties held by the foreign companies were either leasehold land or freehold land on grant, which got vested in Government under Section 51A, 51B, 72 and 86(4) of the KLR Act.*
- *The foreign company did not get permission from Reserve Bank under FERA, 1947 and 1973 to continue the business or to hold immovable property in India.*
- *Foreign company does not get any benefit under KLR Act; it is not entitled to get fixity of tenure.*
- *Foreign company does not come under the definition of tenant or cultivating tenant.*
- *KLR Act is intended for the benefit of the landless poor in the State of Kerala and not for the foreign company.*
- *The judgments and orders rendered without considering these aspects are not binding .*
- *Taluk Land Board has not adjudicated the title over the land.*

- *Land Tribunal issued fraudulent purchase certificates in the name of British company.*
- *The indenture 1600/1923 bears the water mark of English company, not the water mark of Government of Travancore. The vendor and purchaser are the same British company.*
- *The indenture of 1923 does not refer prior title deeds.*
- *Land held by foreign company cannot be transferred by amalgamation.*
- *The land schedule produced by the company in CP.No.25/1978 shows that they are holding only the leasehold and freehold land without jenmam right.*
- *Acreage value stipulated by various grants and leases are not paid by M/S HML or its predecessors.*
- *The holding of lands acquired by Government by way of the Edavagai Rights Acquisition Act, 1955 was unauthorised.*
- *Huge extent of land seen in the puthuval pattas and purchase certificates without the stipulated ceiling limit is illegal.*
- *The appointment of the Special Officer was upheld by the Hon`ble High Court of Kerala in WP(C) 30955/2013.*
- *Harrisons Malayalam Limited acquiesced to the jurisdiction of the Special Officer and filed objections.*
- *The judgment and orders were rendered on account of the fraud played by the petitioners and their predecessors in interest and fraud nullifies all such judgments and orders.*
- *Huge extent of Government land, which is to be distributed to the landless in the depressed class of the State, grabbed by the foreign company is held by M/S Harrisons Malayalam Limited.*

- *The jenmam right over the properties held on grant from Maharaja of Travancore vested in Government, while the right over the grant alone was made heritable or transferable.*
- *The term 'indenture' was being used only in agreements; therefore the document No.1600/1923 can only be an agreement.*

In the light of the above arguments the Hon`ble High Court have admitted the fact that M/S Malayalam Plantation (UK) Ltd was a company incorporated under the English Companies (Consolidation) Act, 1908 and registered in England. It is not one registered under any of the Companies Act mentioned in Section 3(2) of the Indian Companies Act, 1956 and hence does not come under the definition of 'existing company'. ***Therefore it cannot be reckoned as a company as envisaged in the definition of 'person' in Section 2(43) of the KLR Act, 1963.***

The Hon`ble High Court have also admitted that in the Foreign Exchange Regulation Act, 1947 as amended by Act 8 of 1952, Section 18(3A) provided that any transfer of interest in any business in India is not valid till such time it is confirmed by the Reserve Bank. Under Section 18 (3B), no transfer shall be made to such company without permission to the Reserve Bank. ***Section 18A provided that accepting appointment of any foreign company as agent of such foreign company or its branch, without the permission of Reserve Bank or Central Government, will be void.*** The provisions contained in Section 18A of 1947 Act are contained in Section 28(1) & (2) of the FERA, 1973 with certain modifications, restricting foreign companies or its

branches or any foreign national to act or accept appointment of certain and companies as agents or technical or management advisers in India***. Further Section 31 provides that holding of any immovable property shall be with the permission of the Reserve Bank. The court have seriously viewed that M/S HML has furnished several letters it received from the Reserve Bank stating that it has got permission to carry on business activities. But none of those letters refer to permission granted under Section 31(2) of the Act.*** Section 30 of the Act provides that no foreign national shall, without the previous permission of the Reserve Bank of India practise any profession or carry on any occupation, trade or business in India.

The learned single judge has prima facie viewed that in the absence of any documents to show permission obtained under Section 18 and 18A of FERA, 1947 and Section 28, 30 and 31 of FERA, 1973 the foreign company was not legally entitled to continue its business in India or to hold immovable properties. The court was of the prima facie view that a foreign company cannot be treated as a person coming under the definition of 'person' as defined in KLR Act and hence cannot be considered as a cultivating tenant or tenant.

The Hon`ble High Court have also noted that KLR Act was enacted in implementation of the national policy on agrarian reforms with the main object to protect the landless lot from the clutches of the landlords. The court have seriously viewed that the legislature has not envisaged a situation where in a foreign company is able to enjoy the benefits available to the landless cultivating tenants in the country for fixity of tenure or to avail the benefit of exemption to hold such huge extent of land without being hit by the ceiling provisions.

The Hon`ble High Court have declared that once it is found that the company cannot be treated as a 'person' coming under the purview of KLR Act, petitioners claim based on the provisions there in become unsustainable. It is in that event only the Special Officer can be said to have jurisdiction to proceed under KLC Act. Thus the Hon`ble High Court have declared that the Special Officer has jurisdiction to continue the proceeding under KLC Act & Rules.

The Hon`ble High Court have declared the forgery committed by the foreign company in Kerala. The Hon`ble High Court have approved each and every finding of the special Officer & Collector and referred the case to the Division Bench. The court have found out the fraudulent activities of the foreign companies grabbing 1000s acres of Government land, which was to be distributed among the landless poor. The Special Officer and Government pointed out the judgements of the Apex court which nullify all judgments and orders rendered on account of the fraud played by the petitioners and their predecessors in interest. It was proved that the foreign companies plundered the wealth and property of the State. The judgments and orders obtained by the companies were based on their fraudulent activities played before the courts and based on the misleading activities. The Taluk Land Board and Land Tribunals were illegally extending the Laws to Great Britain to protect the citizens and companies of that nation instead of protecting the interests of the poor landless and homeless peasants of Kerala as envisaged in the Kerala Land Reforms Act, 1963 which was enacted under the National policy of the Agrarian Reforms which is stipulated in our Constitution.

The Hon`ble High Court may negleet the earlier judgments and orders obtained by the company based on their fraudulent activities.

The court have referred the batch of writ petitions to the Division Bench only on account of the fact that the company and its transferees had obtained favourable orders from various courts including the Hon`ble High Court. The Statutory Authority, the Land Tribunals had issued illegal Purchase Certificates in favour of a foreign company. The Hon`ble Supreme Court had declared the company as a cultivating tenant only on the basis of the finding of the Land Tribunal which had not examined the provisions under KLR Act. I, the Special Officer, in all the proceedings under KLC Act, have made it clear that the judgments and orders were rendered on account of the fraud played by the petitioners and their predecessors in interest and fraud nullifies all such judgments and order. But the Hon`ble High Court have decided to refer the petitions to a Division Bench to consider the above matters and adjourned the cases for being heard by a Bench of two judges. Now the writ petitions are pending before the Division Bench.

WHAT WE DO WITH THE HUGE EXTENT OF RESUMED GOVERNMENT LAND?

Kerala is a predominantly agricultural society. It has a strong linkage between land and social status of an individual. Land provides livelihood, dignity and food security to millions of people. Kerala has larger number of rural poor and landless households. Landlessness is a strong indicator of rural poverty in the country. Land is the most valuable, imperishable possession from which people derive their economic independence, social status and a modest and permanent

means of livelihood. Land also assures them of identity and dignity and creates condition and opportunity for realizing social equality. Assured possession and equitable distribution of land is a lasting source for peace and prosperity and will pave way for economic and social justice in Kerala.

Land reforms was a major policy initiative in Kerala during 1950's and 1960's. The measures like ceiling on the land holdings became part of the legal frame work and did not completely implemented in its true spirit. The petty attempts of declaring surplus land for distribution to the poor is being challenged in various courts and the cases are being dragged for years upto the point where there is no surplus land to take over. The civil revision petititions regarding surplus land have been pending for even decades. Within these pendency, the landlords willingly and deliberately transfer the surplus land for defeating the land reforms. The transferees are very difficuilty to evict as they are protected by the regional political leaders who stand in front of the agitation raising law and order problem to the District Administrative System. The poor is being caught up in the web of infinite litigation.

In order to provide land to the landless poor radically different and comprehensive approach will be required. ***The true land reform has become much more relevant today than ever before.*** The unequal distribution of land is leading to social unrest and violence in some parts of our state. The grievances of those affected shall be met adequately through a revisit to a comprehensive land reform. ***To address a number of critical issues related to land in the current juncture, the need for a State Land policy is urgent than ever before***. This policy outlines a

very clear strategy of creating a large pool of land so that every family's right to land is fully honoured. The policy should proceed to suggest a just and equitable method of alloting land on a priority basis to the marginalized. If the Kerala Land reforms Act, 1963 had been implemented in its true letter and spirit, there would not have been any scarcity of land in Kerala. The Act has been used to concentrate the lion portion of agricultural land to the hands of a minority. They used the exemption clause of Section 81 to achieve this target. The new land policy should be for ensuring effective distribution of land to landless poor, protecting them from losing their land, restoration of alienated land, effective safeguards for land of the scheduled castes and scheduled tribes ensuring homestead rights, land rights for woman and effective usage of common property resources.

The state shall prepare, with the help of modern scientific methodologies a detailed and comprehensive survey and documentation of the existing land area, its use, titles and all information relating to land, so that its possible potential use can scientifically be determined. It should be for the best utilization of a particular type of land, respecting the rights and opinions of communities and people, especially women and the marginalized.

Recognizing the need for land among the poorer sections of the society, the State government have to come up with land distribution programme to facilitate land ownership for the poor. Though sizeable extents of surplus land were distributed, field observations show that many of those lands are fraught with issues relating to possession, boundary disputes, successions, encroachments etc making a very little impact on the livelihoods of the assignees. Even after all these

interventions the landlessness or near-landlessness among the poor, especially among the SC/ST is considerable and the demand for land is still being unmet. In order to provide homestead land, minimum agricultural land and shelter to every family, it is essential to create a land pool. To achieve this object Government have to evict ineligible encroachers of government land and ceiling surplus and distribute to the landless poor. There is an urgent need to revisit the land ceiling limits in different categories. Ceiling should be implemented not only on *'ownership'* of land holdings but also on *'operational'* land holdings to prevent concentration of large tracts of land. Under no circumstances shall a person, institutions or organization be allowed to own, hold or possess more land than the ceiling limit as stipulated under Section 83 of the KLR Act 1963. Distress sales are another way by which the rural poor keep on losing their lands even if every other safety measure is ensured to secure their title and possession. The rural poor are highly vulnerable and are prone to succumbing to various unforseen exigencies at the home front like ill health, marriages, education expenses etc. These factors coupled with the inabilility of the rural poor to access institutional credit at the right time compel the rural households to sell of their land at meagre prices.

In Kerala the majority of the agricultural labourers are women. Rural households are increasingly becoming female headed households. In all Govt land transfers, women's claim should be directly recognized. All new homestead land distribution or regularization to landless families should be only in women`s name rather than joint title with husbands. State should consider the adoption of a *"group approach"* in land cultivation and investment in productive assets. They may grant

group titles to women's group for mass cultivation. The group can form societies of their own under the strict control of the State.

Extreme poverty in rural area is rooted in landlessness. The poorest and most vulnerable among the rural families are those who are landless and homeless. Right to equal access to and ownership of homestead enabling a landless and homeless family live with dignity, provide social security and social insurance. Land available with the government may be distributed to the landless and homeless households.

Further many development activities and projects in Kerala have been held up due to the scarcity of suitable land. The proposed upcoming projects in Kerala like AIIMS, IIT, Medical College etc can be materialized in a speedy manner, if the scarcity of land is dealt with properly as pointed out.

There is also wasteful expenditure due to the acquisition of land at exorbitant rates; where as large extents of land are amassed by powerful individuals/ social groups violating the rules as already explained.

All the development activities, projects can be pursued without any hindrance if land is readily available. Rehabilitation and Resettlement of persons evicted from lands acquired for development activities can also be carried out in an efficient manner.

The Special officer has already issued proceedings to take over an extent of about 38000 acres belonging to Harrisons Malayalam Ltd., its assignees & other intruders in four districts. If all the land which had been occupied by the British companies & individuals in Kerala prior independence and now unauthorizedly occupied by other intruders are

resumed it would come up to about an approximate extent of a minimum of 5,00,000 acres !

Resuming and properly managing all such resumed lands would solve the issue of scarcity of land in Kerala to a large extent.

The new Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act focuses on providing not only fair compensation to the land owners but also to extend rehabilitation and resettlement benefits too, which shall be in addition to the minimum compensation. So inorder to implement large scale development projects a large scale of land has to be identified as a part of rehabilitation. This is a major issue and a main hindrance to the implementation of the Act, which could be resolved by lands resumed as mentioned earlier.

It is unfortunate that the system of land administration and management has remained neglected in most part of the State particularly after the development agenda became the major focus of the government and administration in the recent few decades. The regular survey and settlement operations started after the independences were abandoned. It was little realized that proper and scientifically updated land records are not only critical for agricultural development, just and smooth agrarian relations and rural social harmony but also are the backbone of development and effort

IT IS HIGH TIME TO BRING THE LAND UNDER STATE CONTROL

Article 14 of our Constitution provides Right to Equality. The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. There should be no discrimination between one person and another if as regards the subject - matter of the legislation their position is the same. The Constitution ensures equal protection and equal Taxation. But a group of corporate companies do not pay any registration fee or stamp duty on transfer of huge extents of immovable properties in Kerala. In the name of mere amalgamation of companies they transfer even thousands of acres of land without paying the statutory dues to Government. But on the other side the State Registering authority is milking the poor people who buy or sell small pieces of land. This is illegal and against the Article 14 of our Constitution. Discretionary power is not necessarily discriminatory. The discretion is vested in the Government or other high authority as distinguished from a minor official. The administrative authority misuses the power by making an arbitrary selection without regard to the policy laid down by the Legislature. The administrative act will be struck down as discriminatory. Equal protection may be denied not only by legislation but also by the administration of a law.

Article 19 of the constitution provides all citizens the right to move freely throughout the territory of India; to reside and settle in any part of the territory of India and to acquire, hold and dispose of property in any part of the territory of India.

Article 31 provides Government the right of Compulsory Acquisition of property. Land Acquisition for *public purpose* is prima facie respected by the courts and it is the duty of the courts to determine the question by making the existence of a *public purpose*. The acquisition of lands for a society formed for construction of house for clearing slum areas and housing poor people or in areas where there is an acute shortage of dwelling accommodation is a *"public purpose"*. There the direct and immediate beneficiaries are the members of that society. A *public purpose* is either a purpose of the union or of a State or any other public purpose. A scheme of land reforms, even though it may ultimately benefit a class of tenants, is *public purpose.* ***Land reforms,by nationalising the means of production and elimination of the concentration of the means of production in the hands of a few individuals, is public purpose. The elimination of intermediaries between the Government and the tillers of the soil and vesting the management of cultivation in a village body is public purpose.*** The Bihar Land Reforms Act, 1950 was invalidated as its mere purpose was to raise revenue to pay compensation to the Zamindars for acquisition of their estates. Any law to which Article 31 (2) is attracted, would be unconstitutional if it seeks to make the executive determination of the existence of a public purpose. When a Legislature declares that there is a *public purpose*, the courts should respect its words, and examining whether there is a *public purpose* behind a scheme for acquisition, the scheme should be examined as a whole instead of picking out particular items to say that they are not supported by any *public purpose.* Once it is held that a public purpose exists, it is not competent for the court to go into the further question. ***Government is the best judge of the need for***

the land. It is for the Government, not the court, to decide whether a particular work is to prove useful to the public.

Part IV of the Constitution contains the Directive Principles of State Policy. Though it is the duty of the state to implement the Directives, it can do so only subject to the limitations imposed by the different provisions of the Constitution upon the excercise of the legislative and executive power by the state. ***The legislative power of the state cannot override the fundamental rights.*** Article 38 stipulates that the state shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life. ***Article 39 provides*** that the state shall direct its policy towards securing that the citizens equally have the right to an adequate means of livelihood; ***that the ownership and control of the material resources of the community are so distributed as the best to subserve the common good; that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment***. Article 46 provides that the State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes and shall protect them from social injustice and all forms of exploitation.

Article 226 of the Constitution provides the High Court the power to issue writs. The object of Article 226 is the enforcement and not the establishment or declaration of a right. A petition under Article 226 cannot be converted into a suit, nor can a writ be utilized for granting what is in essence a declaratory relief. An application under

Article 226 would be refused without a hearing on the merits, if it appears that the applicant has made a deliberate concealment or misstatement of material facts with a view to mislead the court. If the court has been deceived, that it will refuse to hear anything further. ***Where an alternative remedy was available, the petitioner cannot be allowed to apply under article 226 of the constitution. But receiving the statutory notice under KLC Act, the occupants approach the Hon`ble High Court and file writs under Article 226 and the Hon`ble High Court uses its discretionary power. Interim relief cannot be given in a proceeding so as to completely dispose of the proceeding without finally determining the rights of the parties in question in the proceeding. Where the court refuses to determine the rights of the parties in the proceeding, the Court cannot grant any interim relief, such as maintaining the "Status Quo". Where it is question of jurisdiction of fact and law, the High Court would not allow it to be raised in a proceeding under Article 226, unless it had been raised before the tribunal itself or he can show that he was unaware of those facts when the matter was before the tribunal. Where an administrative authority has to function in a quasi - judicial capacity must be determined in each case, on an examination of the relevant statute as well as the rules framed thereunder. Where the authority is required by the statute to act judicaially, the decision will be quasi - judicial even though one of the parties to the contest is the authority itself.*** The essential elements of a judicial approach are - giving an opportunity to the party, who is affected by an order, to make a representation, making some kind of enquiry, hearing and weighing evidence, if any, and considering all the facts and circumstances bearing on the metits of the controversy, before any decision is made. Prescribed

forms of procedure are not necessary to make an inquiry judicial, provided, in coming to the decision the above are required to be followed. ***The quasi - judicial authority giving full opportunity to the affected person to place his case before the authority, even though the decision of such authority, whether right or wrong, may be final and may not be liable to be challenged in a court of law.***

At present the Right to Property viz. *"No Person shall be deprived of his property save by authority of law"* is enshrined in Article 300A, inserted by Constitution 44th Amendment. The Constitution 44th Amendment Act, 1978, robbed the '*right to property'* of its fundamental right - character, and adorned it with status of *Constitutional / legal right.* The effect of this amendment of vast magnitude is that the *'right to property'* is no more a fundamental right but is only a *constitutional / legal right* and in the event of breach thereof, the remedy available to an aggrieved person is to approach the High Court under Article 226 of the Constitution of India and not the Supreme Court under Article 32 of the Constitution, a speedy remedy available earlier.

However, two exceptions have been created by the 44th Amendment to the aforesaid general rule. First, where the property acquired belongs to an educational institution established and administered by a minority, the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right of minorities *"to establish and administer educational institutions of their choice"* guaranteed by Article 30(1) ***Secondly, where the State seeks to acquire any estate and where any land comprised therein is held by a person under his personal cultivation and such land is within the ceiling limit***

applicable to him under any law for the time being in force, or any building or structure therein or appurtenant thereto, the State must pay compensation at the market value for such land, building or structure acquired. Article 21 essentially deals with personal liberty. It has little to do with the right to own property as such. Here we are not concerned with a case where the deprivation of property as such. Here we are not concerned with a case where the deprivation of property would lead to deprivation of life or liberty or livelihood. On the other hand, land is being acquired to improve the living conditions of a large number of people. Land ceiling laws, laws providing for acquisition of land for providing housing accommodation, laws imposing ceiling on urban property etc, cannot be struck down by invoking Article 21 of the Constitution.

The fundamental *'right to property'* has been abolished because of its incompatibility with the goals of justice, social, economic and political and equality of status and of 'opportunity' and with the establishment of a social democratic republic, as contemplated by the Constitution. *'The right to property'* under Article 300A is not a basic feature or structure of the Constitution. It is only a Constitutional right. At the time of independence India was still struggling under the yoke of many oppressive regimes. The chief among them was the Zamindari system which led to exploitation of various poor peasants at the hands of tyrannical landlords. Hence to abolish this system and introduce a series of agrarian reforms in order to achieve the ideal of *"Justice-- Social Economic and Political"* as enshrined in the preamble of our Constitution, the right to property was removed from Part III of our

Constitution i.e. fundamental Rights *via* the Constitution 44th Amendment Act, 1978.

The Supreme Court had gone out of its way to hold against the right to property and the right to accumulate wealth and also held that ***with regard to Article 39, the distribution of material resources to better serve the common good and the restriction on the concentration of wealth.*** The court however is also responsible in toning down the excesses on the right to property and wealth by the socialist state. During the period of liberalization, the Supreme Court has attempted to get back to reinterpret the provisions which give protection to the right to property so as to make the protection real and not illusory and dilute the claim of distribution of wealth. However, this has been an incremental approach and much more needs to be done to shift the balance back to the original in the Constitution.

Today, the times have changed radically. India is no more seen through the eyes of only political leaders with a socialist bias. It is India shining seen through the corporate lenses of financial giants like the Tatas, Ambanis and Mahindras, with an unfathomable zeal for capitalism, money and markets. There is another angle. There is scramble by industrialists and developers for land all over the country for establishment of Special Economic Zones. Violent protests by poor agriculturists have taken place to defend their meagre land- holdings against compulsory acquisition by the State. Socialism has become a bad word and the Right to Property has become a necessity to assure and assuage the feelings of the poor more than those of the rich.

Our Constitution was framed by an extraordinary body of men, a body of men whose combined virtues and talents have seldom if ever been equalled in this country. They possessed that rare quality of mind, which unites theory and practice. They understood the unique conditions of the country and the enduring needs and aspirations of the people, and they adapted their principles to the character and genius of the nation. ***They visualized a society in which every citizen should be the owner of some property*** not only as a means of sustenance but also as a zone of security from tyranny and economic oppression.

Land reform involves the changing of laws, regulations or customs regarding land ownership. ***Land reform may consist of a government - initiated or government - backed property redistribution, generally of agricultural land. Land reform can, therefore, refer to transfer of ownership from the more powerful to the less powerful***, such as from a relatively small number of wealthy (or noble) owners with extensive land holdings. The common characteristic of all land reforms, however, is modification or replacement of existing institutional arrangements governing possession and use of land. Thus, while land reform may be radical in nature, such as through large - scale transfers of land from one group to another. Land reforms, which change what it means to control land, therefore create tensions and conflicts between those who lose and those who gain from these redefinitions. Land reform is a deeply political process and therefore many arguments for and against it have emerged. These arguments vary tremendously over time and place. Today many arguments in support of land reform focus on its potential social and economic benefits.

Particularly in developing countries, that may emerge from reforms focused on greater land formalization. Such benefits may include eradicating food insecurity and alleviating rural poverty. The poor are often unable to secure formal property rights, such as land titles, to the land on which they live or farm because of poor governance, corruption and / or overly complex bureaucracies. Without land titles or other formal documentation of their land assets, they are less able to access formal credit. Political and legal reforms within countries, will help to include the poor in formal legal and economic systems, increase the poor`s ability to access credit and contribute to economic growth and poverty reduction. Other arguments in support of land reform point to the need to alleviate conflicting land laws, particularly in former colonies, where formal and informal land systems may exist in tension with each other. Such conflicts can make marginalized groups vulnerable to further exploitation. Many of the arguments in support of land reform speak to its potentially positive social and economic outcomes. Many of those opposed to land reform are nervous as to the underlying motivations of those initiating the reform. Some may fear that they will be disadvantaged or victimized as a result of the reforms. Others may fear that they will lose out in the economic and political power struggles that underlie many land reforms.

In the above context, I recommend that in order to resume the government land legislation is necessary rather than the proceedings under Kerala Land Conservancy Act, 1957 which undergoes many litigations that may take many decades to dispose of. A land reform programme based on the objectives of maximising agricultural productions and employment and reducing inequalities in wealth and

income should be initiated in Kerala. A ceiling of land should be imposed on all privately owned land and sought to distribute land in excess of the ceiling for the benefit of landless peasants. The Land Reforms (Amendment) Law should be brought in the estates under the British companies and others. All the estates which are held by companies illegally should be taken over to the government under this legislation.

In Kerala legislation is necessary to bring the illegal plantation holdings under state control. The true spirit of the Kannan Devan Hills (Resumption) of Land Act, 1971 may be followed to take over the entire Government land occupied by the plantation companies. After verification, a good proportion of the land which are lying idle with the companies should be reserved for the assignment to the landless, homeless and for other public purposes such as infrastructure and industrial projects including compensatory forestation for hydel and public purpose projects. And, the remaining portion of plantation area may be auctioned for the highest rate for the lease period of 30 years with strict Government control and conditions including the right of Government to resume the land at any time for the violation of lease conditions. There should also be a condition for entertaining the Government interference in labour disputes such as dispute on wages, working time, education of children, health facilities, residential houses, usage of public pathway etc. The other option would be that the land should be leased to the existing management of companies by ensuring a partnership of the existing labourers in the management of the plantations with state control.

It is high time to take policy decision regarding this issue as it is advisable to go for legislation than to proceed under KLC Act.

I submit this report for thorough discussion and for necessary action.

M.G. RAJAMANICKAM, IAS.
Special Officer & Collector,
Govt. Land Resumption.

THE ACTS, RULES AND REPORTS THAT HAVE BEEN REFERRED TO

- **The High Level Committe Report (Headed by Dr. Niveditha P. Haran IAS)** **2007**
- **Legal Opinon Rtd. Justice Sri. L. Manoharan (High Court of Mumbai)** **2009**
- **The Report of Sri. Sajith Babu, Asst. Commissioner (LR), Commissionarate of Land Revenue** **2010**
- **The Travancore Land Revenue Manual Vol. I** **1915**
- **The Travancore Land Revenue Manual Vol. II** **1915**
- **The Travancore Land Revenue Manual Vol. II (Third Supplement)** **05.8.1934**
- **The Travancore Land Revenue Manual Vol. II (FithSupplement)** **31.12.1934**
- **The Independence Act,** **1947**
- **The Foreign Exchange Regulation Act** **1947**
- **The Foreign Exchange Regulation Act** **1973**
- **The Constitution of India** **1950**
- **The Affidavits filed by Government in OP(C)-** **3508/2011**
- **The judgment in OP(C) - 3508/2011, dated 09.09.2013.**
- **The judgment in WP(C) Nos. 14251/2012 & 213/2013 dt. 28.2.2013**
- **Kerala Land Conservancy Act** **1957**
- **Kerala Land Conservancy Rule** **1958**
- **Kerala Land Conservancy (Amendment) Act** **2009**
- **Kerala Land Reforms Act** **1963**

- **Indian Companies Act 1956**
- **The Edavagai Rights Acquision Act 1955**
- **The Kanna Devan Hills (Resumption of Land) Act 1971**
- **The Hon`ble Supreme Court Judgment in WP(C)- 44/1971;dated 24.7.1972 - Regarding KDH (Resumption of Land) Act 1971**
- **Kerala Land Assignment Act 1960**
- **Kerala Govt Land Assignment Rules 1964**
- **Transfer of Registry Rules 1966**
- **Land Tax Act 1961**
- **Land Tax Rules 1972**
- **Kuthaga Pattom Rules 1947**
- **Various Settlement Registers of Travancore**
- **The Enquiry Report No. VE.1/2013/SIU-II of the Vigilance & Anti Corruption Bureau, Thiruvanathapuram**
- **Various Judgments of the Hon`ble High Court and Supreme Court regarding the same**

❖ **NATURE OF CASES:-**

- **Vrious Litho Maps**
- **Old And Present Basic Tax Registers**
- **Old and present Tandaper Registers, etc.**

The Special Officer`s field inspection under Rule 6 of the Kerala Land Conservancy Rules, 1958


Nº 74
1959/60

Appendix - I

FIFTH SUPPLEMENT

TO THE

TRAVANCORE

LAND REVENUE MANUAL

VOL. II

DEPARTMENTAL RULES AND STANDING ORDERS

(BROUGHT UP TO 31st DECEMBER 1944)

PUBLISHED BY AUTHORITY

TRIVANDRUM :
PRINTED BY THE SUPERINTENDENT, GOVERNMENT PRESS ;
1950

Proceedings of the Government of His Highness the Maharaja of Travancore.

Read :—

(1) G. O. R. O. C. No. 4153/29/Rev., dated 30th September 1935, issuing the Cardamom Rules under Section VII of the Land Assignment Act III of 1097.

(2) G. O. R. O. C. No. 4719/40/Rev., dated 12th October 1940, restricting 60 acres as the maximum area assignable to a single applicant.

(3) Letter C. No. 1269/117, dated 6th January 1942, from the Division Peishkar, Kottayam, regarding the registry of an area of 139·39 acres of Cardamom lands in Pallivasal pakuthi to a single applicant.

ORDER R. O. C. No. 7959/41/REV., DATED TRIVANDRUM, 19TH JUNE 1942/5TH MITHUNAM 1117.

In the Cardamom Rules issued on the 30th September 1935, no restriction was made in respect of the area of Cardamom land assignable to a single applicant as large extents of Cardamom land were then available for registry. Applicants from Travancoreans for Cardamom lands were also very few in number. In recent years Travancoreans have taken to cardamom planting in larger numbers and it has become difficult to meet the increasing demands for assignment of areas for Cardamom cultivation. In order to ensure a fair distribution of the available area among as many applicants as possible, Government in G. O. dated 12th October 1940, read above, ordered that not more than 60 acres of Cardamom land should be assigned in favour of a single applicant. It was also ordered that encroachments should be evicted in all cases. Instances have also come to the notice of Government where individual applicants after getting an order for registry of large areas of Cardamom land have alienated them even before the registry proceedings were completed.

Government have now come to the conclusion that the registry of Cardamom lands should be better regulated with a view to safeguard the interests of bona-fide cultivators. They accordingly direct that the following further conditions should be observed in disposing of applications for Cardamom lands ;

(i) the registry of Cardamom lands is not to be regarded any longer as a matter of right or of course but should be taken as intended to foster the cultivation by Travancoreans of the cash crops for the best advantage of the State. The discretionary character of the assignment of Cardamom lands should not be overlooked.

(ii) the extent of sixty acres referred to in G. O. R. O. C No. 4719/40/Rev., dated 12th October 1940, is the maximum and not the minimum area available to any applicant.

(iii) the registry of Cardamom lands will be made terminable, if the holding or any part of it is alienated by sale, mortgage with possession or lease for over 10 years in favour of any one without the previous approval of Government and the lands so dealt with will be liable to be resumed by Government without payment of compensation for improvements.

(By order)
G PARAMESWARAN PILLAI,
Chief Secretary to Government.

To

All Division Peishkars.
The Press Room.
The Gazette.

R. O. C. No. 6403/40/Rev.

NOTIFICATION.

It is hereby notified, with the sanction of His Highness the Maharaja, that the Cardamom Rules issued under Section 7 of the Land Assignment Act, III of 1097, under date the 30th September 1935, are further amended as follows :—

1. Rule 2 (iii) substitute the following rule for the existing rule :—

"The annual assessment on cardamom lands to be assigned under these rules shall be Br. Rs. 3 per acre.

In the case of new lands to be granted, if the applicant enters on the land with the permission of Government or after the order of registry is passed, the assessment shall be Br. Rs. 1 1/2 per acre for the first four years and Br. Rs. 3 per acre from the fifth year.

In the case of lands entered upon without permission, the registry of which is sanctioned by Government as an exceptional case, the assessment shall be Br. Rs. 3 per acre from the year in which the order of registry is passed. In these cases assessment shall also be levied for the whole period of occupation, prior to the year in which the order of registry is passed. Such assessment shall be a multiple of the annual assessment which will be fixed in each case by Government at their discretion when registry is sanctioned".

2. Rule 9. Add the following rule as rule 9 (c) of the Rules below the existing rule 9 (b) and above the note (1) to rule 9.

"The minimum rate of tharavila for all lands entered upon without permission for cardamom cultivation, shall be Br. Rs. 125 per acre when their registry is sanctioned and it shall be recovered as follows :—

Br. Rs. 5 per acre with the application for registry, Br. Rs. 20 per acre within thirty days from the date of notice sanctioning registry and, the balance in five equal annual instalments."

3. Rule 32. The following rule shall be substituted for the existing rule :—

"(1) Lands for dry and wet cultivation will not ordinarily be granted within the Cardamom Hills and Periyar Reserves and within the area set apart for registry under these rules in the Pallivasal pakuthy and round about Chinnakanal thavalam. Grass lands, lying within the area specified above may, however be registered under the Puduval or Waste Land Rules for such cultivation as coffee, tea, orange etc., or for beneficial enjoyment, at a minimum tharavila of Rs. 85 per acre, Rs. 5 per acre to be paid with the application and the balance in five equal annual instalments.

(ii) In the case of encroachments on grass lands referred to in sub-rule (i), the minimum rate of tharavila shall be Rs. 125 per acre when registry is sanctioned"

4. Rule 33. Substitute the following rule for the existing rule :—

"(1) No land shall be opened for any cultivation in the Cardamom Hills and Periyar Reserves, and within the area set apart for registry under these Rules in the Pallivasal pakuthy and round about Chinnakanal thavalam, without the special permission of Government or before the order of registry. Should any land be opened without such permission or before registry is ordered, proceedings shall be taken under the Land Conservancy Act, IV of 1091, for the eviction of the trespasser. Entry without permission will not confer any claim for registry.

(ii) The special permission referred to in sub rule (1) will not be granted save in very exceptional cases."

Huzur Cutcherry,
Trivandrum,
17-7-1942/1-8-1117.

(By order)
G. PARAMESWARAN PILLAI,
Chief Secretary to Government.

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF TRAVANCORE.

Read.—

Letter No. 341/Mis./17, dated the 28th September 1942, from the Conservator of Forests.

Order thereon R. O. C. No. 11774/42/Devpt., dated Trivandrum, 24th November 1942/ 9th Vrischigom 1118.

In view of the extreme urgency of increasing food production in the State, Government have been investigating the possibility of extending the area under cultivation of food crops by throwing open swampy and grassy areas within the forest reserves as also Kanipattu lands. On an approximate calculation it is estimated that 34,000 acres of lands can be made available for the purpose as detailed below :—

		Acres.
1.	Swamps in the Devicolam, Peermade and other taluks ...	4,000
2.	Grassy areas in minor reserves ...	5,000
3.	Grassy areas over 2,000 feet in elevation in the taluks of Peermade, Devicolam and Thodupuzha ...	15,000
4.	Kanipattu lands in the taluks of Vilavancode and Neyyattinkara ...	10,000

Although Government are aware that the opening of lands for cultivation within the Reserves might adversely affect the conservancy of the forests they propose nevertheless to permit the cultivation having regard to the urgency of the present situation. A special survey party has already been deputed to ascertain the exact extent of the lands that could be brought under cultivation and to subdivide the available lands into convenient blocks. Necessary instructions have been issued for the expeditious conduct of the survey and it is expected that the work will be over within a short period.

2. As the object of the scheme is primarily to tide over the present emergency, it is proposed to assign the lands on short-term leases subject to the specific stipulation that no improvements of a permanent nature like construction of permanent bunds, drainage channels, etc., should be made. Provision will also be made for the preservation of standing trees and for generally safeguarding the surrounding forests. Lands left uncultivated after assignment will be subject to resumption.

3. With a view to affording an opportunity to all people to take up the lands, leases will be granted by public auction. No individual bidder will be allowed to bid more than 10 acres in the case of swampy lands and more than 25 acres in the case of grass lands. Ten per cent of the available lands will be reserved to the Backward Communities to whom also leases will be granted only by public auction. As regards Kanipattu lands, it is decided to reserve the lands required for the Hillmen under the Hillmen Rules and to throw open the balance area to the public for cultivation, after the publication of the necessary notifications.

4. Government consider it advantageous to constitute for this purpose a Committee in each taluk consisting of the Tahsildar, the Range Officer, the Agricultural Inspector or the Co-operative Inspector (whoever is available in the taluk) and the P. W. D. Section Officer. The Committees will select suitable blocks, conduct the auctions and forward their recommendations to the Division Peishkars concerned who will confirm the auctions in the case of areas of 10 acres or less. In other cases the sanction of Government will be obtained. In the case of lands to be reserved for the backward communities, the Committees will act in conjunction with the Protector of Backward Communities. In regard to Kanipattu lands, the Conservator of Forests will take the necessary steps to reserve the lands allotted to the Hillmen and to throw open the remaining area, which when made available will be duly disposed of by the Committees.

5. The Conservator of Forests is requested to take steps immediately for implementing the above proposals and for the formation of the Committees in the different taluks in consultation with the Division Peishkars, so that the auctions may be held as early as practicable.

(By order)

G. PARAMESWARAN PILLAI,
Chief Secretary to Government.

o

The Conservator of Forests.
The Division Peishkars.
The Registrar of Co-operative Societies.
The Director of Agriculture.
The Chief Engineer, Roads, Irrigation and Miscellaneous.
The Protector of Backward Communities.

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PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF TRAVANCORE.

Read :—

(1) G. O. R. Dis. No. 1753/34/Rev., dated 24-10-1934, sanctioning the registry of encroachments in the cardamom Hills Reserve in the name of the respective occupants.

(2) G. O. R. O. C. No. 4153/29/Rev., dated 30th September 1935 issuing the Cardamom Rules under Section VII of the Land Assignment Act III of 1097.

(3) G. O. R. O. C. No. 4719/40/Rev., dated 12th October 1940 restricting 60 acres as the maximum area assignable to a single applicant.

(4) G. O. R. O. C. No. 7959/41/Rev., dated 10th June 1942 showing the discretionary character of the registry of cardamom lands and prohibiting alienation of cardamom lands.

(5) Petition dated 26-1-1943 from Mr. Tariathu Kunjithommen and others praying for the registry of lands in Pallivasal pakuthy entered upon and cultivated on the strength of the Cardamom Rules of 1935—Mr. E. Subramonia Iyer, Advocate.

Order thereon D. Dis. No. 632/43/Rev., dated Trivandrum 9th March 1943/25th Kumbhom 1118.

Since the issue of the Cardamom Rules dated the 30th September 1935, many Travancoreans have taken to cardamom planting. In view of the limited extent of cardamom lands and on account of the increasing demand for their assignment, Government deemed it necessary to ensure a fair distribution of the available area among as many applicants as possible. Government therefore ordered in G. O. dated 12th October 1940 read above that more than 60 acres of cardamom land should not be assigned in favour of a single applicant. They further made it clear in the G. O. dated the 10th June 1942, read above, that the registry of cardamom land was not to be regarded as a matter of right or of course and that the assignment of such lands was purely a matter of discretion. It was also laid down that the registry would be subject to the condition that it would be terminable if, without the previous sanction of Government, the holding or any part of it was alienated, the lands so dealt with being liable to resumption by Government without payment of compensation for improvements.

Messrs Tariathu Kunjithommen, A. K. Kumaran Vaidyan and K. P. Kochukoratharakan, Members of the Legislature, and certain other cardamom cultivators of Pallivasal pakuthy have

submitted a petition before Government in regard to the registry of occupied lands. The prayer of the petitioners is that the G. O. dated the 12th October 1940, prescribing the 60 acre-limit should not be enforced against those who have cultivated more land on the basis of the G. O. dated the 24th October 1934.

In support of the prayer, it is urged that most of the persons who have occupied cardamom lands without express permission are persons who entered on the lands on the strength of the notification throwing open 10,000 acres of land for cardamom cultivation by *bona-fide* Travancoreans.

The Advocate for the petitioners has been heard and the history of the occupations of the Pallivasal pakuthy by cardamom cultivators carefully considered. Government were anxious in 1934 to throw open an extensive area in Pallivasal for cultivation, especially of cardamom, and they were particularly desirous of encouraging the subjects of the State to undertake the work of clearing this tract and starting such cultivation. At the same time, Government did not desire a repetition of the process by which influential non-Travancorean land holders practically monopolised the Cardamom Hills and other cardamom tracts.

On the 24th October 1934, by order R. Dis. No. 1753/34/Rev., read above, Government sanctioned the registry of the three existing encroachments in the Cardamom Hills Reserve in the name of the respective encroachers. This special privilege was subject to the condition of payment of tharavila at Rs. 100 per acre, recoverable in a lump, and assessment at Rs. 3 per acre, with back arrears for the period of occupation. It was also provided that a period of six months would be allowed for the presentation of applications for the assignment of the area in the possession of each unauthorised occupant. It is noteworthy that the G. O. clearly laid down that those who failed to take advantage of the above concession would be evicted summarily after the expiry of the time allowed. Government desire to point out that it is often ignored that this G. O. which is often relied upon for the registry of encroachments, makes it clear that no further encroachments would be allowed nor further registry of encroached areas permitted.

On the 30th September 1935, after the policy of Government under the previous G. O. had been implemented to a certain extent and applications started coming in, the new cardamom rules under the Land Assignment Act were passed. But these rules, it is noted, do not, in terms, refer to the G. O. of 1934 although they purport to supersede the rules of 1905. It is, therefore, clear that in order to ascertain the policy of Government, the G. O. and the above rules have to be read together as far as possible.

Government observe, in this connection, that exactly the sam arguments as are now put forward by the encroachers in Pallivass pakuthy were advanced in 1934 by the encroachers in the Carda mom Hills Reserve *viz.*, that the encroachers who had occupied and made improvemen s on the lands before a certain date should be allowed to get registry of the land occupied and cultivated. It was with advertence to such arguments that a specific period was fixed and it was provided by the G. O. of 1934 that no further concessions would be given.

Construing the Cardamom Rules which should, as noted already, be read in conjunction with the G. O. of 1934, the first point to be remembered is that registry is *ex-concessu* and wholly optional, Rule 5 making it perfectly obvious that the discretion of registry or non-registry is vested primarily with Government. The expression 'Public Interest' occurring in the Rule is to be construed as having relation to the time and the state of things when the order has to be passed. Government consider that this aspect is important in view of the argument advanced on the basis of the language of Rules 2 (i), (ii) and (iii), the scheme of the Rules being ostensibly that occupation without permission would be regarded as a possible element for consideration in addition to entry with permission.

After a careful consideration of the petition and the arguments adduced in support of it Government are definitely of the view that squatters who entered upon sircar land without permission, and even without preferring any application, have absolutely no right, legal or equitable. Those persons who entered with permission have subject to the provisions indicated above, a right in equity which will be governed by, and be subordinated to, the public interests referred to in Rule 5 of the Cardamom Rules. Those persons who, as in the case of the petitioners, contend that the Cardamom Rules of 1935 did not prohibit occupation without waiting for permission and must, on that account, be regarded as being encouraged to occupy, fall within the scope of Rule 5.

Taking the present state of things into account as well as the circumstances of the locality, the necessity to discourage profiteering and monopolisation, the absence of any hesitation on the part of this State's subjects at present in regard to the exploitation of the lands in question and, finally, and to a paramount degree, the expediency to lessen the number of larger holdings and to give encouragement to small holders to embark on what has now turned out to be a profitable business, Government cannot avoid the conclusion that public interests at this juncture preclude the possibility, under Rule 5, of any registration except in the manner and to the extent

outlined in G. Os. R. O. C. No. 4719/40/Rev., dated 12-10-1940 and 7959/41/Rev., dated 10-6-1942. In this view, the petition is dismissed.

Those persons who are in possession of any lands in regard to which they got no permission to enter and cultivate the land before registry will be forthwith evicted.

Those who have actually entered upon land *with permission* and effected cultivation on areas *permitted* to be so occupied, are undoubtedly entitled to certain equities which will be decided on the merits of each case, consistently with the principle of public interests already indicated.

(By order)

G. PARAMESWARAN PILLAI,
Chief Secretary to Government.

To

E. Subramonia Iyer, Esq.,
Advocate (for the petitioners).
Thariathu Kunjithommen Esq., M. L. A., Kothamangalam.
All the Division Peishkars.

R. O. C. No. 4848/42/Rev., Huzur Cutcherry,
Trivandrum 19-1-1944/6-6-1119.

To

The Division Peishkar, Trivandrum.

Reference: Your letters G. C. No. 421/18 dated 26-3-1943, 12-4-1943 and 3-5-1943 and, C. No 3040/18 dated 6-12-1943.

Subject: Lease of Government land for the cultivation of food crops and the discontinuance of registries as such.

Sir,

On a careful consideration of the points raised in your letters noted above, Government are pleased to issue the following orders :—

(*a*) In regard to the old and bonafide occupations with valuable improvements effected before 1932, Government consider that the concession allowed by the G. O. of 1937 in granting registries of such lands in favour of the occupants need not be continued any longer and that leases may be granted instead in deserving cases. Occupations in minor circuits will also be governed by the present policy against registry and the trespasser should not in the normal course get even the benefit of a lease of the occupied area.

(*b*) As regards concessional registry of lands under Rule 28 of the Puduval Rules, it has come to the notice of Government that in many cases the lands registered to members of the Backward Communities are alienated by them in contravention of the Rules and find their way into the hands of members of other communities or happen to be sold under the Revenue Recovery Act for arrears of tax. Government therefore, consider that it will be to the advantage of the members of Backward Communities if the lands are leased out to them with proper safe-guards against alienation for fairly long periods and sanction the following conditions being prescribed for the grant of the lease :—

(i) the lease will be for a period ranging from six to twelve years,

(ii) it will be subject to a nominal rent ;

(iii) the lessee shall not alienate the land. In the event of alienation, the land will be liable to resumption without any compensation for improvements ;

(iv) if the land is not improved or cultivated within two years of the grant of the lease, it will be liable to be resumed ; and

(v) the maximum extent of land that could be leased out to a single family will be two acres.

(*c*) Government consider that no hard and fast rule need be laid down in regard to small strips of land adjoining registered holdings Each case may be decided on its own merits as to lease or registry of such strips.

(*d*) In respect of puduval cases in which orders of registry have already been passed and there is a completed contract for registry, for instance, where the tharavila demanded has been paid, the proceedings for registry may be pushed through. In the above class of cases, registry should be a matter of course.

(*e*) In cases where, for failure of deposit of tharavila in time, orders of eviction have been passed, the question as to registry or lease will be decided on the merits of each case. In cases where eviction orders have been cancelled by Government, registry shall be discretionary and subject to enhanced tharavila being paid in appropriate cases.

(*f*) The prohibition against registry shall not apply to cases in which registry is recommended in pursuance of decrees of Civil Courts.

(*g*) Puduval cases pending orders on the files of the Tahsildars will be dealt with on the basis that no registry will be allowed.

The Division Peishkars are requested to send up draft rules for the grant of leases of Government lands in the light of the above orders.

Yours faithfully,
G. PARAMESWARAN PILLAI,
Chief Secretary to Government.

To

The Division Peishkars etc.

R. O. C. No. 2439/44/Devpt.

NOTIFICATION.

In exercise of the powers conferred by Section 7 of the Land Assignment Act III of 1097, the Government of His Highness the Maharaja are pleased to make the following rules for the Kuthagapattom lease of lands suitable for cultivation of cardamom in the taluks of Devicolam and Peermade.

1. All Government lands available for lease under these rules shall, unless otherwise provided for, or unless specially ordered otherwise by Government be granted on lease to the highest bidder in public auction.

2. Leases granted under these rules shall be for a period of twelve years.

3. Unauthorised occupation of Government lands is strictly prohibited and will not confer any title on the occupant. Such occupation will be considered unauthorised occupation within the meaning of Section 5 of the Land Conservancy Act and the occupant evicted under the provisions of that Act and the land then disposed of in accordance with these rules.

4. Whenever the Tahsildar of the taluk in which the land is situate finds on receipt of applications or on the termination of proceedings under the Land Conservancy Act or otherwise that lands are available for being leased out under these rules, he shall obtain from the Proverthicar or Revenue Inspector a report containing particulars in regard to the survey number (if the land is surveyed already) nature, extent and other details of the land. He shall then himself inspect the land and if he finds that the whole area or any portion of the land can be leased for cultivation of cardamom without detriment to the interests of Government shall forward a report to the Assistant Peishkar.

5. *(a)* On the report of the Tahsildar and after any further inquiry he may himself make, if the Assistant Peishkar finds that the land is available for lease, he shall —if the land is not already surveyed—cause it to be surveyed and demarcated by the Survey Department (or by the Revenue Inspector) and its survey connected with that of the adjoining surveyed area, if possible.

(b) In the course of such survey a list showing the number and particulars of the royal and reserved trees on the plot shall also be prepared, and the list shall be verified by the Superintendent of survey or his Assistant or the Tahsildar, as the case may be.

6. As soon as possible after the Tahsildar has verified the final survey records and made his report, the Assistant Peishkar shall publish a notice under his signature in the Form appended, calling upon all persons who have any objection to the lease of the land or who may have any claims to the land to appear before him within 30 days of the publication of notice and prefer their objections and claims, if any. The notice shall be published by affixing copies of the same in a prominent place in the Taluk and Village Offices.

Notices shall also be issued to the owners of the adjoining registered lands in the form appended. Objections and claims received in response to the notices so issued shall be inquired into and disposed of by the Assistant Peishkar, and the necessary endorsements given to the objectors or claimants.

7. After the disposal of objections and claims under rule 6, a notice shall be published both in Malayalam and in English, stating the time and place of the proposed auction. It shall also contain the following particulars :—

(i) the description of the land to be leased containing the survey number, the sub-division number, extent and boundaries of the land ;

(ii) the annual rent proposed to be levied in respect of the property ;

(iii) the minimum premium payable for the lease; and

(iv) any other condition subject to which the auction is to be held.

The notice shall be posted for 30 days on the land itself and in the Village Office of the Pakuthy in which the land is situate as well as in the taluk office and shall also be published in two consecutive issues of the Government Gazette.

8. On the date fixed, the Assistant Peishkar may either conduct the auction himself or in cases where the total extent auctioned at a time in a compact area does not exceed 50 acres, direct the Tahsildar to conduct the auction and submit the records to him. The Assistant Peishkar may alter the time and place of auction, if necessary, provided that not less than 15 days' further notice is given for every such alteration and such notice is published at the place of auction in the Assistant Peishkar's office and the Taluk Office concerned.

9. When the entire extent of area notified for lease or auctioned in a compact area is 25 acres or less and when such land has been auctioned by the Tahsildar the lease shall be confirmed by the Assistant Peishkar even though the lease might have been

auctioned in respect of more blocks than one. When the entire extent exceeds 25 acres the lease shall be confirmed by the Division Peishkar. All auctions by the Assistant Peishkar up to 50 acres shall be subject to confirmation by the Division Peishkar and above 50 acres by Government.

10. The auction shall be conducted subject to the following conditions,

(*a*) Every intending bidder shall before the auction deposit with the officer conducting the auction a sum of Bh. Rs. 5 per acre.

(*b*) The lease shall be put up to auction in respect of each block separately if the land consists of more than one block, and the lease will be given to the bidder who offers the highest premium provided, however that no single person shall be allowed to hold either on lease or on registry and lease an area exceeding 60 acres.

(*c*) The person declared to be entitled to the lease shall pay immediately after such declaration a deposit equivalent (including the earnest money paid) to 20 per cent of the bid amount to the officer conducting the auction and in default of such deposit the property shall forthwith be put up to auction again. The earnest money deposited by the defaulter will be forfeited to Government immediately on such default. The earnest money deposited by the other persons will be returned to them as soon as the auction sale is over.

(*d*) The balance of the bid amount shall, subject to the provisions hereinafter contained, be paid by the purchaser before the expiry of the 30th day from the date of receipt of notice intimating confirmation of the lease, or if the 30th day be a Sunday or other holiday, on the first office day after the holiday. The authority competent to confirm the lease may, however, for sufficient reasons to be recorded in writing, extend the time for payment for a further period not exceeding 15 days.

(*e*) In default of payment within the period above mentioned, the deposit shall be forfeited to Government, the lease terminated and the land re-auctioned, and the defaulter shall forfeit all claims to the lease or to any part of the sum for which it may be subsequently leased,

(f) No officer or other person having any duty to perform in connection with any lease shall directly or indirectly bid for, acquire or attempt to acquire any interest in the land.

11. The minimum premium payable for the lease of a land shall be Bh. Rs. 30 per acre, including survey and demarcation charges as well as charges on account of enumeration of royal and reserved trees. An annual rent at the rate of Bh. Rs. 1½ per acre shall be payab during the first four years of the lease and thereafter an annual rent at the rate of Bh. Rs. 3 per acre. provided however that when the land has already been cultivated the rent shall be at the rate of Bh. Rs. 3 per acre from the first year. The amount of premium will under no circumstances be returnable.

12. The whole of the balance of the bid amount shall ordinarily be recovered in one lump. The Officer confirming the lease may, however, sanction the recovery in equal annual instalments not exceeding ten in number of the amount due from a person in respect of auctions conducted at a time where the balance is Bh. Rs. 500 or more. The bidder shall in such cases execute an agreement for the payment of the remaining instalments according to the conditions laid down in rule 49 of the Revised Puduval Rules in so far as they are applicable.

13. Receipt of orders confirming the lease, the Tahsildar shall issue a grant in duplicate, in the prescribed form to the lessee and obtain the signature of the lessee to a declaration on the duplicate undertaking to hold the lease subject to the conditions thereof and to such rules as may be issued by Government from time to time in regard to the lease of cardamom lands on Kuthagapattom.

14. Lessees of cardamom lands may remove the undergrowth and fell such trees as may be necessary to clear in order to admit sufficient sunlight for the cultivation of cardamom, but they shall not fell any tree exceeding four feet in girth at a height of three feet from the ground before sanction from the Assistant Peishkar. All applications for felling such trees shall, in the first instance be made to the Forest Ranger having jurisdiction over the area who after inspecting the land shall forward a report to the Divisional Forest Officer, who shall in turn, forward the report to the Assistant Peishkar with his own remarks. The Assistant Peishkar shall grant or refuse permission in accordance with the opinion of the Divisional Forest Officer. If any tree is felled in contravention of this rule, double the value of the timber as assessed by the Assistant Peishkar shall be leviable by way of damages. The lessee shall after five years of the lease plant one twelfth of the area,

according to the directions given by the Divisional Forest Officer with young plants of the species and at the espacement prescribed by the Divisional Forest Officer. The land shall be subject to periodical inspection by the Divisional Forest Officer and the lease shall be determined and the land resumed at the discretion of Government if Government are satisfied that unauthorised fellings have been extensively made or that the tree growth are not maintained in proper condition for the purposes of forest conservancy consistently with the requirements of the cardamom plantation or that young plants have not been planted as directed by the Divisional Forest Officer.

15. Lessees may collect dead trees including those other than royal or reserved trees uprooted by storms, for fuel free of charge but no tree shall be purposely uprooted for including it among the dead trees and thereby using it for fuel. With the permission of the Divisional Forest Officer any lessee may fell trees except royal or reserved trees growing in his leasehold for the construction of buildings necessary in connection with the cultivation of the leasehold. The lessees may also collect thatching grass free of charge from the Government lands for use in their holdings.

16. All leases under these rules are inalienable without the previous sanction of Government or of such officer as may be authorised in this behalf and no one who is not a born subject of His Highness the Maharaja shall be eligible to obtain a lease or assignment of a lease under these rules.

17. All dues payable under these rules shall be recoverable as arrears of public revenue under the provisions of the Revenue Recovery Act for the time being in force or otherwise as may be considered suitable by Government.

18. The lease does not convey any right to mines or minerals in the lease-hold or any right to water-power.

19. (a) The ownership of the land leased shall continue to vest in the Government.

(b) The right of the lessee shall extend only to the enjoyment of the property leased out to him for the purpose for which it is granted, namely the cultivation of cardamom.

20 Land in actual *bona-fide* occupation of Hillmen may be leased to them without auction on the following conditions:—

(1) The land which a single family shall be eligible to hold either on lease or on lease and registry shall not exceed three acres.

NOTE : The expression 'single family' includes one's self, his wife or her husband and children living together and dependent on the parent. Those sons who live separate with their wives and children constitute a separate family even though their parents may be alive. Living together and depending on the parents for livelihood are the conditions which constitute 'single family.'

(2) It shall be competent to the Assistant Peishkar to sanction the lease.

(3) No premium shall be recovered in respect of the lease.

(4) The lease shall be subject to the other general provisions herein contained.

21. The lessee shall pay the prescribed annual rent in two equal instalments on the 15th Vrischigom and the 15th Makaram every year.

22. During the currency of the lease, the lessee shall not determine the lease of his own accord.

23. If any of the provisions of these rules are violated by the lessee the lease shall be determined immediately and the land resumed by the officer who granted the lease, irrespective of the period of the lease after a written notice to that effect is served on the party.

24. On the expiry of the lease or in the event of cancellation of the lease, the lessee shall surrender the land intact to the Government. If he does not so surrender it, he will be considered a tenant holding over liable to be proceeded against and convicted under the Land Conservancy Act, and he will not be entitled to compensation for any improvements he might have made on the land.

25. (1) Appeals from the original decisions made by the Assistant Peishkar shall lie to the Division Peishkar and from those made by the Division Peishkar to the Government. All appeals shall be presented within 60 days from the date of the decision appealed against or the date of communication thereof, as the case may be. In computing the period, the day on which the decision appealed against was pronounced or communicated and the time requisite for obtaining a copy of it shall be excluded.

(2) Any person interested in the matter may appeal.

(3) No appeal shall be admitted unless accompanied by a certified copy of the decision or order appealed against.

(4) The appellate authority may admit an appeal after the expiry of the period of limitation, provided he is satisfied that the appellant had good and sufficient cause for not presenting the appeal

within such period. The fact of condonation of delay together with the reasons therefor shall be noted in the appellate order.

(5) The appellate authority may confirm, vary or cancel the decision or order appealed against.

(6) The decision of the authority granting the lease, if no appeal is presented or of the authority to whom the appeal lies, if an appeal is presented, is final and no second appeal shall be admitted

26. If within two years of any decision, original or appellate made under these rules :

(A) A revision petition is filed before the Dewan ; or

(B) If the attention of Government has otherwise been drawn to any of the circumstances hereinbelow referred to in sub-clauses (a) to (c)

And the Dewan is satisfied

(*a*) that there has been any material irregularity or violation of rules in the procedure adopted by the deciding officer or the appellate authority; or

(*b*) that the decision was made :

(i) under a mistake of fact ; or

(ii) owing to fraud or misrepresentation having been practised; or

(iii) in excess of the authority which the deciding officer had under the rules ; or

(*c*) that the interests of Government or the public are prejudicially affected by the decision

He may set aside or modify such decision and pass such orders as may be deemed proper.

27. No officer shall decide a case in appeal or revision without giving all the interested parties notice to appear and an opportunity to be heard.

(By order)

G. PARAMESWARAN PILLAI,
Chief Secretary to Government.

Huzur Cutcherry,
Trivandrum, 10-11-1944/25-3-1120.

R. O. C. No. 4848/42/Rev.

NOTIFICATION.

Rules for the grant of leases of Government lands for cultivation.

Under Section VII of the Government Land Assignment Act, III of 1097, the following Rules for the grant of leases of Government lands for cultivation are passed with the sanction of His Highness the Maharaja.

1. These Rules shall come into force on the date of their publication in the Gazette.

2. These Rules shall be applicable to all cases where Government lands are leased out for cultivation but shall not affect any Rules or Regulations passed in respect of lands for the cultivation of cardamom or tea.

3. No lease shall ordinarily be granted for a period exceeding seven years.

4. The leases shall ordinarily be granted only to the highest bidder in public auction.

5. Notwithstanding anything contained in Rule 4, Government may grant leases in any other manner in the case of—

(*a*) Lands earmarked for assignment to members of the backward communities and indigent families as defined in Rule 28 of the Puduval Rules dated the 19th April 1935, or

(*b*) small strip of land not exceeding an area of 50 cents adjoining registered holdings indispensably required for the beneficial enjoyment of such holdings.

6. A register of leases granted under these Rules shall be maintained in the pakuthies in Form A appended to these Rules. A similar register shall be maintained in the Taluk Office in Form B appended, separate pages being allotted to each pakuthy.

7. It shall be the duty of the Proverthicar of each pakuthy to inspect the Government lands in the pakuthy and to send to the Tahsildar every month a statement showing the extent of land available for cultivation, the area leased in auction and the area remaining to be leased out together with sketches and mahazars furnishing particulars of the survey numbers, nature and extent of the lands. The number and description of the trees standing on the lands at the time of the inspection shall also be noted in the mahazar.

8. On receipt of the statement from the Proverthicar, the Tahsildar shall after inspecting the land and recording his opinion regarding the availability or otherwise of the land for lease as also the rate of pattom to be fixed for the land and the trees, send up a

report to the Division Peishkar. The pattom for the land shall be fixed with due regard to the productive capacity of the soil and the importance of the locality. The pattom for the trees shall not fall below the rates prescribed in the schedule annexed to the Kuthagapattom Rules dated the 28th March 1935.

9. On receipt of the Tahsildar's report, the Division Peishkar, shall with the approval of Government, arrange for the disposal of the land on lease by auction. A notice fixing the date and conditions of the auction will be published under the signature of the Division Peishkar or the Tahsildar as the case may be. This notice shall be published in the Division, Taluk or Village Offices, fifteen days before the date of auction.

10. On the date fixed, the Division Peishkar or the Tahsildar, as the case may be, shall hold the auction. He shall prepare an auction list giving the names of the bidders and the amount of the bid. This list shall be signed by the officer conducting the auction, the person who bids at the auction and two thadasters. The highest bidder shall pay an amount equivalent to one year's rental (inclusive of the earnest money) as premium for the proper conduct of the lease. On default of payment of premium, within 15 days of the date of confirmation, the lease shall be terminated and a reauction will be held, the loss, if any, occasioned by such reauction being recovered from the defaulter under the Revenue Recovery Act.

11. The upset amount for the auction held under Rule 10 shall be the pattom fixed under Rule 8. If in any case the same has to be reduced the previous sanction of the Division Peishkar or the Assistant Peishkar concerned shall be obtained therefor.

12. When the entire extent of land notified for auction in a compact area is 5 acres or less the Tahsildar concerned may sanction the lease. Where the entire extent to be auctioned exceeds five acres but does not exceed 15 acres, the lease shall be sanctioned by the Assistant Peishkar and where the entire area exceeds 15 acres but does not exceed 25 acres, the lease may be sanctioned by the Division Peishkar concerned. Where the entire extent of land exceeds 25 acres, the lease shall be sanctioned only under the orders of Government.

13. The lands will be liable to be resumed without compensation if left uncultivated for six months.

14. (*a*) Leases may be granted without auction in deserving cases with the sanction of Government to persons to whom Rule 5 is applicable.

(*b*) In cases falling within clause (*a*) of that rule, the lease shall be granted by the Tahsildar, subject to the following conditions :—

(i) the lease will be for a period not exceeding 7 years ;

(ii) the lease will be subject to suitable rent to be fixed in each case at the discretion of the Tahsildar ;

(iii) the lessee shall not alienate the leasehold without the previous approval of Government. In the event of unauthorised alienation, the land will be liable to resumption without any compensation for improvements ;

(iv) if cultivation is not started within 6 months, the land will be liable to be resumed ; and

(v) the maximum extent of land that could be leased out to a single family will be two acres.

(*c*) In cases falling under clause (*b*) of that rule, Government may from time to time decide each case on its own merits and impose any conditions which Government may deem fit.

15. Immediately after the lease is sanctioned, the Tahsildar shall issue a grant in duplicate in Form C and obtain the signature of the lessee to the declaration on the duplicate. If any of the condition is violated, the officer who granted the lease shall determine the same and also order forfeiture of the premium.

16. Government are competent to dispense with the provisions contained in any of the foregoing rules in ordering the lease of any land or to impose any terms or conditions subject to which alone the lease will be granted.

17. (*a*) Appeal from the original decisions or orders passed by the Tahsildar shall lie to the Assistant Peishkar, and from those passed by the Assistant Peishkar to the Division Peishkar and from those passed by the Division Peishkar to Government.

(*b*) Appeals shall be presented within 30 days from the date of decision or order appealed against or from the date of service of notice thereof, as the case may be. In computing the period of appeal, the day on which the decision or order appealed against was pronounced or communicated and the time taken for obtaining a copy thereof shall be excluded.

(*c*) The appellate authority may admit an appeal after the expiry of the period of limitation provided he is satisfied that the appellant had good and sufficient cause for not preferring the appeal within such period.

(*d*) No appeal shall be admitted unless accompanied by a certified copy of the decision or order appealed against.

(e) No officer shall decide a case in appeal without giving notice to all interested parties.

(f) The appellate authority may confirm, vary or cancel the decision or order appealed against.

(g) The order of the authority granting the lease, if no appeal is presented or of the authority to whom an appeal lies, if an appeal is presented, shall be final.

18. If within two years of any decision, original or appellate, made under these Rules,

(A) a revision petition is filed before the Dewan ; or

(B) if the attention of Government has otherwise been drawn to any of the circumstances hereinbelow referred to in sub-clause (a) to (c) ;

and the Dewan is satisfied :

(a) that there has been any material irregularity or violation of rules in the procedure adopted by the deciding officer or the appellate authority ; or

(b) that the decision was made—

(i) under a mistake of fact ; or

(ii) owing to fraud or misrepresentation having been practised ; or

(iii) in excess of the authority which the deciding officer had under the Rules ; or

(c) that the interests of Government or the public are prejudicially affected by the decision—

He may set aside or modify such decision and pass such orders as may be deemed proper.

19. If the lease is set aside or modified in appeal or revision and if the lessee had possession of the trees or land or both under the lease thus set aside or modified, he shall be liable to pay to Government the proportionate rent for the period he was in possession of the property according to the terms of the lease set aside or modified, together with the value, as judged by the Tahsildar, of the trees destroyed or appropriated by him. On his failure to pay such amount as specified above, it shall be recoverable from him as arrears of public revenue under the Revenue Recovery Act for the time being in force.

20. The lands covered by the lease shall be inspected at least once in every 6 months by the Tahsildar assisted by his Revenue Supervisor and the progress in regard to cultivation shall be noted in the register of leases.

21. If, on inspection, the Tahsildar finds that the party has not complied with the conditions of the lease, he shall report the matter to the Division Peishkar and may proceed to take any further action provided for in these Rules.

22. Every Tahsildar shall send up to the Division Peishkar quarterly returns showing the progress of cultivation of lands granted under these Rules and the Division Peishkars shall send quarterly reviews to Government.

23. Leases of lands above 25 acres shall ordinarily be granted only in favour of co-operative concerns or syndicates constituted for the purpose of carrying on improved methods of cultivation or for the introduction of new crops. Leases of these areas will be granted by Government on reports received from the Division Peishkar.

(By order)

Huzur Cutcherry,
Trivandrum, 28-11-1944/13-4-1120.

G. PARAMESWARAN PILLAI,
Chief Secretary to Government.

Appendix - II

THIRD SUPPLEMENT

TO THE

TRAVANCORE

LAND REVENUE MANUAL

VOL. II

DEPARTMENTAL RULES AND STANDING ORDERS

(BROUGHT UP TO 15th AUGUST 1934)

PUBLISHED BY AUTHORITY

TRIVANDRUM :
PRINTED BY THE SUPERINTENDENT, GOVERNMENT PRESS.
1935

NOTIFICATION.

Dis. 478/31/Rev.

It is hereby notified with the sanction of Her Highness the Maha Rani Regent that the Kuthakapattom Rules, dated the 3rd July 1914, published at pages 2819-20 of the Government Gazette, dated the 14th July 1914, are further amended as follows :—

Substitute the following for the existing Rules 2, 4, 9, 10, 11, 12 and 15.—

"2. Kuthakapattom means and includes—

(*a*) Lease of poramboke land on fixed ground-rent for putting up shops in bazaars and markets.

(*b*) Lease of poramboke land for temporary occupation.

(*c*) Lease of trees standing on poramboke land.

(*d*) Lease of land which is the property of Government other than poramboke and falling under the category of *thanathu-chitta* or *tharisu* land.

(*e*) Lease of trees standing on lands falling under clause (*d*) above.

NOTE.—(i) The object of leasing out Government lands or trees standing thereon is to facilitate the collection of revenue therefrom. It is not desirable to authorise the subordinate officers to take the produce from the lands or trees as such a procedure would involve unnecessary labour and waste of much valuable public time. Further, it may lead to fraud and loss of Government revenue and has therefore to be, as far as possible, avoided.

(ii) Leases of lands are allowed only in very rare and exceptional cases. Only such of the lands as are set apart for Government or public purposes the leasing out of which is not prejudicial to the Government or public interests should be given on Kuthakapattom. As regards the sites of Government institutions the trees standing on their premises should alone be leased out and not the lands. Similarly sites set apart for public or communal purposes should not be leased out on Kuthakapattom.

(iii) None of the lands avilable for assignment should be leased on Kuthakapattom In other words all lands which are not required for Government or public purposes and the assignment of which is not objectionable should invariably be given on registry under the Puduval Rules. The departmental officers will note that their attempt should always be to reduce, as far as possible, the number of Kuthakapattom leases.

4. Whenever lands are acquired for public purposes, it is the duty of the Department to which the land is handed over to arrange for leasing out the produce of the trees, if any, standing on such lands. But in cases in which there is delay in handing over the land, or in which the land is acquired for purposes connected with the Land Revenue Department, it is the duty of the Tahsildar, when possession of the land is taken by the Sirkar under the Land Acquisition Regulation, to arrange for leasing out

the produce of the trees standing on such land. This should also be done by auction sale for which a short notice shall be published on the spot by beat of drum.

9. In all cases in which the Kuthakapattom lease extends to a period exceeding 12 years the sanction of the Division Peishkar, or of the Division Assistant when the lease relates to a taluk in the Revenue Sub-Division under his control, shall be obtained by the Tahsildar before granting the lease.

10. The Division Peishkar or the Division Assistant to whom a recommendation is made under Rule 9 shall, after examining the records, either sanction the lease or order a fresh auction, if he finds any irregularity of procedure in connection with the auction, or if he thinks that the auction bid is too low to be accepted.

11. (*a*) As a rule all Kuthakapattom leases should be given only for definite periods. "Kuthakapattom without limit of time" relates to leases of trees on poramboke lands which have been already given out without limit of time under the Rules dated the 27th Karkidakom 1074 or which may hereafter be given under these rules, as also the leases of shop sites in bazaars and markets. The existing trees on poramboke lands such as public roads, canals, irrigation tanks, field-bunds etc., should be leased on Kuthakapattom without limit of time to the ryots provided there is clear and indubitable evidence that they have been planted and nurtured by them and that such lease is not prejudicial to the public interests. These leases shall be subject to the following conditions :—

(i) The lessee shall not do anything on the land or premises concerned, so as to interfere with the regular conduct of Government work or in any way to injure the building, wells, walls etc., on the lands.

(ii) The lessee shall not plant any fresh trees on the land nor shall he construct buildings, open roads or pathways dig wells or canals etc.

(iii) The lessee shall not in any way interfere with the land or make any alteration in the lie of the land, for instance, converting wet land into dry and *vice versa*. He shall not do anything that will injuriously affect the land or trees or diminish their yielding capacity or value.

(iv) The lessee shall not transfer or alienate his right of the lease without the sanction of the Head of the Department concerned and any transfer or alienation made without such sanction shall be void.

(v) Government have the power to determine the lease and resume the land or trees at any time during the currency of the

lease if they find it necessary and whenever the lessee is called upon to cut and remove the trees, he shall do so.

(vi) The lessee shall not be entitled to any compensation or value of improvements when the lease is determined under clause (v).

(vii) A lease granted shall be determined by the officer who grants the lease for the violation of any of the above conditions. But if the Head of the Department is satisfied that the lessee had *bonafides* or that no great loss to Government was caused by the violation attributed to him (the lessee) he may order the continuance of the lease on the lessee paying the penalty of not more than one rupee, which the Head of the Department may impose as well as the compensation for the estimated loss, if any, caused to Government by his act.

(*b*) The policy is that all land the registry of which is not objectionable should be assigned and therefore there is no meaning in granting a Kuthakapattom lease of *such land without limit of time*. But there may be rare cases in which for very strong reasons it may be considered fit to grant such leases and they shall be granted only with the sanction of Government.

12. (*a*) Notice intimating the nature of the orders passed under Rules 8 to 11 above shall be served on the parties interested in each case as soon as the order is passed.

(*b*) (i) Appeals from the original decisions or orders passed by the Tahsildar under these Rules shall lie to the Division Assistant or the Division Peishkar, as the case may be, and from those passed by the Division Assistant or the Division Peishkar, to the Land Revenue and Income Tax Commissioner.

(ii) Appeals shall be presented by interested parties within one month from the date of the decision or order appealed against or from the date of the service of notice thereof, as the case may be. In computing the period of appeal the day on which the decision or order appealed against was pronounced or communicated and the time taken for obtaining a copy of it shall be excluded. On all copies granted shall be entered the date of the decision or order, the date of the application for copy, the date fixed for production of sheets, the date on which sheets were produced, the date fixed for delivering the copy, the date on which the copy was ready and the date on which the copy was delivered.

(iii) The appellate authority may admit an appeal after the expiry of the period of limitation, provided he is satisfied that the appellant had good and sufficient cause for not preferring the appeal within such period. In such cases the fact of having excused the delay shall be recorded.

(iv) No appeal shall be admitted unless accompanied by a certified copy of the decision or order appealed against. No officer shall decide a case in appeal without giving all the interested parties notice to appear and an opportunity to be heard.

(v) The appellate authority may confirm, vary or cancel the decision or order appealed against.

(vi) The order of the authority granting the lease, if no appeal is presented, or of the authority to whom the appeal lies if an appeal is presented, is final and no second appeal shall lie.

(c) If the lease is set aside or modified in appeal and if the lessee had possession of the trees or land as per the lease set aside or modified, he shall be liable to pay to Government the proportionate rent for the period he was in possession of the same according to the terms of the lease cancelled or modified, if he had an opportunity to get any income from the land or trees during the period; on his failure to pay such rent, it shall be recoverable from him as arrears of revenue under Regulation I of 1068.

15. When a Kuthakapattom lease is sanctioned, an agreement in one of the appropriate forms appended to these Rules, shall be executed by the lessee setting forth particulars of the lease This agreement need not be written on stamp paper. Every new lessee shall be put in possession of the lands and trees, if any, only after the document is executed. On failure of the lessee to execute the document, the lease shall be reauctioned at the risk of the original bidder."

(By order),

Huzur Cutcherry, Trivandrum, 31-3-31/18-8-06.

K. GEORGE,
Chief Secretary to Government

Appendix - III

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(1)

Form of lease of land and trees for definite periods.

കുത്തകപ്പാട്ട ഉടമ്പടി.

ഒരായിരത്തി ാമാണ്ടു മാസം ാം
തീയ്യതി തിരുവിതാംകൂർ സർക്കാരിലേക്കുവേണ്ടി (ഉദ്യോഗപ്പേര)
പേഷ്ക താലൂക്ക
പകുതിയിൽ (കര, മറി, ദേശം)
വീട്ടിൽ ജാതി വഴി
(പിൻതുടർച്ചാവകാശം) (തൊഴിൽ) വയസ്സുള്ള
(ഇടപ്പേര)
എഴുതിക്കൊടുത്ത കുത്തകപ്പാട്ട ഉടമ്പടി ആവിതു്.

൧. താഴെ (എ) പട്ടികയിൽ പറയുന്ന ഭൂമിയേയും അതിലുള്ള വൃക്ഷങ്ങളേയും ൧൯൦ ാമാണ്ടു മാസം ാം തീയ്യതി കല്പനയിൽ നിന്നും ാമാണ്ടു മാസം മുതൽ ാമാണ്ടു മാസം വരെ കൊല്ലത്തേക്കു കുത്തകപ്പാട്ടത്തിനു ഏർപ്പാടുചെയ്തതിനായി ഉണ്ടായ ഉത്തരവനുസരിച്ചു ലേലം ചെയ്തതിൽ ഞങ്ങൾക്കു രൂപാ ചക്രം കാശു സീതം പാട്ടം തരുന്നതിനു ഞാൻ ഏർപ്പെടുകയും ലേലം അനുവദിക്കുകയും ചെയ്തിട്ടുള്ളതനുസരിച്ചു പരസ്യനിശ്ചയപ്രകാരമുള്ള കാണത്തെ പാട്ടത്തുകയായ രൂപാ ചക്രം കാശു, ഡേമണിവകയ്ക്കായി ാമാണ്ടു മാസം ാം തീയതി ഷെറിയിൽ ാം നമ്പർ ചെല്ലാൻപ്രകാരം ഞാൻ ഒടുക്കി ഡിപ്പാസിറ്റ് വച്ചിട്ടുണ്ടു്.

൨. ഈ ഉടമ്പടിയിലെ നിബന്ധനകൾക്കുവിധേയപ്പെട്ടു ഞാൻ നടക്കുന്നതിലേക്കു ഉറപ്പിനു വേണ്ടി ഞാൻ ഡോമണിവച്ചിട്ടുള്ള താകുന്നു.

൩. ഓരോ ആണ്ടത്തേക്കും ഞാൻ ഒടുക്കുവാനുള്ള പാട്ടസംഖ്യ നേർ പകുതിവീതം ആണ്ടാണ്ടു വൃശ്ചികം മേടം ഈ മാസങ്ങളിൽ ൧൫-ാംതീയതികൾ
(ഉദ്യോഗസ്ഥൻ) നെ ഏർപ്പിച്ചു കൊടുത്തു മുറയ്ക്കു രസീതു വാങ്ങിച്ചുകൊള്ളാം. അപ്രകാരം ചെയ്യാതെ വീഴ്ചവരുത്തിയാൽ എന്നിൽ നിന്നും എന്റെ വക മറ്റു സ്വത്തുക്കളിൽനിന്നും കരക്കടിശ്ശിക റവന്യൂലേഷൻ അനുസരിച്ചും എന്റെ ഡേമണിയിൽനിന്നും ആവക സംഖ്യ ഈടാക്കുന്നതു കൂടാതെ സർക്കാരിലെ യുക്തം പോലെ എന്നിൽനിന്നും പാട്ടം വിട്ടതിനു വേറെ ആളെ ഏർപ്പിക്കുന്നതിനും ഞാൻ സമ്മതിച്ചിരിക്കുന്നു.

ഇതിനു ശേഷവും ഞാൻ തന്നെ പാട്ടം നടക്കുന്നതിനു അനുവദിക്കുന്ന പക്ഷം ഡേമണിയിൽ നിന്നു ഈടാക്കിയ സംഖ്യയോ മുഴുവൻ ഡേമണിയോ ആവശ്യപ്പെടുമ്പോൾ മാജരാക്കി ഒടുക്കിക്കൊള്ളാം.

൪. (എ)പട്ടിക വസ്തുവും വൃക്ഷങ്ങളും ഞാൻ അനുഭവിക്കുന്നതിൽ സർക്കാർ കാര്യങ്ങൾക്കൊ ആളുകൾക്കൊ ഉപദ്രവം നേരിടത്തക്ക വിധം യാതൊന്നും ചെയ്യുന്നതല്ലാ.

൫. സർക്കാരിൽനിന്നും ആവശ്യപ്പെടുകയോ ഒഴിപ്പിക്കുകയോ ചെയ്യുമ്പോൾ അല്ലാതെ പാട്ട കാലാവധി കഴിയുന്നതിനു മുമ്പു ഞാൻ പാട്ടത്തിൽ നിന്നും പിൻമാറുന്നതല്ലാ.

൬. പാട്ട കാലാവധിക്കകം എപ്പോഴെങ്കിലും വസ്തുവകകൾ ഒഴിഞ്ഞു കൊടുക്കണമെന്നു ടിയാർ ആവശ്യപ്പെട്ടാൽ യാതൊരു തടസ്സവും പറയാതെ ഒഴിഞ്ഞു തന്നുകൊള്ളാം.

൭. എനിക്കു (എ) പട്ടിക വസ്തുവകകളിൽ ലഭിച്ചിട്ടുള്ള പാട്ടാവകാശം ടിയാരുടെ അനുമതി കൂടാതെ വേറെ ആൾക്കു ഞാൻ കൈ മാറ്റം ചെയ്യുന്നതല്ലാത്തതും ഇതിനു വിപരീതമായി ചെയ്യുന്ന കൈമാറ്റം സാധുവല്ലാത്തതുമാകുന്നു.

൮. കാലാവധി കഴിയുന്ന മുറയ്ക്കു ഉടനെ പാട്ടം ഒഴിഞ്ഞു കൊള്ളാം. പാട്ടം ഒഴിയുന്ന സമയം എന്നിൽനിന്നു സർക്കാരിലേയ്ക്കു വല്ല സംഖ്യയും ഈടാകുവാനുണ്ടെങ്കിൽ ആ സംഖ്യയും പാട്ടക്കുടിശിക വകയിലൊ പാട്ട എടപാട്ടിൽ ഞാൻ മൂലം സർക്കാരിലേക്കുണ്ടായിട്ടുള്ള മറ്റു ഏതെങ്കിലും നഷ്ടം വകയിലൊ ഉള്ള സംഖ്യയും കഴിച്ചു ഡേമണി വകയിൽ എനിക്കു വരുവാനുള്ള ഇകതിയ്യു വാങ്ങിച്ചു കൊള്ളാവുന്നതാകുന്നു.

൯. പട്ടികവസ്തുക്കളെ ശുപദേശപ്പെടുത്താതെയും അതിൽ നിൽപ്പുള്ള വൃക്ഷങ്ങൾ മുതായതിനു ദോഷം വരുത്തക്ക യാതൊന്നും പ്രവർത്തിക്കാതെയും വൃക്ഷങ്ങൾ പട്ടുപോകയോ കാഫലത്തിനു കുറവുവരികയോ ചെയ്യാതിരിക്കുന്നതിനു വേണ്ടതായ വളമിടുക മുതലായ പ്രവൃത്തികൾ ചെയ്തും സൂക്ഷിച്ചുകൊള്ളാം. പട്ടിക വസ്തുക്കളിൽ നൂതനമായി കെട്ടിടം, കിണർ, തോട്ട്, വഴി മുതലായതു ഉണ്ടാക്കുന്നതല്ല.

൧൦. കാലാവധി കഴിഞ്ഞു പാട്ടം ഒഴിയുമ്പോഴൊ ഏതെങ്കിലും കാരണവശാൽ അതിനുമുമ്പു പാട്ടം ഒഴിപ്പിക്കുമ്പോഴൊ പാട്ടവസ്തുവിലുള്ള വൃക്ഷം മുതലായതുകളുടെ എണ്ണം, സ്ഥിതി, മുതലായതു അതിനു നിശ്ചയിക്കുന്ന ഉദ്യോഗസ്ഥനെ ബോധ്യപ്പെടുത്തി എഴുതിച്ചു കൊടുത്തുകൊള്ളാവുന്നതും, ഏതെങ്കിലും കുറവോ എന്റെ ഉപേക്ഷയാ

മിത്തം കേട്ടകളോ ഉള്ളതായി കാണപ്പെട്ടാൽ അതിലേയ്ക്കു ഞാൻ ഉത്തരവാദിയായിരിക്കുന്നതും അനുകൂലം.

൧൫. പട്ടികവസ്തുക്കളുടേയും അതിലുള്ള വൃക്ഷങ്ങളുടെയും ആദായംമാത്രം എടുക്കുന്നതല്ലാതെ വൃക്ഷങ്ങളോ അവകളുടെ കൊമ്പുകളോ,മുറിച്ചുകളയുകയോ, എടുക്കുകയോ പട്ടവിണ വൃക്ഷങ്ങൾമുതലായതു എടുക്കുകയോ, വൃക്ഷങ്ങളെ കള്ളുമുതലായ വകയ്ക്കായി ചെത്തുപാട്ടത്തിനു കൊടുക്കുകയോ ചെത്താൻ അനുവദിക്കുകയോ ചെയ്യുന്നതല്ല.

൧൬. (൧എ) പട്ടികവകകളിലുള്ള ഏതെങ്കിലും വൃക്ഷങ്ങൾ അത്യാവശ്യമെന്നു കാണുന്നപക്ഷം സർക്കാരിൽനിന്നു മുറിച്ചെടുക്കാവുന്നതാകുന്നു.

൧൭. ഇപ്പോഴുണ്ടായിട്ടുള്ളതിൽ കൂടുതലായി യാതൊരു വൃക്ഷവും വെച്ചുണ്ടാക്കുന്നതല്ല.

൧൮. (ബി) പട്ടികയിൽ കാണിച്ചിട്ടുള്ളതായ പാട്ടത്തിൽ ഉൾപ്പെടാതെയുള്ള ആദായവൃക്ഷങ്ങളിൽ നിന്നു യാതൊന്നും എടുക്കുന്നതല്ല.

൧൯. ഏതെങ്കിലും വൃക്ഷം വീണുപോകയോ പട്ടപോകയോ ചെയ്താൽ ഉടനെ വിവരം ടിയാരെ തെര്യപ്പെടുത്തിക്കൊള്ളാം.

൨൦. പന്ത്രണ്ടും പതിനഞ്ചും വകഭേദപ്രകാരം കുറവുവരുന്ന പാട്ട വൃക്ഷങ്ങളുടെ ക്രമപ്പാട്ടം ടിയാരെ തെര്യപ്പെടുത്തി കുറച്ചുവാങ്ങേ. അതനുസരിച്ചു പാട്ടംനടന്നു കൊള്ളാം.

൨൧. ഈ ആധാരത്തിലെ നിബന്ധനകൾക്കു വിപരീതമായി ഞാൻ ഏതെങ്കിലും പ്രവർത്തിക്കുകയോ, എന്നിൽനിന്നും പാട്ടം വിട്ടുത്തരുന്നതിനു ഏതൊഴെങ്കിലും എന്റെ പ്രവൃത്തിയിൽ ഏതെങ്കിലും വീഴ്ച കാണപ്പെടുകയോ ചെയ്താൽ ഞാൻ നടന്നകാലത്തേക്കുള്ള പാട്ടം എന്നിൽനിന്നു ഈടാക്കുന്നതിനും, പാട്ടം വിടുത്തി ലേലംചെയ്യാ മറെറാ വേറെ ആളെ ഏർപ്പാടാക്കുന്നതിനും, അങ്ങനെ എന്നിൽനിന്നു എടുത്തു വേറെ ആളെ ഏർപ്പാടാക്കുന്നതിൽ വല്ല സർക്കാരിലേക്കുണ്ടാകുന്ന നഷ്ടവും, എന്റെ ഉപേക്ഷനിമിത്തം വേറെ വിധത്തിൽ നശിക്കുകയോ ദോഷപ്പെടുകയോ ചെയ്തിട്ടുള്ള വൃക്ഷങ്ങൾക്കു ടിയാർ നിശ്ചയിക്കുന്ന വിലയും എന്റെ വക സ്വത്തുക്കളിൽ നിന്നു കരക്കുടിശ്ശികറവന്യൂലേഷൻ അനുസരിച്ചോ എന്റെ ഡിമണിയിൽനിന്നോ ഈടാക്കുന്നതിനും ഞാൻ സമ്മതിച്ചിരിക്കുന്നു. പട്ടികവസ്തുവും വൃക്ഷങ്ങളും വേറെ ആളെ ഏർപ്പാടാക്കുന്നതിൽ നിന്നു ലാഭമുണ്ടായാൽ ഞാൻ അവകാശപ്പെടുന്നതല്ലെന്നും സമ്മതിച്ചിരിക്കുന്നു.

൧൮. പാട്ടവസ്തുക്കളിൽ ഉള്ള കെട്ടിടം, മതിലുകൾ, കിണറുകൾ, മുതലായതിന്നു മേൽപാട്ട വാരത്തുകാരനായി യാതൊന്നും ചെയ്യുന്നതല്ല. വസ്തുവെ സൂക്ഷിക്കുന്നതിന്നോ ആദായം എടുക്കുന്ന വകയ്ക്കോ ആവശ്യമെന്നു കാണുന്ന ഏതെങ്കിലും പുരകൾ എന്റെ സ്വന്തം ചിലവിന്മേൽ അതിൽ കെട്ടികയല്ലാതെ വസ്തുവിൽ യാതൊരുത്തരെയും താമസിപ്പിക്കുന്നതല്ലാത്തതാകുന്നു.

൧൯. (എ) പട്ടികവസ്തുക്കളിൽ എനിക്കാവശ്യമുള്ള കെട്ടിടങ്ങൾ കയ്യാല മുതലായവകൾ ഞാൻ കെട്ടി ഉപയോഗിക്കുന്നതായാൽ ടി വസ്തുവിനെ സർക്കാരിൽ നിന്നു ഒഴിഞ്ഞുതരാൻ ആവശ്യപ്പെടുന്ന സമയം കെട്ടിടങ്ങൾ മുതലായതിനെ ഞാൻ എന്റെ ചിലവിന്മേൽ പൊളിച്ചു മാററിക്കൊള്ളുവെന്നതും ടി കെട്ടിടങ്ങളുടെയും, കയ്യാല മുതലായവകളുടെയും വില സർക്കാരിനോടു ഞാൻ ആവശ്യപ്പെടുന്നതല്ലാത്തതും, ആവശ്യപ്പെടുവാൻ എനിക്ക് അവകാശമില്ലാത്തതും ആകുന്നു.

൨൦. പാട്ടത്തിൽ ഉൾപ്പെടാതെയുള്ള വൃക്ഷങ്ങളുടെ വിവരം (ബി) പട്ടികയിൽ ചേർത്തിരിക്കുന്നു.

ഇപ്രകാരം സമ്മതിച്ചു ഈ ഉടമ്പടി എഴുതികൊടുത്ത.

(ഒപ്പ്)

സാക്ഷികൾ—

൧ (ഒപ്പ്)

൨ (ഒപ്പ്)

(എ) പട്ടിക.

വസ്തുവിവരം					വൃക്ഷങ്ങളുടെ എണ്ണവും വിവരവും							
താലൂക്ക	പകുതി	സർവ്വേനമ്പർ	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	മററുവൃക്ഷങ്ങൾ	
												ഇനം	എണ്ണം
											[illegible]		

(ബി) പട്ടിക.

(2)

Form of Lease of Land or trees or both without limit of Time.

കുത്തകപ്പാട്ട ഉടമ്പടി.

ഒരായിരത്തി ാമാണ്ടു മാസം തീയ്യതി തിരുവിതാംകൂർ സർക്കാരിലേക്കുവേണ്ടി (ഉദ്യോഗപ്പേരു) പേക്ഷ താലൂക്ക പക്തിയിൽ (കര, മുറി, ദേശം) വീട്ടിൽ ജാതി (തൊഴിൽ) വഴി (പിൻതുടർച്ചാവകാശം) വായ്സ്സുള്ള (ഇരട്ടപ്പേരു) എഴുതിക്കൊടുത്ത കുത്തകപ്പാട്ട ഉടമ്പടി ആവിതു്.

൧. താഴെ (൨) പട്ടികയിൽ പറയുന്ന വസ്തുവിനെ (അഥവാ വസ്തുക്കളെ) ൧൯൦ ാമാണ്ടു മാസം ാം തീയ്യതി കച്ചേരിയിൽനിന്നും ാമാണ്ടു മാസംമുതൽ കാലസംഖ്യ കൂടാതെ കുത്തകപ്പാട്ടത്തിനു ഏല്പിക്കുന്നതിനായി ഉണ്ടായ ഉത്തരവനുസരിച്ചു ലേലംചെയ്തതിൽ ആണെന്നുള്ള ശ്രീ പാ ചക്രം കാണുന്നതിനു പാട്ടം തരുന്നതിനു ഞാൻ ഏർപ്പെട്ടിട്ടുള്ളതനുസരിച്ചു പരസ്യനിശ്ചയപ്രകാരമുള്ള ഒരാണ്ടത്തെ പാട്ടമുതലായ ശ്രീ പാ ചക്രം കാണുന്നു ഡോമണി വകയ്ക്കായി ാമാണ്ടു മാസം തീയതി ഷോറിയിൽ ാം നമ്പർ ചെല്ലാൻപ്രകാരം ഞാൻ ഒടുക്കി ഡിപ്പാസിറ്റു വച്ചിട്ടുണ്ടു്.

൨. ഈ ഉടമ്പടിയിലെ നിബന്ധനകൾക്കുംപ്പെട്ട ഞാൻ നടക്കുന്നതിലേക്കു ഉറപ്പിനുവേണ്ടി ഞാൻ ഡോമണി വച്ചിട്ടുള്ളതാകുന്നു.

൩. ഓരോ ആണ്ടത്തേക്കും ഞാൻ ഒടുക്കുവാനുള്ള പാട്ടസംഖ്യ നേർപകുതി വീതം അതാതാണ്ടു വൃശ്ചികം, മേടം, ഈ മാസങ്ങളിൽ ൧൫-നു-യ്ക്കകം (ഉദ്യോഗസ്ഥൻ)നെ ഏല്പിച്ചുകൊടുത്തു മുറക്കു രസീതുവാങ്ങിച്ചുകൊള്ളാം. അപ്രകാരം ചെയ്യാതെ വിഴ്ച വരുത്തിയാൽ എന്നിൽനിന്നും എന്റെവക മറ്റു സ്വത്തുക്കളിൽ നിന്നും കരക്കുടിശിക റവന്യൂറിക്കവറി അനുസരിച്ചും എന്റെ ഡോമണിയിൽനിന്നും അതുവക സംഖ്യ ഈടാക്കുന്നതുകൂടാതെ സർക്കാരിലെ യുക്തംപോലെ

എന്നിൽനിന്നു പാട്ടംവിടുത്തി വേറെ ആളെ ഏർപ്പിക്കുന്നതിനും ഞാൻ സമ്മതിച്ചിരിക്കുന്നു. ഇതിനുശേഷവും തൊൻതന്നെ പാട്ടം നടക്കുന്നതിനു അനുവദിക്കുന്നപക്ഷം ഡേമണിയിൽനിന്നു ഈടാക്കിയ സംഖ്യയൊ മുഴുവൻ ഡേമണിയൊ അവർത്തിച്ചു ഹാജരാക്കി ഒടുക്കിക്കൊള്ളാം.

൪. (എ) പട്ടികവസ്തുക്കളെ ഞാൻ അനുഭവിക്കുന്നതിൽ സർക്കാർകാര്യങ്ങൾക്കൊ ആളുകൾക്കൊ ഉപദ്രവം നേരിടത്തക്കവിധം യാതൊന്നും ചെയ്യുന്നതല്ലാ.

ഇ. സർക്കാരിൽനിന്നും ആവശ്യപ്പെടുകയൊ ഒഴിപ്പിക്കുകയൊ ചെയ്യുമ്പോൾ അല്ലാതെ ഞാൻ പാട്ടത്തിൽനിന്നു പിൻമാറുന്നതല്ലാ.

൬. എപ്പോഴെങ്കിലും (എ) പട്ടികയിലെ വൃക്ഷങ്ങൾ മുറിച്ചു് എടുത്തുകൊണ്ടു സ്ഥലം ഒഴിഞ്ഞുകൊടുക്കണമെന്നു് കിയാർ ആവശ്യപ്പെട്ടാൽ യാതൊരു തടസ്സവും പറയാതെ ഞാൻ അപ്രകാരം ചെയ്തുകൊള്ളാം

൭. എനിക്കു (എ) പട്ടിക സ്ഥലത്തു (വൃക്ഷങ്ങളിൽ) ലഭിച്ചിട്ടുള്ള പാട്ടാവകാശം കിയാരുടെ അനുമതിക്കുടാതെ വേറെ ആർക്കും ഞാൻ കൈമാറ്റം ചെയ്യുന്നതല്ലാത്തതും ഇതിനു വിപരീതമായി ചെയ്യുന്ന കൈമാറ്റം സാധുവല്ലാത്തതുമാകുന്നു.

൮. പാട്ടം ഒഴിപ്പിക്കുന്ന സമയം എന്നിൽനിന്നു സർക്കാരിലേക്കു വല്ല സംഖ്യയും ഈടാകുവാനുണ്ടെങ്കിൽ ആ സംഖ്യയും പാട്ടക്കുടിശികവകയിലൊ പാട്ട എടപാടിൽ ഞാൻമൂലം സർക്കാരിലേക്കുണ്ടാകുന്നിട്ടുള്ള മറ്റു ഏതെങ്കിലും നഷ്ടംവകയിലൊ ഉള്ള സംഖ്യയും കഴിച്ചു ഡേമണിവകയിൽ എനിക്കു വരുവാനുള്ള തുകയിൽനിന്നു വാങ്ങിച്ചുകൊള്ളാവുന്നതാകുന്നു.

൯. (എ) പട്ടികവസ്തുവിനെ രൂപഭേദപ്പെടുത്താതെയും (ബി) പട്ടികയിൽ ഉൾപ്പെടുത്തീട്ടുള്ള വൃക്ഷങ്ങൾ മുതലായതിനു ദോഷം വരത്തക്ക യാതൊന്നും പ്രവർത്തിക്കാതെയും സൂക്ഷിച്ചുകൊള്ളാം. (എ) പട്ടികവസ്തുക്കളിൽ നൂതനമായി കെട്ടിടം, കിണർ, തോട്ടു, വഴി മുതലായതു ഉണ്ടാക്കുന്നതും അല്ല.

൧൦. എതെങ്കിലും കാരണവശാൽ പാട്ടം ഒഴിപ്പിക്കുമ്പോൾ (ബി) പട്ടികയിലുള്ള വൃക്ഷം മുതലായുള്ളതുകളുടെ എണ്ണം സ്ഥിതി മുതലായുള്ളതു അതിലേക്കു നിശ്ചയിക്കുന്ന ഉദ്യോഗസ്ഥനെ ബോധ്യപ്പെടുത്തി എഴുതിച്ചു കൊടുത്തുകൊള്ളാവുന്നതും ആകുന്നു.

൧൫. (എ) പട്ടികവസ്തുക്കളിലെ ആദായംമാത്രം എടുക്കുന്നതല്ലാതെ പട്ടിക വൃക്ഷങ്ങളെയോ, അവകളുടെ കൊമ്പുകളെയോ മുറിച്ചുകളയുകയോ എടുക്കുകയോ ആ വകയിൽ പെട്ടവീണ വൃക്ഷങ്ങളും മുതലായതു എടുക്കുകയോ ആ വക വൃക്ഷങ്ങളെ കള്ള് മുതലായ വകയ്ക്കായി ചെത്തുപാട്ടത്തിനു കൊടുക്കുകയോ ചെത്താൻ അനുവദിക്കുകയോ ചെയ്യുന്നതല്ലാ.

൧൬. ഇപ്പോൾ നിൽപുള്ളതിൽ കൂടുതലായി യാതൊരു വൃക്ഷവും വച്ചുണ്ടാക്കുന്നതല്ല.

൧൭. (ബി) പട്ടികയിൽ കാണിച്ചിട്ടുള്ളതായ പാട്ടത്തിൽ ഉൾപ്പെടാതെയുള്ള ആദായവൃക്ഷങ്ങളിൽനിന്നു ഞാൻ യാതൊന്നും എടുക്കുന്നതല്ല.

൧൮. (എ) (ബി) പട്ടികകളിൽ കാണിച്ചിട്ടുള്ളതിൽ ഏതെങ്കിലും വൃക്ഷം വീണുപോകയോ പട്ടുപോകയോ ചെയ്താൽ ഉടനെ വിവരം ടിയാരെ തെര്യപ്പെടുത്തിക്കൊള്ളാം.

൧൯. (എ) പട്ടികയിൽ ഉള്ളതിൽ പതിനാലാം വകുപ്പും പ്രകാരം കറവുവയ്ക്കുന്ന പാട്ടവൃക്ഷങ്ങളുടെ കുറ്റിപ്പാട്ടം ടിയാരെ തെര്യപ്പെടുത്തി കറച്ചുവാങ്ങി അതറിയിച്ചു പാട്ടം നടത്തിക്കൊള്ളാം.

൨൦. (എ) പട്ടികവസ്തുക്കളിലുള്ള കെട്ടിടം, മതിലുകൾ, കിണറുകൾ, മുതലായതിനു ദോഷം വരുത്തുകയോ യാതൊന്നും ചെയ്യുന്നതല്ലാ. വസ്തുവെ സൂക്ഷിക്കുന്നതിനോ ആദായം എടുക്കുന്നതിനോ ആവശ്യമെന്നുകാണുന്ന ഏതെങ്കിലും പുരകൾ എന്റെ സ്വന്ത ചിലവിന്മേൽ അതിൽ കൈവയ്ക്കയല്ലാതെ വസ്തുവിൽ യാതൊരുത്തരെയും താമസിപ്പിക്കുന്നതല്ലാത്തതാകുന്നു.

൨൧. ഈ ആധാരത്തിലെ നിബന്ധനകൾക്കു വിപരീതമായി ഞാൻ ഏതെങ്കിലും പ്രവർത്തിക്കുകയോ എന്നിൽനിന്നു പാട്ടം വിട്ടുപോകത്തക്കവിധം എപ്പൊഴെങ്കിലും എന്റെ പ്രവൃത്തിയിൽ ഏതെങ്കിലും വീഴ്ചകാണപ്പെടുകയോ ചെയ്താൽ ഞാൻ നടന്നകാലത്തേക്കുള്ള പാട്ടം എന്നിൽനിന്നു ഈടാക്കുന്നതിനും പാട്ടം വിട്ടുതരുവോളം മറ്റൊരുവരെ അതിനെ ഏർപ്പെടുത്തുന്നതിനും അങ്ങിനെ എന്നിൽനിന്നു എടുത്തുവരെ അതിനെ ഏർപ്പെടുത്തുന്നതിൽവച്ചു സർക്കാരിലേക്കുണ്ടാകുന്ന നഷ്ടവും എന്റെ ഉപേക്ഷനിമിത്തം വരുവിധത്തിൽ നശിക്കുകയോ ദോഷപ്പെടുകയോ ചെയ്തിട്ടുള്ള വൃക്ഷങ്ങൾക്കു ടിയാർ നിശ്ചയിക്കുന്ന വിലയും എന്റെ വക സ്വത്തുക്കളിൽനിന്നു കരക്കുടിശിക റവന്യൂ ഷൻ അനുസരിച്ചോ എന്റെ ഡേമണിയിൽ നിന്നോ ഈടാക്കുന്ന

തിന്നും ഞാൻ സമ്മതിച്ചിരിക്കുന്നു. വസ്തു വകകളെ വേറെ ആളെ ഏല്പിക്കുന്നതിൽ നിന്നു ലാഭമുണ്ടായാൽ ഞാൻ അവകാശപ്പെടുന്നതല്ലെന്നും സമ്മതിച്ചിരിക്കുന്നു.

൧൮. (എ) പട്ടികവൃക്ഷങ്ങൾ നില്ക്കുന്ന തറയിലും ചാനൽക്കരകളിലും കൃഷികൾ ഒന്നും ചെയ്യുന്നതല്ല.

൧൯. (എ) പട്ടികവസ്തുക്കളിൽ എനിക്കാവശ്യമുള്ള കെട്ടിടങ്ങൾ, കയ്യാല, മുതലായതുകൾ ഞാൻ കെട്ടി ഉപയോഗിക്കുന്നതായാൽ ടി വസ്തുവിനെ സർക്കാരിൽനിന്നു ഒഴിഞ്ഞുതരാൻ ആവശ്യപ്പെടുന്ന സമയം കെട്ടിടങ്ങൾ മുതലായതിനെ ഞാൻ എന്റെ ചെലവിന്മേൽ പൊളിച്ചുമാററിക്കൊള്ളുവാനും കെട്ടിടങ്ങളുടെയും കയ്യാല മുതലായതുകളുടെയും വില സർക്കാരിനോടു ഞാൻ ആവശ്യപ്പെടുന്നതല്ലാത്തതും ആവശ്യപ്പെടുവാൻ എനിക്കു അവകാശമില്ലാത്തതും ആകുന്നു.

൨൦. പാട്ടത്തിൽ ഉൾപ്പെടാതെയുള്ള വൃക്ഷങ്ങളുടെയും മററും വിവരം (ബി) പട്ടികയിൽ ചേർത്തിരിക്കുന്നു.

ഇപ്രകാരം സമ്മതിച്ച ഈ ഉടമ്പടി എഴുതിക്കൊടുത്ത ... ...
....
.... (ഒപ്പ്)

സാക്ഷികൾ—

൧. (ഒപ്പ്)

൨. (ഒപ്പ്)

(എ) പട്ടിക.

വസ്തുവിവരം	വൃക്ഷങ്ങളുടെ എണ്ണവും വിവരവും														
	തെങ്ങ്	കമുക്	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	മറവൃക്ഷങ്ങൾ	
														ഇനം	എണ്ണം

(ബി) പട്ടിക.

(3)

Form of Lease of Land alone for definite periods.

കുത്തകപാട്ടഉടമ്പടി.

ഒരായിരത്തി ..മാണ്ടു ..മാസം ..തീയ്യതി തിരുവനന്തപുരം സർക്കാരിലേക്കു വേണ്ടി (ഉദ്യോഗപ്പേരു) പേക്കു താലൂക്കു ..കരയിൽ (കര, മുറി, ദേശം) വീട്ടിൽ ജാതി വഴി (പിൻതുടർച്ചാവകാശം) (തൊഴിൽ) വയസ്സുള്ള (ഇടപ്പേരു) എഴുതിക്കൊടുത്ത കുത്തകപ്പാട്ടഉടമ്പടി ആവിതു്.

൧. താഴെ (൨) പട്ടികയിൽ പറയുന്ന വസ്തുവകയെ (അഥവാ) വസ്തുക്കളെ ൧൯൦ .മാണ്ടു .മാസം ..തീയ്യതി കച്ചേരിയിൽ നിന്നും .മാണ്ടു മാസംമുതൽ .മാണ്ടു മാസം വരെ കൊല്ലത്തേക്കു കുത്തകപ്പാട്ടത്തിനു ഏർപ്പെടുക്കുന്നതിനായി ഉണ്ടായ ഉത്തരവനുസരിച്ചു ലേലം ചെയ്തതിൽ അധികമാണെന്നുള്ള രൂപാ ചക്രം കാശുവീതം പാട്ടം തരുന്നതിനു ഞാൻ ഏർപ്പെട്ടുകയും ലേലം അനുവദിക്കയും ചെയ്തിട്ടുള്ളതനുസരിച്ചു പരസ്യനിശ്ചയപ്രകാരമുള്ള ഒരാണ്ടത്തെ പാട്ടത്തുകയായ രൂപാ ചക്രം കാശു ഡേമണിവകയ്ക്കായി .മാണ്ടു മാസം ..തീയ്യതി ഷെറിയിൽ .നമ്പർ ചെല്ലാൻപ്രകാരം ഞാൻ ഒടുക്കി ഡിപ്പാസിറ്റ് വച്ചിട്ടുണ്ടു്.

൨. ഈ ഉടമ്പടിയിലെ നിബന്ധനകൾക്കുവിധേയപ്പെട്ടു ഞാൻ നടക്കുന്നതിലേക്കു ഉറപ്പിനുവേണ്ടി ഞാൻ ഡേമണി വച്ചിട്ടുള്ളതാകുന്നു.

൩. ഓരോ ആണ്ടത്തേക്കും ഞാൻ ഒടുക്കുവാനുള്ള പാട്ടസംഖ്യ നേർപകുതിവീതം അതാതു ആണ്ടു വൃശ്ചികം മേടം ഈ മാസങ്ങളിൽ ൧൫-നു തന്നെ (ഉദ്യോഗസ്ഥനു) ഏർപ്പെടുത്തിയ കൊട്ടത്തു മുറയ്ക്കു രസീതു വാങ്ങിച്ചുകൊള്ളാം. അപ്രകാരം ചെയ്യാതെ വീഴ്ചവരുത്തിയാൽ എന്നിൽനിന്നും എന്റെവക മറ്റു സ്വത്തുക്കളിൽനിന്നും കരക്കടിശ്ശിറവന്യൂലേഷൻ അനുസരിച്ചും എന്റെ ഡേമണിയിൽനിന്നും ആ വക സംഖ്യ ഈടാക്കുന്നതുകൂടാതെ സർക്കാരിലെ യുക്തം

പാലെ എന്നിൽനിന്ന് പാട്ടം വാട്ടത്തി വേറെ ആളെ ഏർപ്പിക്കുന്നതിനും ഞാൻ സമ്മതിച്ചിരിക്കുന്നു. ഇതിനുശേഷവും ഞാൻ തന്നെ പാട്ടം നടക്കുന്നതിനു അനുവദിക്കുന്നപക്ഷം ഡേമണിയിൽനിന്നു ഈടാക്കിയ സംഖ്യയൊ മുഴുവൻ ഡേമണിയൊ ആവത്തിച്ചു ഫാജരാക്കി ഒടുക്കിക്കൊള്ളാം.

൪. (എ) പട്ടികവസ്തുവിനെ (വസ്തുക്കളെ) ഞാൻ അനുഭവിക്കുന്നതിൽ സർക്കാർകാര്യങ്ങൾക്കൊ ആളുകൾക്കൊ ഉപദ്രവം നേരിടത്തക്കവിധം യാതൊന്നും ചെയ്യുന്നതല്ല.

ഇ. സർക്കാരിൽനിന്നും ആവശ്യപ്പെടുകയൊ ഒഴിപ്പിക്കയൊ ചെയ്യുമ്പോൾ അല്ലാതെ പാട്ട കാലാവധി കഴിയുന്നതിനുമുമ്പ് ഞാൻ പാട്ടത്തിൽനിന്നു പിൻമാറുന്നതല്ല.

സ. പാട്ടകാലാവധിക്കകം എപ്പോഴെങ്കിലും വസ്തു (വസ്തുക്കൾ) ഒഴിഞ്ഞുകൊടുക്കണമെന്നു ടിയാർ ആവശ്യപ്പെട്ടാൽ യാതൊരു തടസ്സവും പറയാതെ ഒഴിഞ്ഞു തന്നുകൊള്ളാം.

൬. എനിക്കു (എ) പട്ടികവസ്തുക്കളിൽ ലഭിച്ചിട്ടുള്ള പാട്ടാവകാശം ടിയാരുടെ അനുമതിക്കുടാതെ വേറെ ആൾക്കു ഞാൻ കൈമാറം ചെയ്യുന്നതല്ലാത്തതും ഇതിനു വിപരീതമായിചെയ്യുന്ന കൈമാറം സാധുവല്ലാത്തതും ആകുന്നു.

൭. കാലാവധി കഴിയുന്നമുറയ്ക്കു ഉടനെ പാട്ടം ഒഴിഞ്ഞുകൊള്ളാം. പാട്ടം ഒഴിയുന്നസമയം എന്നിൽ നിന്നു സർക്കാരിലേക്കു വല്ല സംഖ്യയും ഈടാകുവാനുണ്ടെങ്കിൽ ആ സംഖ്യയും പാട്ടച്ചുടിശ്ശികവകയിലൊ പാട്ട എടപാട്ടിൽ ഞാൻമൂലം സർക്കാരിലേക്കുണ്ടായിട്ടുള്ള മറ്റു ഏതെങ്കിലും നഷ്ടംവകയിലൊ ഉള്ള സംഖ്യയും കഴിച്ചു ഡേമണിവകയിൽ എനിക്കു വരുവാനുള്ളതുക തിരുമ്പി വാങ്ങിച്ചു കൊള്ളാവുന്നതാകുന്നു.

൮. പട്ടികവസ്തുവിനെ (വസ്തുക്കളെ) രൂപഭേദപ്പെടുത്താതേയും അതിൽ നിൽപ്പുള്ളതും പാട്ടത്തിൽ ഉൾപ്പെടാത്തതുമായ വൃക്ഷങ്ങൾ മുതലായതിനു ദോഷം വരത്തക്ക യാതൊന്നും പ്രവർത്തിക്കാതേയും സൂക്ഷിച്ചുകൊള്ളാം. പട്ടികവസ്തുവിൽ (വസ്തുക്കളിൽ) ഞാൻ നൂതനമായി കെട്ടിടം, കിണർ, തോട്ടു, വഴി മുതലായതുകൾ ഉണ്ടാക്കുന്നതല്ല.

൯. കാലാവധി കഴിഞ്ഞു പാട്ടം ഒഴിയുമ്പോഴൊ ഏതെങ്കിലും കാരണവശാൽ അതിനുമുമ്പു പാട്ടം ഒഴിപ്പിക്കുമ്പോഴൊ പാട്ടവസ്തുവിലുള്ളതും പാട്ടത്തിൽ ഉൾപ്പെടാത്തതുമായ വൃക്ഷം മുതലായതുകളുടെ എണ്ണം സ്ഥിതി മുതലായതു അതിലേക്കു നിശ്ചയിക്കുന്ന ഉദ്യോഗസ്ഥനെ

ബോധ്യപ്പെടുത്തി എഴുതിച്ചു കൊടുത്തുകൊള്ളാവുന്നതും ഏതെങ്കിലും കാരണവശാൽ എന്റെ ഉപേക്ഷനിമിത്തം കേടുകളോ ഉള്ളതായി കാണപ്പെട്ടാൽ അതിലേക്ക് ഞാൻ ഉത്തരവാദിയായിരിക്കുന്നതും ആകുന്നു.

൧൫. (എ) പട്ടിക വസ്തുക്കളിലെ ആദായം മാത്രം എടുക്കുന്നതല്ലാതെ അതിൽ നിൽപ്പുള്ളതും പാട്ടത്തിൽ ഉൾപ്പെടാത്തതുമായ വൃക്ഷങ്ങളോ അവകളുടെ കൊമ്പുകളോ മുറിച്ചുകളകയോ, എടുക്കുകയോ, പട്ടവീണ വൃക്ഷങ്ങൾ മുതലായതു എടുക്കുകയോ ആ വൃക്ഷങ്ങളെ കല്ല് മുതലായവകയ്ക്കായി ചെത്തുപാട്ടത്തിന് കൊടുക്കുകയോ ചെത്താൻ അനുവദിക്കുകയോ ചെയ്യുന്നതല്ലാ.

൧൬. (ബി) പട്ടികയിൽ കാണിച്ചിട്ടുള്ളതായ പാട്ടത്തിൽ ഉൾപ്പെടാതെയുള്ള ആദായവൃക്ഷങ്ങളിൽനിന്നു യാതൊന്നും എടുക്കുന്നതല്ലാ.

൧൭. (ബി) പട്ടികയിലുള്ള ഏതെങ്കിലും വൃക്ഷം വീണുപോകയോ പട്ടുപോകയോ ചെയ്താൽ ഉടനെ വിവരം ടിയാരെ തെര്യപ്പെടുത്തിക്കൊള്ളാം.

൧൮. പാട്ടവസ്തുക്കളിൽ ഉള്ള കെട്ടിടം, മതിലുകൾ, കിണറുകൾ, മുതലായതിനു ദോഷം വരുത്തുകയായി യാതൊന്നും ചെയ്യുന്നതല്ലാ. വസ്തുവെ സൂക്ഷിക്കുന്നതിനോ ആദായം എടുക്കുന്ന വകയ്ക്കോ ആവശ്യമെന്നു കാണുന്ന ഏതെങ്കിലും പുരകൾ എന്റെ സ്വന്ത ചിലവിന്മേൽ അതിൽ കെട്ടിക്കയല്ലാതെ വസ്തുവിൽ യാതൊരുത്തരേയും താമസിപ്പിക്കുന്നതല്ലാത്തതാകുന്നു.

൧൯. ഈ ആധാരത്തിലെ നിബന്ധനകൾക്കു വിപരീതമായി ഞാൻ ഏതെങ്കിലും പ്രവർത്തിക്കയോ എന്നിൽനിന്നു പാട്ടം വിട്ടതിനു തക്കവിധം എപ്പോഴെങ്കിലും എന്റെ പ്രവൃത്തിയിൽ ഏതെങ്കിലും വീഴ്ച കാണപ്പെടുകയോ ചെയ്താൽ ഞാൻ നടന്ന കാലത്തേക്കുള്ള പാട്ടം എന്നിൽനിന്ന് ഈടാക്കുന്നതിനും പാട്ടം വിട്ടതിലേക്കു ചെയ്ത മറ്റൊരു വേറെ ആളെ ഏർപ്പാടാക്കുന്നതിനും അങ്ങിനെ എന്നിൽനിന്നു എടുത്തു വേറെ ആളെ ഏർപ്പാടാക്കുന്നതിൽവച്ചു സർക്കാരിലേക്കു ഉണ്ടാകുന്ന നഷ്ടവും എന്റെ ഉപേക്ഷനിമിത്തം വേറെ വിധത്തിൽ നശിക്കുകയോ ദോഷപ്പെടുകയോ ചെയ്തിട്ടുള്ള വൃക്ഷങ്ങൾക്കു ടിയാർ നിശ്ചയിക്കുന്ന വിലയും എന്റെ വക സ്വത്തുക്കളിൽനിന്നു കരക്കുടിശ്ശിക റവന്യൂ റിക്കവറി ആക്ടനുസരിച്ചോ എന്റെ ഡിമാണ്ടിയിൽ നിന്നോ ഈടാക്കുന്നതിനും

ഞാൻ സമ്മതിച്ചിരിക്കുന്നു. പട്ടിക വസ്തുവിനെ (വസ്തുക്കളെ) വേറെ ആളെ ഏൽപ്പിക്കുന്നതിൽ നിന്നു ലാഭമുണ്ടായാൽ ഞാൻ അവകാശപ്പെടുന്നതല്ലെന്നും സമ്മതിച്ചിരിക്കുന്നു.

൪൩. (എ) പട്ടികവസ്തുക്കളിൽ എനിക്കാവശ്യമുള്ള കെട്ടിടങ്ങളും, കയ്യാല മുതലായതുകളും ഞാൻ കെട്ടി ഉപയോഗിക്കുന്നതായാൽ ടി വസ്തുവിനെ സർക്കാരിൽ നിന്നു ഒഴിഞ്ഞുതരാൻ ആവശ്യപ്പെടുന്നസമയം കെട്ടിടങ്ങളും മുതലായതിനെ ഞാൻ എന്റെ ചിലവിന്മേൽ പൊളിച്ചുമാറിക്കൊള്ളാവുന്നതും കെട്ടിടങ്ങളുടേയും കയ്യാല മുതലായതുകളുടേയും വിവരം സർക്കാരിനോട് ഞാൻ ആവശ്യപ്പെടുന്നതല്ലാത്തതും ആവശ്യപ്പെടുവാൻ എനിക്കു അവകാശമില്ലാത്തതും ആകുന്നു.

൪൪. പാട്ടവസ്തുക്കളിൽ ഉള്ള വൃക്ഷങ്ങളും കിണറുകളും മുതലായതു (ബി) പട്ടികയിൽ ചേർത്തിരിക്കുന്നു.

ഇപ്രകാരം സമ്മതിച്ചു ഈ ഉടമ്പടി എഴുതിക്കൊടുത്തു.....
.....(ഒപ്പ്)

സാക്ഷികൾ—

൧. (ഒപ്പ്)

൨. (ഒപ്പ്)

(എ) പട്ടിക.

വസ്തുവിവരം.

തരുക്കൾ	എണ്ണം	സൈസ് നമ്പർ	വിസ്തീർണ്ണം	എന്തുകൊണ്ട്

(ബി) പട്ടിക.

Appendix - IV

*KUTHAKAPATTOM RULES, 1947

In exercise of the powers conferred on them by Section 7 of the Government Land Assignment Act, III of 1097. The Government of His Highness the Maharaja are pleased to make the following rules:—

1. These rates supersede all the existing rules on the subject of Kuthakapattom, including the Rules for the grant of the leases of Government lands for cultivation contained in G.O.R.O.C. No. 4848/42/Rev dt.28-11-1944.

2. The rules shall not be applicable to lands given for cardamom or tea cultivation.

3. Kuthakapattom means and includes.

(a) Lease of poramboke land on fixed ground rent for putting up shops in bazaars and markets.

(b) Lease of poramboke and other Government lands for temporary occupation with fairs, festivals, marriages, public entertainments etc.

(c) Lease of poramboke land not immediately required for public purpose or THARISU or other Government lands available for cultivation.

(d) Lease of trees standing on Government lands falling under clause (c) supra.

Note:— (1) Tharisu porambokes which are only vast areas of waste or jungle lands recorded as such in certain taluks may be treated as Tharisu proper for purposes of these rules.

(2) In the case of sites of Govefnment institutions the land shall not be ordinarily leased on Kuthakapattom. The lease in such cases should be confined to the trees standing on their premises.

(3) Lands set apart for communal or public purposes shall not also be ordinarily leased on Kuthakapattom.

4. All Government lands or trees standing thereon available for being leased shall, unless otherwise directed by these Rules or specifically ordered by Government, be leased only in public auction.

5. Kuthakapattom leases fall under two classes:—

(a) Leases without limit of time.

(b) Leases for definite periods.

6. Kuthakapattom without limit of time relates to

(i) Leases of trees on poramboke lands which have already been given out without limit of time under the Rules of 1074 or under the subsequent Kuthakapattom Rules.

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* These Rules were published under Notn. dt. 06/05/1947 in Travancore Gazette dt. 06/05/1947.

(ii) Lease of trees which may hereafter be given under these rules. The existing trees on poramboke land such as public roads, banks of canals and irrigation tanks, fields, bunds etc. shall be leased on Kuthakapattom without limit of time to the ryots, provided there is clear and indubitable evidence.

that they have been planted and nurtured by them under the bona fide belief that the land belonged to them and that such lease is not prejudicial to public interest.

(iii) Trees on poramboke land for which patta has been granted and which now exists on the ground shall be treated as being held hereafter on Kuthakapattom without limit of time under these rules.

(iv) Lease of shop sites in bazaars on ground rent.

(v) Lease of Government lands occupied bonafide before the date of the Puduval Rules of 1932 ie. (06/07/1932).

7. (a) Kuthakapattom for definite periods relates and includes:—

(i) Leases of Government lands occupied bonafide between the years 1932 and 1945.

(ii) Leases of Government lands occupied after 1945.

(iii) Leases of unoccupied Government lands or trees standing thereon or both.

(b) The lease under (i) above shall invariably be granted to the occupant thereof for a period of 12 years renewable thereafter and the leases under (ii) the (iii) above shall only be by public auction.

(c) All lands bid in favour of Sirkar or the management assumed under the provisions of the Revenue Recovery Act for default in the repayment of Agricultural Loans, Special Punja Loans or industrial loans or the lands acquired for public purposes or the lands applied for certain seasonal cultivation will be governed by the provisions of these Rules.

8. (i) In the case of leases of trees or land or both granted without limit of time, the annual Kuthakapattom amount shall be fixed in accordance with the rates in schedules I to III annexed to these rules. The pattom for trees, if any, not enumerated in schedule III shall be fixed on a fair and adequate basis.

(ii) The rates in the case of existing leases of trees or lands or both without limit of time are liable to be revised now in accordance with the schedules I to III annexed to these rules. If the lessee does not accept the revised rates the lease shall be determined and notice issued to him to surrender the leasehold within a specified time. If he does not surrender the lease accordingly he will be considered as a tenant holding over and proceeded [against and evicted under Act, IV of 1091. The authority competent to sanction the lease] under these rules shall sanction the revision of the rates.

(iii) In regard to the existing leases of trees or land or both which have been granted for definite periods, the amount of pattom shall not be interfered with during the currency of the lease, unless agreed to by the lessee.

(iv) The rates of pattom are liable for revision after every 12 years, in regard to all leases without limit of time and leases of land granted for definite periods without auction.

(v) When occupied lands or trees are leased to the occupants themselves without

Appendix - V

FORM D

Kuthakapattam Grant

Whereas the right to enjoy the property of Government included in schedule I hereto appended has been disposed of under the Kuthakapattom Rules in favour of ..... son of/Anandiravan of ..... residing in ..... Muri..... Pakuthy .....Taluk, I, the Tahsildar of .....Taluk, do hereby grant the scheduled property to the above said person on lease with effect from ..... for a period of ..... years/without limit of time in consideration of an annual rent of Rs. Ch. C. and subject to the following conditions:—

1. That the ownership of the property shall continue to vest in the Government;

2. That the right of the lessee shall extend only to the enjoyment of the property leased out to him in a reasonable manner;

3. That the lessee shall pay the annual rent of Rs. Ch.C in two equal instalments before the 15th of Dhanu and Meenam every year;

4. That in the case the lessee makes default of the payment of the annual rent, it shall be recovered from him as arrears of public revenue under the Revenue Recovery Act for the time being in force;

5. That in the case of lease of land, the lessee shall bring the land under cultivation within a period of six months from the date of sanctioning the lease, failing which the security deposited by the lessee shall be liable to be forfeited to Government, the lease cancelled and the land released forthwith. Any loss sustained by Government on releasing the land shall be recoverable from the original lessee under the Revenue Recovery Act. The defaulter is not entitled to any gain accrued to Government on release of the land. When the lease relates to trees alone the lessee shall not cultivate the land;

6. That the lessee shall manure the trees and keep the property such a condition as not to diminish the letting value or yielding capacity;

7. That the lessee shall not alienate the lease without obtaining the previous sanction of the officer who granted the lease;

8. That during the currency of the lease, the lessee shall not determine the lease of his own accord;

9. That it shall be competent to the Tahsildar or other officer or authority who granted the lease [6][to cancel the lease or any portion thereof] either on the termination of the lease without notice or at any other time after 3 months' notice if the land or tree is required for Government for public purposes;

10. That the lessee shall take proper care of the property, if any, included in Schedule No. II appended hereto but shall have no right of enjoyment over them. He shall notify to the Tahsildar if any tree whithers or is blown down or if damage is caused to the property in that Schedule in any other manner. He shall also be liable to make good the loss to Government if any, at the time the lease is terminated and the property surrendered;

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6. Substituted by notification dt. 24/02/1959 published in K. G. dt. 03/03/1959 P.1, P. 589.

11. That if the trees in Schedule No. I wither or are blown down the lessee shall give notice of the fact to the Tahsildar of the Taluk and obtain proportionate abatement of rent if entitled thereto. Such trees shall be disposed of by the Tahsildar. The lessee shall also be entitled to proportionate abatement of rent when any trees are cut and removed for Government purposes;

12. That the lessee shall not let the coconut or palmyrah trees for tapping without express sanction therefor;

13. That the lessee shall be liable for payment of the value of any tree damaged or lost through his action or by his negligence or with his connivance. The loss on this account shall be settled by the Tahsildar;

14. That the lessee shall not claim compensation if the Tahsildar orders the removal of any tree during the currency of the lease; but he will be entitled to claim proportionate reduction of rent;

15. That the lessee shall not commit waste on the property, put up permanent structures, sink wells etc, erect walls, plant more trees, open roads or pathways or do any act or abet the commission of any act which would obstruct Government servant in the discharge of their duties or in any way prejudice the interest of the Government. He shall not in any way interfere with the land or make any alteration in the lie of the land. He shall not do anything that will otherwise injuriously affect the land or trees or diminish their letting value. If the lessee however desire to carry out any permanent improvements on the land such as construction of dwelling houses, digging of wells, planting of trees etc. he shall do so only after obtaining the previous sanction in writing of the Officer or authority who sanctioned the lease. The lessee shall not be entitled to any compensation for the improvements effected by him in the event of the lease being determined or at the expiry of the period of the lease;

16. That the lessee shall be liable to be proceeded against under the Revenue Recovery Act for the time being in force for the recovery of loss if any sustained by Government as a result of his act or negligence;

17. That if any of the conditions laid down above are not fulfilled or are violated the property shall be liable to be resumed immediately by the Officer or authority who sanctioned the lease irrespective of the period of the lease after a written notice to that effect served on the lessee. When the grant is resumed the Proverthicar will enter on and take possession of the property from the lessee;

18. That on the expiry of the lease or in the event of the cancellation of the lease or in the event of resumption of the property, the lessee shall unless he has taken a further lease surrender the property intact to the Proverthicar. If he does not so surrender he will be considered a tenant holding over liable to be proceeded against and evicted under Act IV of 1091. He will not however, be entitled to compensation for any trees planted to or any improvements that he might have made on the land or for any structures raised by him thereon and not removed.

19. That the lessee shall be entitled to the refund of the security on the termination of the lease and after the claims of the Sirkar outstanding against him are settled.

Appendix - VI

THIRD SUPPLEMENT

TO THE

TRAVANCORE

LAND REVENUE MANUAL

VOL. II

DEPARTMENTAL RULES AND STANDING ORDERS

(BROUGHT UP TO 15th AUGUST 1934)

PUBLISHED BY AUTHORITY

TRIVANDRUM :
PRINTED BY THE SUPERINTENDENT, GOVERNMENT PRESS.
1935

R. O. C. No. *1417/28/Rev.

Huzur Cutcherry,
Trivandrum, 7-2-31/25-6-06.

To

The Land Revenue and Income Tax Commissioner,
Travancore.

Sir,

With reference to the correspondence ending with your letter C. No. 286 of 1926/Land Revenue, dated the 2 rd October 1930, *re* the demarcation and survey of the Ten Square Miles Concession Area, I have the honor to inform you as follows in regard to the following 6 proposals forming the subject of discussion at the Conference held on 24-10-1104 :—

(1) That a resurvey of the entire 10 sq. miles concession area should be made and the boundaries fixed and theodolite stones placed exactly on the boundary lines.

The correspondence would make it quite clear that the Conference was called with reference to the survey of only the ten square miles of the concession area.

(2) That the cost of resurvey and demarcation should be borne half and half by the Government and the Company.

It is noted that this proposal has been agreed to by all present at the Conference.

(3) That in resurveying the lands the areas under tea and rubber cultivations as well as the uncleared areas should be separately surveyed.

The Company's contention that the areas under cultivation need not be separately surveyed as they have been already surveyed by Ceylon licensed surveyors cannot be accepted, as Government were not a party to the survey made by the Company's agents. Further, since the rates of assessment differ for the areas under tea and rubber cultivation, Government consider that a verification of the acreage under each kind of cultivation is necessary as suggested by the Conservator of Forests and they direct that the Government Department of Survey should do this.

(4) That the unregistered areas lying scattered within the 10 sq. miles concessions be registered in favour of the Malayalam Plantations or exchanged for uncleared registered areas therein.

It is seen that the Company wants to impose a condition that the terms of registry should be 'reasonable' owing to the existence of rocky and other areas unfit for cultivation. Government accept your view that the proposal may be left alone, to be decided by the

* *Vide* letter R. O. C. No. 1417/28/Revenue, dated 29-6-31.

departmental officers on such terms and conditions as they impose under the existing rules, leaving the Company the option to accept them or reject them.

(5) The areas reported to be encroached upon be given to the Company in exchange for equal uncleared registered areas within the 10 sq. miles concession close to the reserve, or be registered to them on such terms and conditions as may be fixed by the Revenue Department under the existing rules.

It is noted that this proposal was agreed to by all the members.

(6) In order to straighten the boundaries of the estate wherever possible a portion of the reserved forest jutting into the concession area should be disafforested and registered in favour of the Company, or exchanged for portions of the estate jutting into the forest, on such terms and conditions as may be fixed by the Revenue Department.

Government accept the view that all possible adjustments should be allowed to the Company after joint inspection by responsible representatives of the Land Revenue, Survey and Forest Departments.

I request that you will be so good as to take action on the lines of the orders set forth above and to submit a report to Government in the matter in due course.

I have etc.,
K. GEORGE,
Chief Secretary to Government.

Appendix - VII

The Rules issued by the Government of Travancore on the grant of land for Coffee Plantation is as given below.

THE

TRAVANCORE

LAND REVENUE MANUAL.

IN FIVE VOLUMES

VOL. II.

DEPARTMENTAL RULES AND STANDING ORDERS.

PUBLISHED BY AUTHORITY.

DEPARTMENTAL RULES AND STANDING ORDERS.

RULES REGARDING GRANT OF LAND FOR CULTIVATION OF COFFEE.

Memorandum.

1st. A tax of three-fourths of a Queen's Rupee will be payable to the Sirkar annually on every acre of land granted excepting such area within the limits of the grant as may be unfit for cultivation and shall have been so designated in the grant. The Sirkar tax shall remain unaltered till the year 1067 M. E., after which time the Sirkar will have the power to make any modifications which circumstances may render desirable; but it is stipulated that no increase of the assessment of these lands will be made except in concurrence with and in proportion to a revision of the assessment of the kingdom generally.

2nd. The grantee can appropriate to his own use within the limits of the grant all timber, except the following:

Teak,	Ebony,
Cole Teak,	Caroonthally,
Blackwood,	Sandal-wood.

Should he carry any timber without the limits of his grant, it will be subject to the payment of kooticanom or customs duty, or both, as the case may be, in the same way as timber ordinarily felled. In the case of the excepted timber, the grantee is required to pay seigniorage, according to the undermentioned scale:

Teak	...	...	Rs. 10	per candy.
Cole Teak	...	...	„ 4	do.
Blackwood	...	...	„ 10	do.
Ebony	...	...	„ 5	do.
Caroonthally	...	...	„ 8	do.
Sandal-wood	...	...	„ 25	do.

The grantee is bound to deliver to the Sirkar all ivory, cardamoms, and other Royalties produced in the land, and all captured elephants, and he will be paid the regulated price for

These Rules are applicable to the Estates granted and held under them. They have now been superseded by the Rules dated 28th November 1913, regarding "The sale of Waste lands on the Travancore Hills for Coffee or Tea cultivation." (*Vide* notes under Regulation II of 1040, Vol. I, pp. 1-7.)

the articles of produce and the regulated reward for the elephants.

3rd. All established rights of way shall be respected by the purchaser or holder of the land, and such ways shall be at least 21 feet wide. It is to be considered that there is a natural right of way through the land when such is necessary, in order to render the neighbouring land available; but should a road be made where none before existed, the grantee shall receive compensation for any improvements thereby destroyed.

4th. No exclusive rights of water beyond what is necessary for the use of the plantation shall be considered to be conveyed by the grant.

5th. Should the Sirkar have occasion to take up any such portion of the land in question as may be improved by the purchaser for the purpose of constructing roads, channels, or other public works, compensation shall be paid at a fair valuation.

6th. While the Sirkar will enforce the regular payment of tax due to it on the grant at the period specified in the deed of grant, it shall not, in the case of lands paying the assessment from the first, lay down conditions obliging the grantee to cultivate or clear any specific portion of the grant within a specified time. But should the applicant so desire, land for planting coffee will be granted free of assessment for 5 years, on condition that a quarter of the land shall be cleared and planted within the first three years, failing which the whole assessment shall be levied in the fourth year.

7th. The grantees shall always use their best exertions to prevent the produce of their estates being exported except on payment of the regulated duty at the custom houses, and to prevent smugglers of articles of Sirkar monopoly and criminals in general obtaining any kind of protection on the estates.

8th. The lands applied for shall be granted in perpetuity as heritable or transferable property, but every case of transfer shall be made known to the Sirkar, who shall have the right of apportioning the tax if a portion of the holding is transferred.

9th. The discovery of useful mines and treasures within the limits of the grants shall be communicated to the Sirkar and grantees shall, in respect to such mines and treasures, abide by the decision of the Sirkar.

10th. The produce of lands held under these rules will be liable to duty on export in common with other produce exported from the kingdom, but no special duty will be imposed on such produce. The present export duty on coffee is 5 per cent. on the tariff valuation, being $6\frac{1}{4}$ chuckrams per maund of 25 lbs. English.

11th. The cultivation of the lands shall not interfere in any way with the production of cardamoms, whether the culture of that spice be conducted on the part of the Sirkar or by private individuals, and no lands will be granted which the Sirkar has special reasons to reserve.

Trivandrum,
8th March 1862.

T. MADAVA ROW,
Dewan.

NOTIFICATION REGARDING PROPOSED AUCTION SALE OF LAND FOR CULTIVATION OF COFFEE.

Whereas it has been found that in consequence of several parties applying for the same tracts of waste land, inconveniences are incident to the existing system of granting land, it has been resolved by the Government of Travancore that, from the 16th December 1864, (3rd Margaly 1040) waste lands suited for the cultivation of coffee shall, until further notice, be sold by public auction to the highest bidder, under rules which will be shortly published, at an upset price of one British Rupee per acre, but in all other respects under the same conditions as those described in the Memo, dated 8th March 1862.

Huzur Cutcherry,
Trivandrum, 15th Dec. 1864.

T. MADAVA ROW,
Dewan.

RULES FOR THE SALE OF WASTE LAND ON THE TRAVANCORE HILLS DATED 24TH APRIL 1865.

1. Waste lands, in which no rights of private proprietorship, or exclusive occupancy exist, and which may not be reserved, as hereinafter provided, may, until future notice, be sold under the following Rules :—

2. Applications for lands shall be addressed to the Dewan of Travancore, directly in the case of natives, and through the British Resident, in the case of Europeans, and shall comprise the following particulars :

(a) the estimated area of the lot applied for;

These Rules are applicable to the Estates granted and held under them. They have now been superseded by the Rules dated 28th November 1913, regarding 'The sale of Waste lands on the Travancore Hills for Coffee or Tea cultivation'. (*Vide* notes under Regulation II of 1040, pp. 1-7).

(b) the situation of the lot and its boundaries, as accurately as can be stated.

3. No lot shall exceed five hundred acres. But any person may apply for several contiguous lots, each not exceeding the above limits.

4. Every lot shall be compact, and shall include no more than one tract of land capable of being surrounded by a ring fence, and when the lot touches a public road, navigable river, canal, or backwater, the length of the road or water frontage shall not exceed one-half of the depth of the lot.

5. No lot shall be sold until the area has been estimated by the Sirkar authorities. Before a title-deed is granted, the lot shall be surveyed.

6. If, on receipt of an application under Rule 2, the Dewan has reason to believe that the lot applied for is saleable under these Rules, he shall call upon the applicant to give such security, not exceeding the estimated cost of the demarcation and survey, by deposit of cash, or otherwise, as may be deemed necessary and sufficient, to provide for the contingency referred to in Rule 11, unless the land has been already surveyed and demarcated. A deposit paid as above required will be refunded at the sale under Rule 13.

7. If the applicant fails to furnish security under Rule 6, within six weeks from the date of demand, his application shall be null and void.

8. On receipt of the security required under Rule 6, the Dewan shall, as soon as possible, cause the area of the land applied for to be estimated by the Sirkar authorities. He shall then advertise the lot for sale on a given day to be fixed so as to admit of the notice required in Rule 9 being given.

9. The advertisement shall be in English and in Malayalam, and shall specify the locality, extent, and boundaries of the lot, the annual assessment, and the place, time and conditions of sale. It shall be posted for three months at least on the land itself, as well as in the neighbouring villages, in the offices of the Dewan, the Dewan Peishkar and the Tahsildar of the Taluk, and in the nearest Police office. The Dewan shall, at his discretion, fix the time and place of sale, and may alter both, if necessary, provided that not less than 14 days' notice be publicly given of every such alteration, and that no land be sold until it has been advertised, as aforesaid, for three full months at least. A Notification of the intended sale shall also be inserted in the Travancore Gazette.

10. The Dewan shall send written notice of the place and time of sale, as also any alteration under the provisions of Rule

9, to the applicant; but no sale shall be disturbed in consequence of the non-receipt of such notice or delayed in consequence of the non-appearance of the applicant.

11. An applicant withdrawing his application prior to the sale of the lot, will be entitled to the refund of so much only of his deposit, where deposit has been paid by him under Rule 6, as may not have been expended. Where no deposit has been paid, he will still be liable to make good any expense which the Sarkar may have incurred, in consequence of his application and its withdrawal.

12. On the withdrawal of an application, it shall be discretional with the Dewan to proceed with the sale of the lot or not as he considers best for the public interests.

13. The upset price shall in all cases be one Rupee* an acre to include all survey expenses. If the original applicant (who may have paid the deposit) be the purchaser, he shall receive credit for his deposit in payment; otherwise the amount of deposit shall be paid to him from the sale proceeds.

14. If, before the time of sale, no claim of private proprietorship or of exclusive occupancy or of any other right incompatible with the sale of the lot under these Rules be preferred, the lot shall, as advertised, be put up to auction and sold to the highest bidder above the upset price subject to an annual assessment of three-fourths of a Queen's Rupee on every acre of land granted; the assessment being payable, either from the first year after the date of completion of sale, where the grantee does not bind himself to cultivate or clear any specific portion of the grant within a specified time; or from the fourth year after that date, where the grantee binds himself to clear and plant a quarter of the land within the first three years, failing which, the whole of the assessment shall be levied in the fourth year, or in other words, the assessment will be levied from the date of completion of sale in arrears.

15. The successful bidder shall, immediately on the sale being declared, pay down 10 per cent. of the price, and the residue of the purchase money shall be paid in full within 30 days.

16. The sale shall be conducted under and subject to the following conditions:

(1) The highest bidder above the upset price shall be the purchaser of the lot; and if any dispute arise between two or more bidders at the same price, the lot shall be immediately put up again at the last preceding undisputed bidding and resold.

* This was raised to Rs. 10 per acre by notification, dated 2nd June 1874.

(2) If the purchaser shall pay to the Sirkar the residue of his purchase money, he shall thereupon be placed in possession of the lot, pending survey.

(3) All persons desirous of becoming purchasers are to satisfy themselves as to the identity, correct description, the estimated area, &c., of the lot, previous to the sale, as by having the lot knocked down to him, the purchaser thereof shall be held to have waived all objections to the lot embracing any tract unfit for cultivation, to any mistakes that may afterwards appear to have been made in the description of the lot, as well as to any other error whatever in the particulars of the property.

(4) If the purchase shall not be completed by the 30th day from the day of sale, the purchaser shall pay to the Sirkar interest at the rate of 12 per cent. per annum on the remainder of his purchase money, from the day of sale until the purchase shall be completed, without prejudice, nevertheless, to the right of sale reserved by the 5th condition, if the purchase money be not paid within one year.

(5) If the purchaser shall neglect or refuse to comply with the above conditions or any of them, his deposit money shall be forfeited and retained by the Sirkar, and the Sirkar shall be at liberty to resell the lot either by public auction or private contract, without the necessity of previously tendering a conveyance to the purchaser; and the deficiency, if any, arising from such resale together with all expenses attending it, shall be made good by the purchaser at the present sale, who shall so neglect or refuse, as and for liquidated damages.

17. Claims of private proprietorship or of exclusive occupancy or of any right affecting the sale of the land under the Rules, shall be disposed of under the provisions of Regulation II of the year 1040.

18. Reserves of grazing and forest land, of land for the growth of firewood, for building sites, for the growth of timber, &c., or required for other special purposes, are not to be sold under these Rules without the express sanction of His Highness the Maha Rajah.

19. As soon as the actual area of the lot purchased has been ascertained by survey, a grant shall be made to the purchaser (provided he shall have paid his purchase money in full) in the form hereto annexed and marked A. Should the actual area as ascertained by survey be more than one-tenth less than the area as estimated before the sale, the purchaser shall be refunded a proportionate part of his purchase money in respect of such deficiency beyond one-tenth. Should the actual area be more than

one-tenth in excess of the area as estimated, such excess beyond one-tenth shall revert to the Sirkar, and the purchaser shall forthwith yield up possession thereof.

20. Arrears of annual assessment on the lands sold shall be recoverable in the same manner as arrears of ordinary land revenue.

21. Lands sold under these Rules shall continue subject to all general taxes and local rates payable by law or custom.

22. Land sold under these Rules shall be held in perpetuity as heritable or transferable property; but every case of transfer shall be made known to the Sirkar, who shall have the right of apportioning the tax, if a portion of the holding is transferred.

23. The existing and customary rights of the Sirkar, of other proprietors, and of the public, in existing roads and paths and in streams running through or bounding lands sold under these Rules, are reserved, and in no way affected by the sale of such lands.

24. Nothing contained in these Rules shall be held to debar the Sirkar from granting waste land on puttah, cowle, or otherwise at discretion as heretofore.

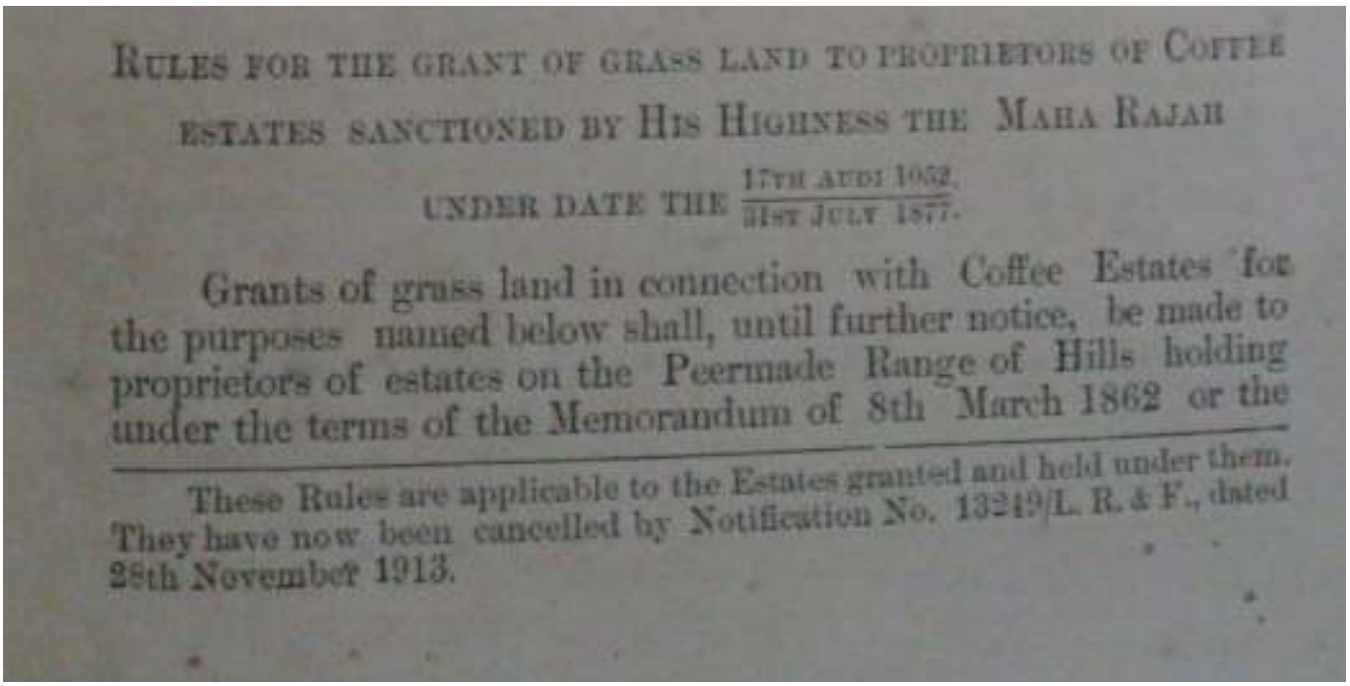
Form A.

KNOW ALL MEN BY THESE PRESENTS, that.....Dewan of Travancore, in behalf of the Travancore Sirkar, has hereby this day, being the day of.....in the year one thousand eight hundred and.....granted under the Rules for the sale of waste land passed by His Highness the Maha Rajah, under date.....to A. B. of....., his heirs, executors, administrators and assigns for coffee cultivation, in consideration of the purchase money or sum of Rupees.....duly paid by the said A. B., the tract of land measuring.....British statute acres, situated on.....Hills, in the District of.....bounded as mentioned in the Schedule hereunder written and delineated in the map or survey hereto annexed, to be holden by the grantee, subject to the following conditions:—

1. A tax of three-fourths of a Queen's Rupee will be payable to the Sirkar annually on every acre of land sold. The tax shall remain unaltered till the year 1087 M. E. / 1912—13 A. D. after which time, the Sirkar will have the power to make any modification which circumstances may render desirable, but it is stipulated that no increase of the assessment of these lands will be made except in concurrence with and in proportion to a general revision of the assessment of the lands of the Travancore State. If, however, the

Appendix - VIII

THE RULES FOR THE GRANT OF GRASS LAND WAS AS FOLLOWS:-



RULES FOR THE GRANT OF GRASS LAND TO PROPRIETORS OF COFFEE ESTATES SANCTIONED BY HIS HIGHNESS THE MAHA RAJAH UNDER DATE THE 17TH AUDI 1052 / 31ST JULY 1877.

Grants of grass land in connection with Coffee Estates for the purposes named below shall, until further notice, be made to proprietors of estates on the Peermade Range of Hills holding under the terms of the Memorandum of 8th March 1862 or the

These Rules are applicable to the Estates granted and held under them. They have now been cancelled by Notification No. 13249/L. R. & F., dated 28th November 1913.

Rules of April 1865 or which may hereafter be granted or sold subject to those or revised Rules, provided land of the description unencumbered by other rights, and which the Government do not wish to reserve, is available either immediately adjoining the estate or within a mile of it.

(*a*) For homestead, *i. e.*, site for dwelling-house, compound, cooly-lines, out-houses, &c.

(*b*) For farmstead, *i. e.*, for cattle-pen and other buildings.

II. Under the head (*a*) the grant will be in the proportion of 4 per cent. of the area of the estate as ascertained by survey, but not exceeding 20 acres for any one estate, whatever its area.

III. Under the head (*b*) the grant will be at the rate of 10 acres for every 100 acres of the estate, the maximum being 50 acres for any one estate.

IV. The lands under the heads (*a*) and (*b*) will be granted as separate blocks or as one block at the discretion of the Dewan, according to the circumstances of the case.

V. If the same party owns more than one estate adjoining each other but held under separate title-deeds, the grants of grass land shall be made separately to each estate.

VI. Where there are two or more applicants for the same tract of grass land, it shall be discretionary with the Dewan to make the most equitable arrangement according to the circumstances of each case, either by granting the whole to any one of them or apportioning it between two or more of them according to their wants or with a view of securing to each the most eligible natural boundaries or other circumstances.

VII. The grants under the Rules will be made quite irrespective of the priority of applications and it is to be understood that no rights in the land accrue till the title-deed is issued.

VIII. Applications for grass lands under these Rules shall be addressed through the Resident by Europeans, and directly to the Dewan by others and shall comprise the following particulars :—

(1) The estimated area of the land applied for.

(2) The situation of the land and its boundaries as accurately as can be stated.

(3) The estate in connection with which the grass land is applied for, its name, the number and date of the title-deed or number of the lot and number and date of the notice in which it was advertised. A rough sketch of the existing estate and of the area applied for with roads and streams adjoining, if any, should accompany the application.

IX. Every lot shall be compact, and shall include no more than one block of land under each of the heads (a) and (b) capable of being surrounded by a ring-fence, and when the lot touches a public road or navigable river, the length of the road-frontage or water-frontage shall be such as will not exclude others from the same advantage.

X. No lot shall be granted until it has been surveyed and mapped by a Government surveyor.

XI. Every application shall be accompanied by a deposit of one British Rupee per acre of land applied for. The deposit will be taken to account when the grant is made.

XII. When called upon by the surveyor, the applicant shall be bound to cut at his own expense the boundary of his application, and any revised boundary which the surveyor may find necessary to satisfy the Rules, failing which, without sufficient cause, the deposit of one Rupee per acre shall be forfeited and the application become null and void. Notice given by the surveyor to the agent or manager on the estate shall be treated as notice to the proprietor of the estate, and the boundary cut by such agent or manager shall be binding upon the proprietor or applicant.

XIII. The deposit is also liable to be forfeited, if the applicant should withdraw his application at any time after the survey is made.

XIV. As soon as may be convenient after the survey is made and the map prepared, the Dewan shall, if he sees no objection to the grant, advertise the land in at least three issues of the Travancore Government Gazette. The advertisement shall be in English and Malayalam and shall specify the situation, extent and boundaries of the lot, the annual assessment and any other particulars the Dewan may deem necessary.

XV. A copy of the notice shall be sent to the applicant, or his agent, or the manager on the coffee estate. It shall be posted also in the Dewan's Cutcherry, the Survey office and the Cutcherries of the Dewan Peishkar and Tahsildar of the District in which the land is situated. No land shall be granted till three months elapse from date of advertisement.

XVI. It shall be competent for the Dewan to countermand or cancel an advertisement once issued, should he see reason to do so.

XVII. The price of grass land granted under these Rules shall be British Rupees two per acre which shall be paid within three months from date of notice that the land will be granted.

failing which, the deposit shall be forfeited and the application liable to be treated as null and void. If, however, there be patches of forest land within the limits of the grass land applied for, and such forest cannot conveniently be detached from the block of grass land and does not in the aggregate exceed one-seventh of the surveyed area of the block, such forest shall be granted under these rules on payment at the rate of Rs. 20 per acre. But land which is known as grass land with open forest shall not be granted under these rules.

XVIII. If the applicant obtains the land applied for in full or part, he shall receive credit for his deposit in payment. If he does not obtain the land and the deposit is not forfeited under these rules, he shall be entitled to its refund.

XIX. A title-deed shall be issued in the form hereto annexed and marked A, as soon as may be convenient after the expiry of the period of the advertisement and payment is received in full of the value of the land.

XX. The assessment on grass land granted under these rules shall be at the rate of four annas per acre reckoning from the date of title-deed, except in the case of lands already permitted to be occupied, in which cases, the tax shall reckon from date of permission given for such occupation.

XXI. If, however, the land is brought under cultivation, the Government reserves to itself the right of raising the tax, and of imposing such higher tax either with reference to the trees grown or upon the area of the land according to the nature of the cultivation, but the revised assessment shall not be higher than the tax imposed for the time being upon coffee estates; if coffee or tea be grown thereon, and in regard to other cultivation, not higher than the rate of assessment leviable from time to time upon similar cultivation upon the best land in other parts of the country.

XXII. If produce new to the country be grown thereon such as vanilla, cotton, &c., the tax imposed will be such as may be equitable under the circumstances.

XXIII. In regard to the time from which any higher tax imposed under this rule will come into effect, the rule or custom which regulates assessment on such cultivation in other parts of the country will be applicable; and in respect of tea or coffee five years from the time of planting and upon the actual area planted.

XXIV. The grantee is bound to give to the Government notice at the time at which tax upon such cultivation becomes leviable, stating the nature and extent of the cultivation: failing to

which, such tax shall be payable in arrears from the time it becomes due whenever the Government ascertains the particulars.

XXV. All arrears of assessment shall be recoverable in the same manner as arrears of ordinary land revenue.

XXVI. Lands granted under these rules shall continue subject to all general taxes and local rates payable by law or custom existing or which may hereafter come into force.

XXVII. Lands granted under these rules shall be held in perpetuity as heritable or transferable property, but every case of transfer shall be made known to the Sirkar who shall have the right of apportioning the tax if a portion of the holding is transferred. If, however, the grass land is alienated apart from the coffee estate to which it was granted, the holder of the coffee estate shall not be entitled to any fresh grant of grass land.

XXVIII. The existing and customary rights of the Sirkar, of other proprietors and the public, in existing roads and paths and in streams running through or bounding lands granted under these rules, are reserved, and in no way affected by the grant of such lands.

XXIX. Claims of private proprietorship or of exclusive occupancy, or of any right affecting the grant of the land under the rules shall be disposed of under the provisions of Regulation II of the year 1040.

XXX. These rules shall not affect any grass land for which title-deeds may have been previously issued and which will be governed by the terms and conditions subject to which the grant was made.

XXXI. Subsidiary rules and rules which may be necessary to clear doubts may, from time to time, be issued by the Dewan under the sanction of His Highness the Maha Rajah and such rules shall be binding upon all holders of grass land under these rules. The above rules are merely framed to guide applicants and Government officers.

A. SASHIAH SASTRI,
Dewan.

Title Deed Number.

Know all men by these presents, that..... in behalf of the Travancore Sirkar, has hereby this day being the .....of.....in the year one thousand eight hundred and seventy.....granted under the Rules for the grant of grass lands to coffee estates passed by His Highness the Maha Rajah under date the 17th Avili 1052 / 31st July 1877.....

Appendix - IX

KANNAN DEVAN HILLS CONCESSION - THE DEED OF RATIFICATION DATED 28/11/1878 BY HIS HIGHNESS THE MAHARAJA OF TRAVANCORE:-

KANNAN DEVAN HILLS CONCESSION.*

Deed of ratification.

Whereas Kala Varma known as the Poonjat Raja or Chief, has, by a deed dated 11th July 1877, granted for cultivation to John Daniel Munro, Esq., of Peermade and London, a tract of land bounded as described in the schedule hereunder written, and the said J. D. Munro, Esq., through his Attorney, H. G. Turner Esq., Post-Master General, Madras, has applied according to usage to His Highness the Maha Raja's Government through the British Resident, under date the 28th June 1877, for permission to hold the land, this is to declare and define the terms and conditions upon which N. Nanoo Pillay, Esq., Dewan of Travancore, on behalf of the Government of His Highness the Maha Raja, permits and ratifies the grant made by the above Poonjat Raja or Chief.

First. Independent of any rents or payments due to the Poonjat Raja under the grantee's agreement with him, a tax of half a British Rupee will be payable to the Sirkar annually direct by the grantee on every acre of land granted, except on grass land, in respect of which the Sirkar will not immediately ratify the grant, but the said J. D. Munro, Esq., may occupy grass lands for homesteads, farmsteads, and cultivation now or hereafter on condition that he pays two annas and eight pies for every acre of grass land that he takes up, from the time that he occupies the same, and provided that at the end of twenty four years tax will be levied on the whole of the grass land included in the grant whether it be occupied or not, the ratification of the Sirkar in respect of each block of grass land taking effect from the date that tax upon it becomes payable. The tax shall remain unaltered till the general survey and re-assessment of garden lands next after

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* This is an important document and constitutes the original title-deed under which the Kannan Devan Hills Produce Co., Ltd., hold a large tract known as the Kannan Devan Hills Concession.

By an agreement dated $\frac{\text{11th July 1877}}{\text{29th Mithunam 1052}}$ the Poonjat Chief granted a large extent of land called 'Kannan Tevan Anchanatu Mala' to Mr. J. D. Munro for a consideration of Rs. 5,000 and subject to an annual rent of Rs. 3,000. Under the rule which required that Europeans and Americans desiring to acquire land within the dominion of His Highness the Maha Rajah should obtain the previous permission of the Sirkar, Mr. Munro applied to the Sirkar through his attorney for a ratification of his agreement with the Poonjat Chief, undertaking to abide by any stipulations which the Sirkar might consider necessary for protecting their interests. After much discussion, His Highness' Government ratified the agreement on the terms set forth in this deed.

The agreement between the Poonjat Chief and Mr. J. D. Munro is reproduced below :—

the one now initiated, at which time, the Sirkar will have the power to make any modification which circumstances may render desirable, but it is stipulated that no increase of the assessment of these lands will be made except in concurrence with and in proportion to a general revision of the assessment of the lands of the Travancore State.

Second. The aforesaid annual tax is payable in one sum to the Tahsildar of the District of Meenachil on or before the last day of Audi of each year corresponding with the 10th, 14th or 15th August without formal demand from the Tahsildar.

Third. Arrears of assessment or tax shall be treated in the same manner as arrears of ordinary land revenue and be subject to the same mode of realization.

Fourth. The grantee shall maintain permanent boundary marks round his grant and keep them in good repair, on failure of which, after due notice, it shall be competent to the Sirkar to cause such marks, as it may deem necessary, to be put up, and to levy the cost of the same with all expenses attendant thereon in the manner prescribed in the foregoing section.

Fifth. The grantee can appropriate to his own use within the limits of the grant all timber except the following and such as may hereafter be reserved, namely, teak, cole-teak, black-wood, ebony, karoonthuly, sandal-wood. Should he carry any timber without the limits of the grant, it will be subject to the payment of kooteekanom, or customs duty, or both, as the case may be, in the same way as timber ordinarily felled. In the case of the excepted timber, the grantee is required to pay seigniorage according to the undermentioned scale: teak, rupees ten per candy;

1st POONIAT CONCESSION.

"Agreement executed on the 11th July 1877/29th Mithunam 1052, by Panhattil Kayikal Kela Varuna Vuloja Raja, aged 47, in Punhattila Vaka, Koudu Pravarti, Minachel Taluq, to Mr. John Daniel Munro, aged, 43, a Christian Coffee Planter at Perumeta in Peruvantanam Mure, Kanhirapalu Pravarti, Chenganasheri Taluq.

As you have made an application for the grant of the property called Kannan Tevan Anchanatu Mala, belonging to Us at Punhattila Vaka in Koudu Pravarti, Minachel Taluq for Coffee cultivation, all the hills and jungles on the said property within the following boundaries, with the exception of such parts as are used by the tenants for agriculture, public utility, water-supply, and other purposes, are conveyed to you under this Agreement in consideration of Rupees 5,000 received.

The boundaries of the property are—Chirnarulpatin, Tandekara, Kumarikallu, Kattumala, Tglayar, Tandekara, Vinayakanattitandekara Alatchimed Pullanar Tanna Karinikulam, Tevikulam Mettu, Munnatuma, Munnatuma Anakulam and Chumarulpathi—you shall clear and remove the jungles, and reclaim the waste lands within the said boundaries, and cultivate them with Coffee up to the year 1058, and from the year 1059, pay Our rent-collector a yearly rent at the rate of 3,000 British Rupees, and obtain receipts.

ebony, rupees five per candy; cole-teak, rupees four per candy; black-wood, rupees ten per candy; karounthaly, rupees eight per candy; sandal-wood, rupees twenty-five per candy. The grantee is bound to deliver to the Poonjat Chief, to enable him to make over to the Sirkar, all ivory, cardamoms, and other Royalties produced in the land and all captured elephants, and he will be paid by the said Chief, according to agreement with him, the regulated price for the articles of produce and the regulated reward for the elephants.

Sixth. All established rights of way shall be respected by the grantee, and such ways shall be at least (21) twenty-one feet wide. It is to be considered that there is a natural right of way through the land when such is necessary in order to render the neighbouring land available. The grantee shall have the right of making roads throughout all the tract granted by the Poonjat Chief without paying the Sirkar assessment on the land taken up for this purpose; but such roads passing through lands on which the grantee pays no tax to the Sirkar shall be considered as public roads.

Seventh. No exclusive right of water, beyond what is necessary for the use of the plantation, shall be considered to be conveyed by the grant.

Eighth. Should the Sirkar have occasion to take up any portion of the land granted, for the purpose of constructing roads, channels, or other public works, due compensation shall be paid.

Ninth. All the land included in the grant, except grass land, will be free of assessment for six years from date of this document, after which period the tax will be levied on four thousand acres whether the same be cultivated or not, and on the rest of the land, from year to year, on the extent that may be cleared and from the time of clearing, provided that at the end of every sixth year from the expiration of the six years' remission of tax above provided for, every additional four thousand acres whether cultivated or not will pay assessment till the whole is brought under cultivation, or to the end of twenty four years

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2. You or your people shall deliver to Our rent-collector the ivory, cardamoms, wax, frankincense and other similar forest articles which may be obtained by them or you on these lands, and shall receive the usual allowances. If elephants be got on these lands, you shall also deliver them to Us and shall receive the usual rewards.

3. The roads, rivers and water-courses, if there be any on these lands, shall continue to exist as heretofore.

4. Whenever you think to give up the lands of your own accord, you shall relinquish your claims to houses, improvements, &c., effected thereon, and to the sum of Rs. 5,000 advanced to Us and shall surrender the property to Us.

5. If you fail to comply with the terms of this Agreement by refusing to pay the sum of Rs. 3,000 annually as agreed upon, or by violating any other conditions

from date of this document, when the entire grant will be taxed whether it has or has not been cultivated.

Tenth. The grantee shall, as a most important condition of the grant, always use his best exertions to prevent the produce of the grant being exported, except on payment of the regulated duty at customs houses and to prevent smuggling of articles of Sirkar monopoly, and criminals in general obtaining any kind of protection on the estate.

Eleventh. The land granted shall be held in perpetuity as heritable or transferable property, but every case of transfer of the grant by the grantee shall be immediately made known to the Sirkar, who shall have the right of apportioning the tax, if a portion of the holding is transferred and will so apportion it on application by any duly registered transferee.

Twelfth. The discovery of useful mines and treasures within the limits of the grant shall be communicated to the Sirkar, and the grantee shall in respect to such mines and treasures, abide by the decision of the Sirkar.

Thirteenth. The produce of lands held under the grant will be liable to duty on export in common with other produce exported from the kingdom, but no special duty will be imposed on such produce.

Fourteenth. The cultivation of the lands shall not interfere in any way with the production of cardamoms, whether the culture of that spice be conducted on the part of the Sirkar or by private individuals.

Fifteenth. The liability of the lands herein specified to municipal, general or local taxes, is not affected by this grant.

Sixteenth. The grantee shall be bound to preserve the forest trees growing on the banks of the principal streams running through the tract to the extent of fifty yards in breadth on

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specified herein, you shall, without claiming the value of improvements effected on these lands, or the return of the Rupees received by Us, surrender the lands to Us.

This Agreement has been executed in presence of witnesses,

(1) Kallampalli Illatu Hariswaran Damodaran Nampoderi at Kummanur Kara, Kitangu Pravarti, Kottayam Taluq.

(2) Thiruthal Illatu Tuppan Nampoli Nampoderi at Maritan Kara in the said Pravarti.

(A true translation as near as may be from the Malayalam language.)

Madras, 27th May, 1878.

(Signed)—Malayalam Translator to the Government of Madras.

The terms set forth in this deed were modified in some respects by another deed dated 2nd August 1886.

each side of the stream, the underwood only being permitted to be cleared and the land planted. Similarly, he shall also be bound to preserve the trees about the crest of the hill to the extent of a quarter of a mile on each side.

Seventeenth. The grantee shall pay to the Sirkar a rupee an acre to cover expenses of cadastral and topographical survey. The payment to be made for one thousand acres within two months from date of this agreement, and for the rest, at one thousand rupees at a time, on completion of the survey of every one thousand acres. He shall also cut the boundaries at his own cost on being called upon by the Sirkar's surveyor to do so.

Signed, sealed and delivered at Trivandrum on the 28th November one thousand eight hundred and seventy eight in the presence of

Witnesses.

Richard LaBotchardiere.
R. R. Manuela.

N. NANOO PILLAY,
Dewan of Travancore.

Schedule.

North. Source of the Chinnaur.
East. Source of Chinnaur, Thandokaram, Koomarikulu, Katumalla, Thalayaar, Thandokaram, Veenayacamade, Thandokaram, Alanjamadu, Poolaur Dam and Karinecolum.
South. Davikulom, Madu and Moonaur.
West. Moonaur and Annakulam.

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* NOTIFICATION REGARDING MINING RIGHTS SANCTIONED BY HIS HIGHNESS THE MAHA RAJAH ON THE 2nd Mithunom 1056 / 14th June 1881.

Dated 8th March 1862
" 24th April 1865
" 31st July 1877

A Proprietor of a Coffee Estate holding under the Coffee land rules marginally noted who may be desirous of obtaining permission to mine for gold in such Estate should apply to the Dewan, specifying distinctly the name, situation, boundaries, and area thereof.

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* *Vide* notes under the Proclamation dated 2nd Mithunam 1056 regarding Mining Rights, Vol. I, pp. 23-24.

This Notification was referred to as follows in the Administration Report for 1056, para 443:—

Rules have been laid down conceding mining rights in gold to holders of coffee lands in the higher hills on certain easy terms.

2. On the receipt of the application, the right to mine for gold will be leased out to the proprietor or proprietors of the land on the conditions hereinafter mentioned.

3. Every application for a lease or for the transfer or renewal thereof shall be accompanied by a fee of 100 Rupees.

4. The lease shall be for a term of 10 years and shall be renewable at the end of that term in favor of the Lessee, his heirs, representatives or assigns on such terms as the Government may determine. And it shall be open to the Lessee to abandon the lease at any time at his pleasure.

5. A royalty of three and half per cent. shall be leviable on the gross out-turn of gold during the currency of the lease, and shall be payable at such times and in such places as may be appointed by Government.

6. It shall be open to the Government to increase the royalty at the time of renewing the lease, but the rate fixed shall in no case exceed 12 per cent. on the gross out-turn.

7. If within two years from the date of the commencement of the lease, no mining operations are commenced, or if for two years continuously during the currency of the lease, the works are abandoned and no mining operations are carried on, the lease shall be liable to be cancelled at the pleasure of Government.

8. All mining works shall be open at all reasonable times to the examination of such officers as Government may appoint for the purpose; and any suggestions made in writing under the authority of Government for the safety of the lives and health generally of those working in the mines shall be adopted by the Lessee. On his failure to do so, it shall be competent to Government to give effect to the suggestions at the Lessee's expense, and recover the cost incurred, in the same manner as the royalty under these rules.

9. The lease shall not be sub-let or assigned without the consent of the Government being previously obtained.

10. During the currency of the lease, the Lessee shall not be liable to any tax on his mining operations in addition to the royalty, except such local cesses as may hereafter be found necessary for the purpose of providing for the cost of such police, communications, sanitation or other similar administrative arrangements as may, in the opinion of the Government, be called for in the interests of the local community affected by the Lessee's operations. Provided that nothing herein contained shall be held to exempt the Lessee from the payment of the land tax specified in the title-deed under which he holds his estate.

11. Accurate accounts shall be kept by each Lessee under these rules for the purpose of enabling the Government to fix and levy the amount of the royalty.

12. Such accounts shall at all times be opened to the inspection of Government or of any officer empowered by them in that behalf.

13. Any wilful falsification of such accounts shall entail a forfeiture of the lease at the pleasure of Government.

14. The royalty, when not paid at the appointed time, shall be recoverable in the same manner as arrears of ordinary land revenue.

V. RAMIENGAR,
Dewan.

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* NOTIFICATION RE: PUBLIC SERVANTS ACQUIRING LANDED PROPERTY.

Judges.
Munsiffs.
Dewan Peishkars and Deputy and Assistant Peishkars.
Magistrates and Sub-magistrates.
Tahsildars including Kundukrishy and Melcangamum Tahsildars or Superintendents.
Officers of the Revenue Survey and Settlement Departments.
Officers of the Public Works Department down to the grade of Sub-Overseers.
Officers of the Forest and Cardamom Departments down to the grade of Amindars.

Public servants of the classes noted in the margin are hereby strictly prohibited from acquiring by purchase, bargain, mortgage, transfer, or by any means, directly or indirectly, any landed property or interest in any landed property within their respective jurisdictions without the previous sanction of the Government being obtained thereto.

2. Applications for permission should state the situation, extent and nature of the land desired to be acquired, the tenure on which it is held, its pattom, the tax payable thereupon, the name and address of the party from whom it is sought to be acquired, the character of the acquisition, whether by sale, mortgage or otherwise, the consideration proposed to be paid and whether the public servant has any official relations with the person from whom the land is to be acquired or with members of his family. Printed forms will be supplied from the Huzur on application.

3. This prohibition does not apply to the acquisition of land or any interests in land by individual or family succession or adoption.

4. The taking up of Government waste land by any of the classes of public servants named, with a view to having it registered in his own name or for his benefit, is within the meaning of Rule 1.

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* This Notification was extended to village officers including Provertikars and Pakuthi Accountants, by Notification No. 5195/L. R. dated 23-5-14, T. G. G. dated 16-6-14, Part I, p. 2395.

Appendix - X

KANNAN DEVAN HILLS CONCESSION - AGREEMENT FOR MODIFICATION OF TAXES, DATED 02/08/1886

KANNAN DEVAN HILLS CONCESSION.

Agreement for Modification of Taxes.

Agreement for modification of the taxes imposed by the Deed of ratification dated, 23rd November 1871.

"A".

An agreement made the second day of August one thousand eight hundred and eighty six between the Government of H. H. the Maha Rajah of Travancore (hereinafter called the Government) of the one part and the North Travancore Land Planting and Agricultural Society, Limited, (hereinafter called the Society) of the other part.

Whereas by a Deed of ratification, dated the twenty-eighth day of November one thousand eight hundred and seventy-eight, under the hand of N. Nanoo Pillai Esquire, the then Dewan of Travancore, and the Seal of the Government after reciting that Kala Varma, known as the Pooniat Raja or Chief, had by a Deed dated the eleventh day of July one thousand eight hundred and seventy-seven granted for cultivation to John Daniel Munro Esquire of Peermade and London, a tract of land bounded as described in the schedule thereunder written (being the tract of land described in the schedule hereunder written) and that the said John Daniel Munro through his Attorney, Henry Gribble Turner Esquire, Post-Master General, Madras, had applied according to usage to H. H. the Maha Rajah's Government through the British Resident under date the twenty-eighth June one thousand eight hundred and seventy-seven for permission to hold such tract of land, the now reciting Deed declared and defined the terms and conditions upon which the said N. Nanoo Pillai on behalf of the Government permitted and ratified the grant made by the said Pooniat Raja or Chief and which terms and conditions were (amongst others) that independent of any rents or payments due to the Pooniat Raja under the grantee's agreement with him, a tax of

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The circumstances which led to the execution of this document are set forth in the following Memorandum, dated 7th September 1885, placed on record by Dewan Mr. V. Ramiengar:—

"In July 1877, the Pooniat Chief entered into an agreement with Mr. J. D. Munro, granting him a large extent of land in the Unjenad in consideration of Rs. 5,000 paid down in cash and an annual rent of Rs. 3,000.

Mr. Munro through his attorney, Mr. H. J. Turner, applied to His Highness' Government for a ratification of this agreement. After much discussion and personal consultation with the Resident, His Highness' Government ratified the agreement on the following terms, on the 28th November 1878, viz.,

half a British Rupee should be paid to the Sirkar annually direct by the grantee on every acre of land granted except on grass-land in respect of which the Sirkar would not immediately ratify the grant, but that the said John Daniel Munro might occupy the grass-land for Home-steads, Farm-steads, and cultivation then and thereafter, on condition that he paid two annas and eight pies for every acre of grass-land that he should take up from the date that he occupied the same and provided that at the end of twenty four years a tax would be levied on the whole of the grass-land included in the grant, whether it should be occupied or not, the ratification of the Sirkar in respect of each block of grass-land taking effect from the date that the tax upon it should become payable, such tax to remain unaltered till the general survey and re-assessment of garden lands next after the one then initiated, at which time the Sirkar was to have the power to make any modification which circumstances might render desirable, but it was stipulated that no increase of the assessment of those lands would be made except in concurrence with and in proportion to a general revision of the assessment of the lands of the Travancore State, and also that all the land included in the grant except grass-land would be free of assessment for six years from the date of the now reciting document, after which period the tax would be levied on four thousand acres, whether the same should be cultivated or not, and on the rest of the land from year to year on the extent that might be cleared and from the time of clearing, provided that at the end of every sixth year from the expiry of the remission of tax in the now reciting document provided for, every additional four thousand acres whether cultivated or not would pay assessment till the whole should be brought under cultivation or to the end of 24 years from the date of such document, when the entire grant would be taxed whether it had or had not been cultivated, and that the land granted should be held in perpetuity as heritable or transferable property but that every case of transfer of the grant by the grantee should be immediately made known to the Sirkar who should have the right of apportioning the tax of a portion if the holding should be transferred.

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(1) That, independent of the payments to the Poonjat Chief, the grantee was to pay direct to His Highness' Government, a tax of As. 8 an acre on all the land included in the grant except grass land.

(2) All the land included in the grant, except grass land, to be free of assessment for six years from the date of the ratification, after which period, the tax to be levied on 4,000 acres, whether same be cultivated or not, and on the rest of the land as the extent cleared and from the time of clearing, provided that at the end of every sixth year from the expiration of the six years' remission of tax, an additional 4,000 acres to pay the tax, whether cultivated or not, and that at the end of 24 years from date of ratification, the entire area embraced in the grant (grass land excepted) to pay tax conditionally.

And whereas the Society was incorporated under the Indian Companies Act, 1866, on the seventeenth day of November one thousand eight hundred and seventy-nine and whereas by the memorandum of Association of the Society it was declared that the objects of the Society were (amongst other things) to purchase acquire or take over a certain grant or concession dated the eleventh day of July one thousand eight hundred and seventy-seven made by the Raja of Poonjat to John Daniel Munro of or concerning divers lands and property in Travancore and also the stock implements and effects of or belonging to the said John Daniel Munro upon the said lands and the benefit of all works and improvements effected thereon and to perfect if necessary the aforesaid grants or concessions and to obtain any further grants or concessions of or concerning the same lands, or any other lands in India, Travancore or any other Native States in alliance with the British Government.

And whereas by an Indenture dated the eighth day of December one thousand eight hundred and seventy-nine and expressed to be made between the said John Daniel Munro of the one part and the Society of the other part, for the consideration therein mentioned, the said John Daniel Munro did convey and assign unto the Society its successors and assigns all that the tract of jungle forest and grass-land known by the name of Kannan Devan Anchinad Mala situate at Poonjat Edavaga in Kondur Proverty, Meenachil Taluk in the territory of His Highness the Maha Rajah of Travancore (being the tract of land in the schedule hereunder written more particularly mentioned and described) with all buildings and other erections erected or built and then standing and being on the said tract of jungle-forests and grass-lands or any part thereof and together with all live and dead stock coffee and other trees thereon and appurtenances thereto (except such as were reserved by the said agreement of the eleventh day of July one thousand eight hundred and seventy-seven and the herein before in part recited Deed of ratification of the twenty-eighth day of November one thousand eight hundred and seventy-eight) to hold the

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(3) All grass land to pay at the rate of 2 As. 8 Pies per acre upon the extent occupied and from date of occupation.

Such were the terms of the original grant. A modification of the whole agreement, however, was subsequently sought for. Mr. Munro had transferred the land to a Company called the 'North Travancore Agricultural and Land Planting Society'. They wanted that the six years' remission should extend to grass land also, and that after that period, the tax should be levied only on portions cultivated by the Society or alienated to others. They also asked the Dewan to intercede with the Poonjat Rajah to abate his rent. This was declined.

The Resident in his letter of the 23rd May 1885, made a proposition to the effect that His Highness' Government should take over the land from the Poonjat Raja and

same premises unto the Society its successors and assigns as from the first day of August one thousand eight hundred and seventy-eight, subject to the payment of the rents and other moneys payable in respect of such premises and to the observance and performance of the conditions and stipulations by and in the said Agreement of the eleventh day of July one thousand eight hundred and seventy-seven and the Deed of ratification of the twentieth day of November one thousand eight hundred and seventy-eight respectively reserved and contained and on the part of the said John Daniel Munro, his heirs, executors, administrators, and assigns, to be paid, observed and performed.

And whereas the Society has recently applied to the said Government of Travancore that the said taxes by the hereinbefore in part recited Deed of ratification of the twenty-eighth day of November one thousand eight hundred and seventy-eight reserved may be reduced, to which the Government has consented and it has been agreed between the parties to these Presents that notwithstanding anything in the hereinbefore recited Deed of ratification contained, the taxes payable by the Society, its successors, and assigns in respect of the said tract of jungle forest and grass-land shall be as hereinafter mentioned.

Now these Presents witness that in pursuance of the said Agreement and in consideration of the agreements on the part of the other of them hereinafter contained by the said parties hereto for themselves their respective successors and assigns hereby mutually agree as follows, that is to say:—

1. That notwithstanding anything in the hereinbefore recited Deed of ratification of the twenty-eighth day of November one thousand eight hundred and seventy-eight contained, the Government shall and will henceforth, and as from the twenty-eighth day of November one thousand eight hundred and eighty-four accept from the Society, its successors and assigns in lieu and in full satisfaction of the taxes and assessment reserved and made payable to the said Government of Travancore by such Deed of

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pay him his rent of Rs. 3,000 a year, and that the Society would pay the Sirkar Rs. 2,500 a year irrespective of cultivation and also relinquish in their favor a great portion of the land, estimated to be between 70,000 and 1,00,000 acres, forest and grass included.

Mr. Munro, on behalf of the Society, subsequently came down to Trivandrum and there was a conference at which the Resident, the Dewan and Mr. Munro discussed the questions raised. The latter has now sent the Dewan the accompanying letter dated the 6th July 1885 with copy of one he has addressed to the Secretary to the Society as the result of the deliberations.

It was settled at the conference subject to His Highness the Maha Rajah's sanction;

ratification, the annual sum of one half of a British Rupee on every acre of the land other than grass-land comprised in such deed which has already been or shall hereafter from time to time be opened up for the purposes of cultivation or otherwise by the Society, their successors or assigns, and also the annual sum of two annas eight pies on every acre of grass-land comprised in such deed and which has been or may hereafter be brought under cultivation or taken up for Home-steads and Farm-steads or reserved as shooting reserves or for the grazing of cattle or for any other purpose.

2. The Society shall and will pay the said taxes hereinbefore mentioned to the Tahsildar for the time being of the District of Meenachil on or before the last day of Audy corresponding with the 13th, 14th, or 15th day of August in each year without formal demand from the said Tahsildar.

3. The Society shall on or before such last mentioned days give notice to the said Tahsildar of all lands opened up for cultivation or otherwise by the Society or their assigns during the current year and shall specify in every such notice the number of acres of land so opened up, and the place or places where the same are situate. Provided always that the Government of Travancore shall be at liberty at any time to make any arrangement they may consider necessary to ascertain for themselves the correct extent of land cultivated or liable to all or any of the hereinbefore mentioned taxes, and that the expense of such arrangements shall be borne by the Society.

4. The Society, its successors and assigns, shall on or before the first day of July one thousand eight hundred and eighty-eight furnish to the said Government of Travancore a Survey map showing the total area of the entire tract of land granted to them by the said Pooniat Raja or Chief, by the hereinbefore recited concession of the eleventh day of July one thousand eight hundred and seventy-seven and giving the boundaries of such tracts of land.

(a) That the demand on account of the tax of As. 8 should be confined to land opened, *i. e.*, that no land not actually brought under cultivation should pay the tax. The land already opened during the last six years will become liable to the tax from the seventh year, and all additional land opened from the seventh year from the date of cultivation.

(b) That the Society is to be responsible to Government for the payment and not individual holders.

(c) That the Society be bound to furnish at once a correct account of the extent already cultivated and liable to the tax and to furnish accounts of future cultivation as it is made.

(d) That the Government is at liberty to make at any time any arrangements they consider necessary to ascertain the correct extent of land cultivated and liable to the tax, and the expenses of any such arrangement shall be borne by the Society.

Such map shall previously to the same being furnished to the said Government of Travancore be submitted to the said Poonjat Raja or Chief for countersignature and confirmation.

5. All arrears of assessment or tax shall be treated in the same manner as arrears of ordinary land revenue and be subject to the same mode of realization.

6. The Society, its successors and assigns shall maintain permanent boundary marks round the said tract of land and keep them in good repair, on failure of which, after due notice, it shall be competent to the said Government of Travancore to cause such boundary marks as it may deem necessary to be put up and to levy the cost of the same with all expenses attendant thereon in the manner prescribed in clause five of these Presents.

7. The Society, its successors and assigns may use and appropriate to its own use *within the limits of the said tract* of land all timber except the following (and such as may hereafter be reserved) namely, Teak, Kole-teak, Black-wood, Ebony, Karunthaly and Sandal-wood, but such Society, its successors and assigns shall not fell any timber beyond what is necessary for clearing the ground for cultivation and for building furniture and machinery within the limits of the grant. No unworked timber or articles manufactured therefrom shall be carried outside the limits of the grant except in conformity with the Rules of the Forest and Customs Departments for the time being in force. In the case of the excepted timber, the Society for itself, its successors and assigns agrees to pay seigniorage according to the under-mentioned scale. Teak, ten Rupees per candy, Ebony, five Rupees per candy, Kole-Teak, four Rupees per candy, Black-wood, ten Rupees per candy, Karunthaly, eight Rupees per candy and Sandal-wood, twenty five Rupees per candy. The Society for itself, its successors and assigns, agrees to deliver to the said Poonjat Raja or Chief to enable him to make over the same to the said Government of Travancore all ivory, cardamoms and other Royalties produced in the land and all captured elephants on payment by the said Poonjat Raja or

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(c) All grass land to pay As. 2 and Pies 8 from date of occupation as stipulated in the original agreement.

The plea on which these concessions are asked for is that the Society has suffered losses, that their prospects are very bad and that, unless a relaxation is made, they will have to go into liquidation.

The matter has been so repeatedly urged in different forms on the consideration of His Highness' Government, notwithstanding that disinclination was strongly expressed to re-open the terms of the ratification, that I think His Highness' Government may yield so far as to collect the tax on opened portions only. To insist on payment on land whether cultivated or not under the agreement will cripple the resources of a Society laboring under disadvantages and apparently struggling for existence."

Chief according to the Agreement with him the regulated prices for such articles of produce and the regulated reward for the said captured elephants.

8. All established right of ways shall be respected by the Society, its successors and assigns and such ways shall be at least twenty-one feet wide. It is to be considered that there is a natural right of way through the lands when such is necessary in order to render the neighbouring lands available. The Society, its successors and assigns shall have the right of making roads throughout the said tract of land granted by the said Poonjat Raja or Chief without paying to the said Government of Travancore any assessment on the land taken up for such purposes, but such roads, if passing through lands on which the Society for itself, its successors and assigns pays no tax to the said Government of Travancore, shall be considered as public roads.

9. No exclusive right of water beyond what is necessary for the use of any cultivated lands to be conveyed to the Society, its successors and assigns by the terms of these Presents.

10. Should the said Government of Travancore have occasion to take up any portion of the said tract of land for the purposes of constructing roads, channels or other public works, due compensation shall be paid to the Society, its successors and assigns therefor.

11. The Society for itself, its successors and assigns hereby undertake and agree to always use its best exertions to prevent the produce of the said tract of land from being exported except on payment of the regulated duty at the different custom houses of the said Government of Travancore and to prevent any smuggling of articles of Government monopoly and also to prevent criminals in general from obtaining any kind of protection on any of the Estates belonging to the Society, its successors and assigns.

12. The land granted shall be held in perpetuity as heritable or transferable property but every case of the transfer of the

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This Agreement is still in force.

In connection with certain claims preferred by the Punjat Chief to the Anjinad tract, His Highness' Government decided in the Proceedings dated 22nd January 1898, that a portion of the tract mentioned in the sale-deed executed by the Punjat Chief to Mr. Munro as lying within the limits of Anjinad was outside those limits. This decision was based on the report of a Special Commission (Punjat Commission) who followed the boundaries described in the Memoirs by Lieutenants Ward and Conner. When this decision was communicated to the North Travancore Land Planting and Agricultural Society, Limited, who owned the concession, they contended that the boundaries fixed by Government

grant by the Society, its successors and assigns shall be immediately made known by the Society, its successors and assigns to the said Government of Travancore.

13. On the discovery by the Society, its successors and assigns of any useful or valuable mines, minerals or treasure within the limits of the said tract of land, the same shall at once be communicated to the said Government of Travancore and the Society, its successors and assigns shall in respect to such mines, minerals and treasure abide by the decision of the said Government.

14. All produce of the said tract of land is to be liable to duty on export in common with other produce exported from the kingdom but no special duty is to be imposed on such produce.

15. The cultivation of the said tract of land by the Society, its successors and assigns shall not interfere in any way with the production of cardamoms whether the culture of that spice be conducted on the part of the said Government of Travancore or by private individuals.

16. The Society, its successors and assigns shall be liable to pay all municipal general or local taxes duly imposed on it.

17. The Society, its successors and assigns shall be bound to preserve the forest trees growing on the banks of the principal streams running through the said tract of land to the extent of 50 yards in breadth on each side of the stream, the under-wood thereon only being permitted to be cleared and coffee planted instead. Similarly, the Society, its successors and assigns shall also be bound to preserve the forest trees about the crest of all hills to the extent of quarter of a mile on each side of such hills.

In witness whereof Vembakkam Rama Iyengar C.S.I., Dewan of Travancore acting for and on behalf of the Government has hereunto set his hand and the seal of the said Government

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were prejudicial to their interests and urged that, under a *bona fide* belief that the grant in respect of the portion in question would not be impugned, they had brought under cultivation large portions of the same and had, in accordance with clause (3) of the Deed of Ratification, paid tax on the cultivated areas. In view of the contentions raised and in the interests of the rapid development of the tracts themselves, His Highness' Government agreed to drop the question of the western and southern boundaries by adopting the line as laid down by the Society, on the understanding that the tract in question would be governed by the terms of the Ratification deed. This decision was communicated to Mr. E. F. Muir, who represented the Society, in the Dewan's letter, No. 2531/R. 383 dated 24th March 1900.

In the Royal Proclamation, dated 24th September 1889/ 9th Kanni 1075, declaring the tract known as Anjinad and the Kannan Devan Hills

of Travancore and the common seal of the Society has been hereunto affixed in the presence of a member of the Committee of the Society who has hereunto set his hand in token of his presence at the affixing of such last mentioned seal the day and year first above written.

The Schedule above referred to—All that tract of land known by the name of Kannan Devan Anchinatu Mala situate at Poonjattittavala in Kondur Peoverty, Meenachil Taluk in the territories of His Highness the Maha Rajah of Travancore bounded on the north by the source of the Chinnar, on the east by the source of the Chinnar, Thandukoram, Kumarikalu, Kattumalla, Thalayur, Thandukuram, Vemayagamedu, Thandukuram, Alanchimedu, Pullamur Dam and Karrimeolam, on the south by Devicolam, Madu and Munnar and on the west by Munnar and Amkulam.

Signed by the above named Vembakam Rama Iyengar in thepresence of } Sd./ V. Ramiengar.

Sd./ M. Ratnaswamy Iyer,
Salt Deputy Peishkar of Travancore,
Trivandrum.

Sd./ N. Shungara Pillay,
Clerk, Dewan's Office,
Trivandrum.

The common seal of the North Travancore Land Planting and Agricultural Society (Limited) was hereunto affixed in the presence of Reginald James Hugh Arbuthnot, a member of the Committee of the said Society who has hereunto set his hand in token of his presence at the affixing of the said seal and in presence of

Seal of the Society.

Sd./ William Morgan,
Solcr: and Notary Public,
Madras.

Sd./ R.J.H. Arbuthnot, member of Committee of North Travancore Land Planting and Agricultural Society (Limited).

Sd./ E.F. Burton,
Solcr: Madras.

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to be an integral part of Travancore territory, specific mention is made of the annual payment of Rs. 3,000 to the Punjat Chief by the successors in interest of the late Mr. J. D. Munro under the terms of the Agreement dated 11th July 1897.

In all to whom these Presents shall come I, William Morgan Notary Public duly authorised admitted and sworn and residing and practising at Madras on the coast of Coromandal in the East Indies do hereby certify that the foregoing agreement marked "A" was on the second day of August one thousand eight hundred and eighty-six duly executed by the North Travancore Land Planting and Agricultural Society (Limited) therein named by the common seal of the said Society being affixed to the said agreement in the presence of Reginald James Hugh Arbuthnot, a member of the Committee of the said Society and also in my presence and in the presence of Edward Fanning Burton an Assistant to me the said Notary and I further certify that the said Reginald James Hugh Arbuthnot signed the said agreement in my presence and in the presence of Edward Fanning Burton on the said second day of August one thousand eight hundred and eighty-six and I further certify that the name R. J. H. Arbuthnot set and subscribed to the said agreement is of the proper handwriting of the said Reginald James Hugh Arbuthnot and that the names "William Morgan and E. F. Burton" set and subscribed to the said agreement as the names of the witnesses attesting the execution of the same are of the proper handwriting of me, the said Notary and Edward Fanning Burton.

In faith and testimony whereof I, the said Notary, have hereunto subscribed my name and set and affixed my seal of Office at Madras aforesaid this second day of August one thousand eight hundred and eighty-six.

Notary Seal.

Sd./ William Morgan,
Notary Public,
Madras.

Appendix - XI

THE PERIYAR LEASE AGREEMENT IS AS FOLLOWS:-

* THE PERIYAR LEASE.

THIS INDENTURE made the twenty-ninth day of October one thousand eight hundred and eighty six (corresponding with the fourteenth day of Tulam 1062 of the Malabar Era) between The Government of His Highness the Maha Rajah of Travancore (hereinafter called the Lessor) of the one part And the Right Honorable the Secretary of State for India in Council of the other partwitnesseth that in consideration of the rents hereinafter reserved and of the covenants by the said Secretary of State for India in Council hereinafter contained the Lessor doth hereby demise and grant unto the said Secretary of State for India in Council his successors and assigns (all of whom are intended to be included in and to be referred to by the expression "the Lessee" hereinafter used) First, all that tract of land, part of the Territory of Travancore situated on or near the Periaur River, bounded on all sides by a Contour Line one hundred and fifty five feet above the deepest point of the bed of the said Periaur River at the site of the dam to be constructed there and shown in the Map or Plan hereto annexed and which said tract of land is delineated in the said Map or Plan hereunto annexed and therein coloured blue and contains eight thousand acres or thereabouts. Secondly, all such land in the immediate vicinity of the tract of land above mentioned and not exceeding in the whole in extent one hundred acres as may be required by the Lessee for the execution and preservation of the Irrigation works to be executed by the Lessee within the said tract of land first above mentioned and which said works are commonly called or known as the "Periaur Project". Thirdly, full right, power and liberty to construct, make and carry out on any part of the said lands hereinbefore demised and to use exclusively when constructed, made and carried out by the Lessee all such Irrigation works and other works ancillary thereto as the Lessee shall think fit for all purposes or any purpose connected with the said Periaur Project or with the use, exercise, or enjoyment of the lands rights liberties and powers hereby demised, and granted or any of them. Fourthly, all waters flowing into, through, over, or from the said tract of land firstly hereinbefore demised. Fifthly, all timber and other trees, woods, underwoods

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* This document constitutes one of the three items falling under the head of 'Leases to the British Government', the other two being the 'Trivandrum Residency Lease' and the 'High Range Residency Lease'.

This lease was the outcome of certain negotiations between the Durbar and the British Government in connection with the Periyar Project and was agreed to by the Durbar in view to enable the British Government to execute the Project Works for the benefit of the Madura District.

and saplings which now are or shall during the continuance of this demise be growing or standing upon any of the said demised lands with liberty to the Lessee to fell, grub up and use free of all charge for the same all such of the said timber and other trees, woods, underwoods and saplings as shall be required in or about the construction or maintenance of or otherwise for all or any of the purposes of the said works or any of them or in connection therewith. Provided always that the Lessee shall not be responsible for the destruction of or for any damage done to any others of the said timber or other trees, woods, underwoods, or saplings for the time being growing or standing upon any of the said demised lands by or through the construction or maintenance of the said works or any of them. Sixthly, the right of fishing in, over and upon such waters, tanks and ponds as now are or shall during the term hereby granted be upon or within any of the said demised lands. Seventhly, free way, leave and right and liberty of way and passage in manner hereinafter mentioned through and over the lands of the Lessor and liberty for the Lessee, his officers, agents, servants and workmen to enter upon and to make, lay and repair such one and not more than one main or waggon way from any point on the boundary line between British Territory in India and the Territory of Travancore to any part of the said demised lands in the usual manner by digging the soil and levelling the ground and making gutters through and over the lands of the Lessor between such points and the said demised lands for leading and carrying with horses and other cattle waggons, carts and other carriages over and along the said waggon way unto and forwards the said demised lands all materials required for all or any of the said works and other materials, matters and things, whatsoever to and from any of the said demised lands, and liberty for the Lessee, his officers, agents servants and workmen as occasion shall require to lay and fix wood, timber, earth, stones, gravel and other materials in and upon the lands of the Lessor, and to cut, dig and make trenches and water courses for the purpose of keeping the said waggon-way free from water, and to do all other things necessary or convenient as well for making and laying the said waggon-way as for repairing and upholding the same whenever there shall be occasion and liberty for the Lessee, his officers, agents, servants and workmen

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In Mr. Mackenzie's 'History of the PeriyarProject', p. 33 it is stated:—

"The subdivision of these estimates completed the investigating portion of the project, but there was still one obstacle to its execution, namely, a disagreement as to the terms on which the use of the water and the land submerged by the reservoir should be handed over.

"The British Government took the ground that the water was useless and likely to remain useless to Travancore, and that the land was a piece of uninhabited jungle not

to go, pass and repass along the said waggon-way either on foot or with horses and other cattle, waggons, carts, or other carriages unto and from the said demised lands, and all other liberties and appurtenances necessary or convenient for making, laying, altering, repairing, using or removing the said waggon-way or any part thereof, the Lessee making reasonable compensation unto the Lessor and the tenants or occupiers for all damage occasioned by or in the exercise of the said liberties to the lands belonging to him or them except those actually taken and used for the line of the said waggon-way. Except nevertheless and out of this demise all sovereign rights of the Lessor in and to the said demised lands or any of them other than the rights, liberties and powers hereinbefore particularly mentioned and expressed to be hereby demised and except all minerals and precious stones whatsoever in and under the said lands hereby demised or any of them other than earth, rubble, stone and lime required for the said works or any of them together with liberty for the Lessee to erect, build and set up, alter, maintain and use upon or within the lands hereby demised such houses and other buildings and to take free of all charge for the same all such earth, rubble, stone and lime therefrom as shall be necessary or proper for effectually or conveniently making and maintaining the said several works and generally to do all such things whatsoever in or upon the hereby demised lands as shall be necessary or expedient for the construction and repair of the said Irrigation and accommodation works and for any of the purposes of these Presents to have and to hold the premises hereinbefore expressed to be hereby demised and granted unto the Lessee from the first day of January one thousand eight hundred and eighty-six for the term of nine hundred and ninety-nine years yielding and paying therefor by the same being deducted from the Tribute from time to time payable by the Lessor to the Government of India or Madras the yearly rent of forty thousand Rupees of British India commencing from the day on which the waters of the said Periaur River now flowing into the said Territory of Travancore shall by means of the said works be diverted and shall flow into British Territory the first of such payments to be made at the expiration of twelve calendar months from such last mentioned date and yielding and paying from the date from which the said

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of great value even in the matter of timber and from its location, practically impossible for the Travancore Government to exploit. The latter Government, on the other hand, contended that the value should be appraised by its utility to the British Government, which was admittedly high, since an expenditure of Rs. 53,00,000 was expected to bring in a return of 7 per cent. per annum. After pourparlers extending over a considerable period, which it is unnecessary to further particularise, it was agreed that the British Government should pay an annual rent of Rs. 40,000, and that the lease should run for 999 years, with right of renewal; and that, for this consideration, the

yearly rent of forty thousand Rupees of British India shall become payable and over and above the same the further yearly rent (hereinafter called acreage rent) after the rate of five Rupees of British India currency for every acre and so in proportion for a less quantity of the lands hereby demised and granted which on the completion of the said works shall be found on measurement to be included within the said Contour Line in excess of the said area of eight thousand acres, the first of such payments of acreage rent to be made at the time and place when and where the said yearly rent shall become payable as hereinbefore provided and the Lessee doth hereby covenant with the Lessor that the Lessee will pay to the Lessor the several rents hereinbefore reserved at the time hereinbefore appointed by allowing the same to be deducted from the Tribute from time to time payable by the Lessor as aforesaid and will at the expiration or sooner determination of the said term peaceably deliver up to the Lessor all the said premises hereby demised in such state and condition as shall be consistent with a due regard to the provisions of this Lease and in particular will within two years after the expiration or determination of the said term clear from the said lands hereby demised all machinery and plant in or about the same or any part thereof or shall at the option of the Lessee abandon all claim to such machinery and plant or to such part or parts thereof as the Lessee shall think fit provided always and it is hereby agreed and declared that it shall be lawful for the Lessee at any time before the expiration of the said term to surrender and yield up all the demised premises to the Lessor in which case and immediately upon such surrender the rents hereby reserved shall cease. Provided always and these Presents are on this express condition that if and whenever there shall be a breach of any of the covenants and agreements by the Lessee herein contained the Lessor may re-enter upon any part of the said premises in the name of the whole and thereupon the said term of nine hundred and ninety-nine years shall absolutely determine without prejudice nevertheless to the recovery of any rent or money then payable or to the liability of the Lessee to perform and to the right of the Lessor to enforce the performance and observance of every or any covenant or stipulations herein contained and which ought to be performed or observed after the expiration of the said term in case the

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British Government should receive a grant of the land alongside the Periyar below a contour line 155 feet above the deepest bed of the river at the site of the dam, to the amount of 8,000 acres or thereabouts, and also an additional area not exceeding 100 acres at an unspecified level; all water flowing into the first mentioned tract; all timber growing on the said tract; and the fishing rights; with liberty to make a road through Travancore territory to the site of the works. All sovereign rights were reserved by the State of Travancore".

same had expired by effluxion of time and the Lessor doth hereby covenant with the Lessee that the Lessee paying the rents hereinbefore reserved in manner aforesaid and performing and observing all the covenants and agreements by the Lessee herein contained may quietly hold and enjoy all the lands, rights and premises hereinbefore demised and granted during the said term and also free of rent so much of the said lands as shall then be required for any machinery or plant for two years after the expiration or determination of the said term without any interruption or disturbance by the Lessor or any person claiming through or in trust for the Lessor and that if the Lessee shall be desirous of taking a renewed lease of the said premises for the further term of nine hundred and ninety-nine years from the expiration of the term hereby granted and of such desire shall prior to the expiration of the said last mentioned term give to the Lessor six calendar months' previous notice in writing signed by any Secretary to the Government of Madras and shall pay the rents hereby reserved and perform and observe the several covenants and agreements herein contained and on the part of the Lessee to be observed and performed up to the expiration of the said term hereby granted the Lessor will upon the request and at the expense of the Lessee forthwith execute and deliver to the Lessee a Renewed Lease of the said premises for the further term of nine hundred and ninety-nine years at the same yearly and acreage rents and under and subject to the same covenants provisions and agreements including this present covenant as are herein contained if and whenever any dispute or question shall arise between the Lessor and Lessee touching these Presents or anything herein contained or the construction hereof or the rights, duties or liabilities of either party in relation to the Premises the matter in difference shall be referred to two arbitrators or their umpire pursuant to and so as with regard to the mode and consequence of the reference and in all other respects to conform to the provisions in that behalf of the Code of Civil Procedure 1882 of the Legislative Council of India or any then subsisting statutory modification thereof. In witness whereof Venbaukum Ramiengar Esquire, C. S. I., Dewan of His Highness the Maha Rajah of Travancore by order and direction of the Government of His Highness the said Maha Rajah and John Child Hannyngton Esquire, Resident of Travancore and Cochin by order and direction of the

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The Gazetteer of the Madura District also contains the following paragraph in regard to this lease:

"The site of the dam and lake are in Travancore territory and it was agreed that the British Government should pay an annual rent of Rs. 40,000 for a certain specified area and certain defined rights, and that the lease should run for 999 years, with the option of renewal. Sovereign rights over the tract were reserved by the Travancore State".

Right Honorable the Governor in Council of Fort Saint George acting for and on behalf of the Right Honorable the Secretary of State for India in Council have hereunto set their respective hands and seals the day and year first above written.

Signed, Sealed and Delivered by the above named Vembaukum Ramiengar in the presence of } Sd./ V. RAMIENGAR.

Sd./ K. K. Kuruvila,
Maramath Secretary,
Travancore Sirkar.

Sd./ I. H. Prince,
Ag: Head Sirkar Vakil,
Travancore Government.

Signed, Sealed and Delivered by the above named John Child Hannyngton in the presence of } Sd./ J. C. HANNYNGTON.

Sd./ K. K. Kuruvila,
Maramath Secretary,
Travancore Sirkar.

Sd./ I. H. Prince,
Ag: Head Sirkar Vakil,
Travancore Government.

Memorandum.

The land referred to in the foregoing Deed as demised by the Lessor to the Lessee is situate on both sides of the Periaur River as shown in the Map hereto annexed and coloured blue and lies within the Thodupulay and Chengannoor Taluks of the Travancore State and is bounded as in the said Deed is described.

Sd./ V. RAMIENGAR.
Sd./ J. C. HANNYNGTON.

Appendix - XII

SALE OF WASTE LANDS - RULES

* Rules for the sale of waste land on the Travancore Hills, for Coffee and Tea cultivation, passed by His Highness the Maha Rajah under date the 24th Mithunam 1073 / 7th July 1898.

1. Waste land, in which no rights of private proprietorship or exclusive occupancy exist and which may not be reserved as hereinafter provided, may, until future notice, be sold under the following rules :—

2. Applications for lands shall be addressed to the Dewan of Travancore, and shall comprise the following particulars:—

(*a*) The estimated area of the lot applied for,

(*b*) The situation of the lot and its boundaries, as accurately as can be stated.

3. No lot shall exceed 500 acres. But any person may apply for several contiguous lots, each not exceeding the above limits.

4. Every lot shall be compact and shall include no more than one tract of land capable of being surrounded by a ring fence, and when the lot touches a public road, navigable river, canal, or backwater, the length of the road or water frontage shall not exceed one-half of the depth of the lot, and in all other cases, the blocks shall be so laid out that, as far as practicable, their length shall not exceed half their depth.

5. No lot shall be sold until it has been demarcated with durable boundary marks, and surveyed.

6. If, on receipt of an application under Rule 2, the Dewan has reason to believe, that the lot applied for is saleable under these Rules, he shall call upon the applicant to give such security, not exceeding the estimated cost of the demarcation and survey, by deposit of cash or otherwise as may be deemed necessary and sufficient, to provide for the contingency referred to in Rule 11, unless the land has been already surveyed and demarcated. A deposit paid as above required will be refunded at the sale under Rule 13.

7. If the applicant fails to furnish security under Rule 6 within (6) six weeks from the date of demand, his application shall be null and void.

* These Rules are applicable to the Estates granted and held under them. They have now been superseded by the Rules, dated 28th November 1913, regarding 'The sale of Waste lands on the Travancore Hills for Coffee or Tea cultivation'.

8. On receipt of the security required under Rule 6, the Dewan shall, as soon as possible, cause the land applied for to be demarcated and surveyed. He shall then advertise the lot for sale on a given day to be fixed so as to admit of the notice required in Rule 9 being given.

9. The advertisement shall be in English and Malayalam and shall specify the locality, extent and boundaries of the lot, the annual assessment and the place, time and conditions of sale. It shall be posted for 3 months on the land itself as well as on the neighbouring villages, in the office of the Dewan, the Dewan Peishkar and the Tahsildar of the taluk and in the nearest Police office. The Dewan shall, at his discretion, fix the time and place of sale, and may alter both if necessary, provided that not less than 14 days' notice be publicly given of every such alteration, and that no land be sold until it has been advertised, as aforesaid, for 3 full months. A notification of the intended sale shall also be inserted in the Travancore Gazette.

10. The Dewan shall send a written notice of the place and time of sale, as also any alteration under the provisions of Rule 9 to the applicant, but no sale shall be disturbed in consequence of the non-receipt of such notice, or delayed in consequence of the non-appearance of the applicant.

11. An applicant withdrawing his application prior to the sale of the lot, will be entitled to the refund of so much only of his deposit, where deposit has been paid by him under Rule 6, as may not have been expended. Where no deposit has been paid, he will still be liable to make good any expense which the Sirkar may have incurred, in consequence of his application and its withdrawal.

12. On the withdrawal of an application, it shall be discretional with the Dewan to proceed with the sale of the lot or not as he considers best for the public interests.

13. The upset price shall be ten British Rupees an acre to include all survey expenses. If the original applicant (who may have paid the deposit) be the purchaser, he shall receive credit for his deposit in payment: otherwise the amount of deposit shall be paid to him from the sale proceeds.

14. If, before the time of sale, no claim of private proprietorship or of exclusive occupancy, or of any other right incompatible with the sale of the lot under these rules be preferred, the lot shall, as advertised, be put up to auction and sold to the highest bidder above the upset price subject to an annual assessment of $\frac{3}{4}$ of a Queen's Rupee on every acre of land granted; the assessment being payable, either from the first year after the

date of completion of sale, where the grantee does not bind himself to cultivate or to clear any specific portion of the grant within a specified time; or from the sixth year after the date where the grantee binds himself to clear and plant a quarter of the land within the first 3 years, failing which, the whole of the assessment shall be levied in the 4th year, or in other words, the assessment will be levied from the date of completion of sale in arrears.

15. The successful bidder shall, immediately on the sale being declared, pay down 10 per cent. of the price and the residue of the purchase money shall be paid in full within 30 days.

16. The sale shall be conducted under, and subject to the following conditions:—

(1) The highest bidder above the upset price shall be the purchaser of the lot; and if any dispute arise between two or more bidders at the same price, the lot shall be immediately put up again at the last preceding undisputed bidding and re-sold.

(2) If the purchaser shall pay to the Sirkar the residue of this purchase money, he shall thereupon be placed in possession of the lot, pending the issue of title-deed.

(3) All persons desirous of becoming purchasers are to satisfy themselves as to the identity, correct description, and the measurement and boundaries of the premises previous to the sale; as, by having the lot knocked down to him, the purchaser thereof shall be held to have waived all objections to the lot embracing any tract unfit for cultivation, to any mistakes that may afterwards appear to have been made in the description of the lot, as well as to any other error whatever in the particulars of the property.

(4) If the purchase shall not be completed by the 30th day from the day of sale, the purchaser shall pay to the Sirkar interest at the rate of 12 per cent. per annum on the remainder of his purchase money, from the day of sale until the purchase shall be completed, without pejudice, nevertheless, to the right of sale reserved by the 5th condition, if the purchase money be not paid within one year.

(5) If the purchaser shall neglect or refuse to comply with the above conditions or any of them, his deposit money shall be forfeited and retained by the Sirkar, and the Sirkar shall be at liberty to re-sell the lot either by public auction or by private contract, without the necessity of previously tendering a conveyance to the purchaser and the deficiency, if any, arising from such re-sale together with all expenses attending it, shall be made good by the purchaser at the present sale, who shall so neglect or refuse, as and for liquidated damages.

17. Claims of private proprietorship or of exclusive occupancy or of any right affecting the sale of the land under these Rules, shall be disposed of under the provisions of Regulation II of the year 1040.

18. Reserves of grazing and forest land, of land for the growth of firewood, for building sites, for the growth of timber, &c., or required for other special purpose, are not to be sold under these Rules without the express sanction of His Highness the Maha Rajah.

19. As soon as land has been purchased in auction, a grant shall be made to the purchaser (provided he shall have paid his purchase-money in full).

20. Arrears of annual assessment on the lands sold shall be recoverable in the same manner as arrears of ordinary land revenue.

21. Lands sold under these Rules shall continue subject to all general taxes and local rates payable by law or custom.

22. Lands sold under these Rules shall be held in perpetuity as heritable or transferable property; but every case of transfer shall be made known to the Sirkar who shall have the right of apportioning the tax if a portion of the holding is transferred.

23. The existing and customary rights of the Sirkar, of other proprietors and of the public, in existing roads and paths and in streams running through or bounding lands sold under these Rules are reserved, and in no way affected by the sale of such lands, under these Rules.

24. Nothing contained in these Rules shall be held to debar the Sirkar from granting waste lands on pattah, cowle, or otherwise at discretion as heretofore.

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*Rules defining the conditions of Viruthi tenure and the duties of the Viruthi holders in the taluks of Trivandrum, Chirayinkil, Nedumangad and Neyattinkara, passed under sanction of His Highness the Maha Rajah on the 4th Thulam 1074. 19th October 1898.

1. In the place of Munnila Viruthi, Cherumana Viruthi and Nair Viruthi which obtained under the original Erayili system,

*These Rules relate to the Viruthis retained in the taluks of Trivandrum, Chirayinkil, Nedumangad and Neyattinkara which were first taken up for Viruthi settlement. Subsequently, various changes were introduced in the principles and procedure relating to Viruthi settlement, and eventually most of the Viruthis were abolished. (*Vide* S. G. O., para 59.) These Rules have, therefore, only a restricted application at present.

Pensions and Salaries to be commuted into money at a slightly higher rate.

22. In the event of the present proposal being sanctioned, I would commute all pensions, salaries and other payments in kind to money payments. Mr. Muthukaruppa Pillai has gone into this question fully and his arguments are convincing. He says: "In the generality of cases, paddy paid by tax-payers is inferior in quality and, when stored in large quantities for a long time, becomes spoiled. Such paddy, when tendered to Government institutions, is often refused acceptance. Then the paddy is sold in public auction and fetches merely a nominal price. Considering the inferior quality of the paddy the pensioners and others now receive, the distance they have to travel for obtaining payment, the expenses they have to undergo for the transport of paddy to their houses and the short measurement adopted in the re-issue of paddy from the granaries, I do not think the recipients of converted money value will have any reasonable grounds for complaint." In consideration of the fact that most of the pensioners are descendants of ancient families who have a claim on the State for liberal treatment, I would commute pensions and salaries at a slightly higher rate *viz.*, 11 chs. a parah or 1 ch. more than the commutation rate. This will be in keeping with the previous policy of government referred to by Mr. Muthukaruppa Pillai.

Tax on Sreepandaravagai lands to be left undisturbed.

23. The revenue from Sreepandaravagai lands, though collected by Government agency, is not incorporated with the land revenue of the State and does not enter into the State accounts. The tax on these lands used to be levied wholly in kind, but gradually a small portion has been commuted into money in varying proportions in different localities, with the object of providing funds for certain offerings to temples sanctioned from time to time. At the time of the present settlement, a proportion of one-fourth was fixed for the portion payable in money, the remaining three-fourths being levied in kind. This is a special arrangement in regard to Sreepandaravagai lands. As they have been all along kept distinct from the State revenue, I would leave them alone to be administered as hitherto. They have not been affected by the changes introduced from time to time in respect of other lands.

Kandukrishi lands to be brought under the scheme.

24. Kandukrishi lands stand on a different footing, though the tax on these lands is also levied wholly in kind. This has been all along recognised as part of the State revenue and is included in the State accounts. The tenure on which these lands are held by the ryots is in the nature of lease and the tax is levied in kind. The lands are settled like other lands and

pattahs are issued. In regard to garden lands under the Kandukrishi tenure, the tax was levied in cocoanuts, but it was done away with at the present settlement. As the revenue from Kandukrishi lands is included in the general revenues of the State and in view of the abolition of payment in kind for gardens already effected, it is desirable to bring the Kandukrishi lands also under the commutation system, as otherwise there will be confusion in the accounts by keeping a portion of the land revenue in kind after the introduction of the proposed change. The commutation need not affect the character of these lands which will still continue to be treated as Crown lands. The lands are already assessed at much above the pattom rates.

Scheme to be made optional.

25. There is only one more point to be considered. However fair and equitable the rate to be finally adopted may be, there will be places in the country where it may be considered to be high and the question arises whether, in such cases, the introduction of money payment at the commutation rate will not be an interference with the guarantee for 30 years given in the Settlement Proclamation and the declaration that a fixed proportion of the tax would be levied in paddy. In other words, if a ryot finds that the commutation rate is too high, would he not be entitled to ask to be allowed to pay in kind rather than pay in cash, which, from his standpoint, might mean his selling for the purpose a larger quantity of paddy than would be leviable from him under the fixed proportion laid down in the Settlement Proclamation? There is no doubt some force in this contention but cases of the kind referred to must be very rare. Even in such cases I am persuaded that the hardships incidental to grain payment are so keenly felt, especially by the poorer ryots, that they would far rather pay in money, though the ruling prices were below the commutation rate. In view, however, to meet any possible objection of this nature, it may be made a rule that the introduction of cash payment will be contingent on the whole body of ryots in a taluk signifying their desire to have their grain tax commuted into money. The pattadars may be asked to express their consent in writing before the Proverticar of each proverty 3 months before the date fixed for the introduction of the new rule, and the Proverticar will send up to the Tahsildar a statement of such consent in a tabulated form. On receipt of this statement, the necessary entries may be made in the tandaper and pattahs in red ink under the Tahsildar's initials. After these preliminaries have been gone through, the Tahsildar may, with the sanction of the Peishkar, give effect to the new rule in his taluk.

Trivandrum,
16th October 1905.

V. P. MADAVA RAO,
Dewan.

NOTE.—Since writing the above, I have had the advantage of consulting the Financial Adviser on the subject. His note which is also appended to this paper goes fully into the general question as well as the financial aspect of the proposed reform. From the detailed Statements he has prepared, it is clear that the commutation rate of 10 chs. per parah may be safely adopted. The note shows further how unreliable the niruk rates are. These niruk rates do not represent what elsewhere is known as "current prices" but are prices given by the local merchants as a forecast for the fortnight following. Even as they are, they give only the retail prices which must always be higher than what could be secured from contractors for supply of paddy by thousands and lakhs of parahs. Under the existing system, fixity and certainty in the land revenue demand which have a vital bearing on the well-being of the ryots, are wanting and the land revenue also, which is a permanent sourse of income, has not expanded with the increase of population and the general progress of the country. This result must, to a considerable extent, be due to the unsatisfactory system of land revenue management that still prevails here. By the introduction of a system of money payments, the work of the Settlement Department for one will be much simplified and we should be better able to get an idea of how our assessment rates sit as compared with the rates in similarly situated tracts both in British India and elsewhere. Mr. Subroyer has also pointed out that with the enforcement of strict audit and control which would be possible only under a system of cash payments, the result may be expected to be an actual saving to Government.

The Financial Adviser proposes to leave out Kandukrishi lands for the present. I must, however, note here that the management of these lands, especially the wet lands, is conducted in a manner which I cannot but describe as primitive and detrimental to the best interests of the State. Although they are supposed to have been settled, the rates fixed are so high that the tenants find it in many cases impossible to cultivate the lands with profit. The result is that resignations are frequent and the lands so resigned are given to the man who offers the highest rent, or the rent payable by the original tenant is itself reduced. This is in violation of all principles of settlement. As the lands are not supposed to be the property of the holder, his movable property is summarily proceeded against in default of payment of rent and with a view to guard against loss of rent, the tenant, before he enters upon the land, is made to furnish security for at least one year's rent. This is against all sound principles of land revenue management. I am personally for extending the system of money payments to these lands also and giving the tenants the same rights in the land as those enjoyed by the ryots under pandarapattom tenure.

23rd December 1905. V. P. M.

Appendix - XIII

THE FOLLOWING PROCEEDINGS IS FOR THE GRANT OF 10 SQ. MILES CONCESSION AREA IN PATHANAPURAM, QUILON - DATED 28.03.1906.

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS THE MAHA RAJAH OF TRAVANCORE.

Read:—

(1) Letter dated 22nd August 1905 from Messrs. P. W. Keir and G. M. Mc'Lauchlan of the Travancore Plantation Company.

(2) Letter from the Dewan Peishkar, Quilon, No. 2/Revenue, dated 7th March 1906.

Heard Messrs. P. W. Keir and E. M. Ewart who were present.

2. In 1834, Government granted 10 Sq. miles of land in Pathanapuram taluk to one Mr. Huxam and an agreement was signed in 1849 granting the land as leasehold for 50 years, with a condition that the lease would be extended for a further term of 30 years. Mr. Huxam made over the land to Messrs. Binny and Company of Madras in 1852 from whom Messrs. P. W. Keir, G. M. Mc'Lauchlan and George Anderson obtained an assignment of the lease and entered into an agreement with Government dated 17th April 1877 for a lease of the said 10 Sq. miles for a term of 35 years with the option of renewing the lease for a further period of 30 years should the parties holding the land desire it and Government deem it expedient. It was stipulated in the agreement that the owners should pay to Government from the 13th January 1877 an annual rent of Rs. (100) one hundred for every English Sq. mile of land cultivated, the payment of rent for newly cleared and cultivated land to begin 3 years after the same had been cleared. The renewal of the lease was to be on the same terms and conditions. All alienations of the land or rights thereof were to be made with the knowledge and consent of the Government.

3. In their letter of the 22nd August 1905, Messrs. Keir and Mc'Lauchlan requested that the lease of the land in their possession and the rights of those who purchased portions of the 10 Sq. miles from them may be renewed under the agreement. As they proposed to open up the lands still remaining uncultivated for rubber, they desired to have the assurance of Government that, on the expiry of the present term, Government would renew the lease so that people may readily take up shares in the undertaking. They also requested that the Government may be pleased to convert the leasehold into freehold and they promised to pay 3 annas instead of 2½ annas, the rent payable at present per acre, for the land brought under cultivation. They further requested sanction to purchase the rights of Mr. George Anderson who was in Scotland and who did not propose to return and to divide the lands among the different shareholders or to transfer the present lease to a Company or Companies or to admit any further partners they might desire prior to the proposed renewal of conversion.

ORDER THEREON No. 5020/R. 1904., DATED TRIVANDRUM, 28TH MARCH 1906/15TH MEENOM 1081.

Mr. Keir, on behalf of himself and the other leaseholders represented that, on the expiry of the present lease in January 1912, if the lands were given to them as freehold, they were prepared to pay the tax that may be payable on lands under coffee,

tea or other products at the rates which may prevail at that time (*i. e.* in 1912) and that for the remaining portion of the land *i. e.*, land which is jungle and has not been cleared at the rate of 8 annas per acre per annum. If any portion of the land is brought under rubber cultivation, he also agreed to pay tax at the rate of Rs. 2 per acre per annum on such land. He also agreed to pay an upset price of Re. one per acre on the 10 Sq. miles of land granted to them as consideration for converting the leasehold into freehold tenure.

Mr. Ewart who represented the Isfield Tea Company Ltd., to whom a portion of the lease has been alienated, also agreed to the above terms proposed by Mr. Keir.

Mr. Bourdillon, Conservator of Forests, who was present, stated that, in his opinion, the terms were not unfavourable to Government.

Taking all the facts of the case and the long possession of the lessees into consideration, Government are prepared to grant the lands comprised in the 10 Sq. miles on the expiry of the present lease *i. e.*, in January 1912, to Mr. Keir and Mr. Mc' Lauchlan and their alienees as freehold on payment of acreage value of Re. (1) one per acre on the 10 Sq. miles and on the assessment specified below:—

(1) For lands under coffee, tea and other products, the rate which may prevail at the time;

(2) For lands which may have not been cleared and which may remain as jungle, a tax of 8(eight) annas per acre.

(3) For lands brought under rubber cultivation, a tax of Rs. (?) two per acre.

Sanction is accorded to transfer of rights being made during the currency of the present lease. All such transfers as well as those that may be effected after the conversion of the leasehold into freehold shall be reported to Government. The other terms of the grant shall be the same as those that apply to waste lands granted under the Coffee Land Rules dated 7th July 1898.

The Dewan Peishkar, Quilon, reports that the Company have encroached upon the Government land outside the grant of 10 Sq. miles and that a large amount of arrears of tax is due from the lessees. These are matters on which the Peishkar should take action in the regular course and report to Government separately.

They do not affect the terms on which the conversion of the leasehold into freehold is now sanctioned.*

(By order),
A. J. VIEYRA,
Chief Secretary to Government.

No. 6317/G. 1864.

Huzur Cutcherry,
Trivandrum, 13-4-1906 / 1-9-1081.

To

The Dewan Peishkar,
Padmanabhapuram.

Sir,

I have the honor to request you will be so good as to forward to this office as early as practicable the statistics regarding cotton mills, if any, in existence on the 31st March 1908, as per accompanying form.

The figures of the capital of the mills under the three heads (1) Nominal share capital, (2) Paid up share capital, and (3) Debentures, should be distinctly included in the statement with such remarks as may be deemed necessary. Information regarding the ownership of the mills should also be specifically stated. I request you will be so good as to send me the statement so that the same may reach this office not later than the 20th Instant.

I have &c.,
A. J. VIEYRA,
Chief Secretary to Government.

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* In connection with the carrying out of the instructions contained in this G. O., questions relating to the exact area of the lands covered by the lease came up for consideration and formed the subject of a subsequent G. O. No. S. R. 370, dated 19-1-08.

Appendix - XIV

RULES REGARDING THE CARDAMOM GARDENS - DATED: 27.12.1906

No. 21501/R. 9040.

Huzur Cutcherry, Trivandrum,
7-12-'06/24-4-'82.

To

The Assistant to the Dewan Peishkar,
In charge, Padmanabhapuram.

Sir,

With reference to your office Sadhanom No. 1851, dated 32nd Karkadagom last regarding the assessment of kadapattom on shops in the settled taluks of the State, I am directed to inform you that Government agree with you that the levy of kadapattom may be restricted to the shops in the towns under the Towns Conservancy and Improvement Regulation III of 1076. It will be left to the Town Improvement Committees to levy such tax, as they may deem fit, on the shops in the towns under the powers vested in them by Regulation III of 1076. This will be irrespective of any land tax for which the sites may be liable. Shops in other parts of the State should be left untouched, the land tax on the sites being alone recovered.

I have &c.,

R. MAHADEVA IYER,

For Chief Secretary to Government.

Copies forwarded to the other Division Peishkars and the Presidents of the Town Improvement Committees.

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* RULES REGARDING THE LEASE OF THE CARDAMOM GARDENS IN THE KANNIYELAM TRACT SANCTIONED BY HIS HIGHNESS THE MAHA RAJAH.

1. The Cardamom gardens in the Kanniyelam Tract as per Revenue Survey shall be leased for a period of 5 years on an annual rent of Bh. Rs. 2 per acre with effect from the 1st Chingom 1082.

2. All the gardens in the possession of an individual ryot, whether situated in the same Thavalom or in different Thavaloms, shall constitute a single holding.

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*These rules introduced a change of system in regard to Kanniyelam gardens. This was referred to as follows in the Administration Report for 1081 para 114:—

"Sanction was accorded for dispensing with the monopoly system in respect of (kanniyelam) cardamom gardens in Thodupuzha taluk and leasing out the gardens for a period of 5 years".

The lease of 5 years sanctioned by these rules has been subsequently extended for another term of 5 years. (*Vide* Huzur letter No. 1460, dated 7th February 1914.)

3. The entire area of each holding shall be subject to the rent at the rate specified above, whether the whole of that area is or has been under cultivation or not. Where a ryot is unwilling to accept this condition, he shall relinquish the whole holding.

4. Subject to the payment of the annual rent the produce of the holding shall be the property of the ryot concerned.

5. The rent shall be payable before the end of Vrischigom every year.

6. The produce of the holding shall be regarded as security for the rent on the holding.

7. The rent on the holdings being public revenue due on land will be recovered under the provisions of Regulation I of 1068.

8. Every ryot shall carry all his crop as soon as it is dried from the Thavalom to the bankshall of the Division in which his garden is situated by the most direct route. The cardamom will then be weighed by the officer in charge of the bankshall in the presence of the ryot or his agent and kept there until the tax is paid in full. The officer will give a reciept for the No. of loads and quantity received. When the tax is fully paid, the officer will return the cardamom to the ryot granting a pass in the form annexed clearly stating the quantity of cardamoms, the No. of loads and the route by which the crop is to be transported. The Sirkar will not be responsible for any loss or damage to the cardamom from damp or the depredation of rats or loss from fire. All payments of tax should be made to the Divisional Forest Officer.

This rule shall not apply to holders who pay the full rent before removing the crop from the gardens. Such holders shall receive a pass as soon as the payment is made.

9. If a ryot, without sufficient cause, shall be in arrears at the end of the Malabar year, it shall be open to the Divisional Forest Officer to assume the holding subject to the sanction of the Conservator.

10. The Cardamom gardens shall be exclusively cultivated with cardamom and the forest comprised in each holding shall not be cleared or otherwise interfered with for purpose of any other crops. But the ryots may grow pepper along with cardamoms, provided that such cultivation shall not in any way interfere with cardamom cultivation.

11. No transfer of the holding or any portion thereof shall be made without the previous permission of the Conservator. But occupancy right may be transferred with such permission.

12. The relinquishment of holdings is permitted provided the rent due on such holdings up to the date of relinquishment has been paid.

13. Each ryot shall execute a muchilika before the 1st Makaram 1082 binding himself to the above conditions when the holding will be registered in the rent-roll and a pattah shall be granted according to prescribed form by the Conservator.

14. The forests in the Kanniyelam Tract are reserved under the Forest Regulation. Any interference with them except for purposes permitted by these rules shall be dealt with under the above Regulation. Any person entering the Cardamom gardens without a pass will be treated as a trespasser under the Forest Regulation.

15. The Divisional Forest Officer may permit the burning of the undergrowth in a new clearing provided the undergrowth is heaped and carefully removed from the surrounding jungle. The ryot will be held responsible for the value of any damage done to the trees left for shade in the new clearing or the surrounding forest or gardens caused by such fire.

16. Ryots may collect firewood free with the permission of the Divisional Officer.

17. If any ryot contravenes any of the foregoing rules or any other rules which may be passed from time to time, it shall be competent to the Conservator, to take over his holding and deal with it in any manner he deems fit.

18. The leases under this land tax system shall be tentative and be in force for a period of five years from 1082, after which it shall be competent to Government to revise the assessment or restore the monopoly or otherwise deal with the gardens as they think necessary.

Huzur Cutcherry, Trivandrum,
27-12-1906/12-5-1082.

S. GOPALACHARIYAR,
Dewan.

Appendix - XV

THE GRANT OF COFFEE AND TEA ESTATE - REGARDING FOREST RESERVES AND EXTENTS - ORDER DATED 12.8.1908

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS THE MAHA RAJAH OF TRAVANCORE.

Read:—

1. Memorandum regarding the grant of land for the cultivation of coffee, dated 8th March 1862.

2. Rules for the sale of waste lands on the Travancore Hills, dated 24th April 1865.

3. Proclamation dated 18th May 1891.

4. Letter No. 5590, dated 20th August 1907, from the Conservator of Forests.

5. Letter No. 5597/8. R., dated 7-11-'07, to the Conservator of Forests.

6. Letter No. 2481, dated 17-2-'08, from the Conservator of Forests.

7. Memorandum by Mr. S. Padmanabha Iyer, Dewan Peishkar, Revenue Settlement, dated 28th March 1908.

8. Circular letter to all Planters' Associations, No. S. R. 3053, dated 20th April 1908.

9. Letter No. 3121/8. R., dated 20-5-'08, to the Superintendent and District Magistrate, Cardamom Hills.

10. Letter No. 520, dated 7th May 1908, from the Superintendent and District Magistrate, Cardamom Hills, regarding the estates within his jurisdiction.

11. Letter dated 24th May 1908, from the Honorary Secretary, South Travancore Planters' Association.

12. Letter dated 25th May 1908, from the Honorary Secretary, Central Travancore Planters' Association.

The Conservator of Forests, in his letters read above, reported that, out of a total extent of about 25,154 acres of unabandoned coffee and tea estates lying within forest reserves, in the Padmanabhapuram, Trivandrum and Quilon Divisions, only 5,983 acres were under cultivation and about 19,171 acres were lying uncultivated and covered with forest, primary or secondary. Mr. Bourdillon was of opinion that the greater part of the uncultivated lands would be of value to the State, either for the production of timber or for the protection of streams, and he, therefore, proposed that the area of unabandoned but uncultivated estates might either be re-acquired by Government or that the former tax of 12 annas per acre, which had been reduced some time ago to two annas on account of the depression of the planting industry, might be restored.

2. The question was then referred for the views of the Settlement Dewan Peishkar. Mr. Padmanabha Iyer has, in reply, expressed his concurrence with Mr. Bourdillon that the tax on all lands taken up for coffee or tea cultivation, whether actually under cultivation or not, which was reduced to two annas per acre by the Proclamation dated 18th May 1891, should be restored to the original rate of 12 annas per acre.

3. On 20th April 1908, a Circular letter was issued to all Planters' Associations inviting an expression of their views on the proposal to raise the assessment from two annas to the original 12 annas per acre. The Superintendent and Magistrate, Cardamom Hills, was also asked to state his opinion in the matter.

4. Mr. Vernede considers that the time has arrived for raising the assessment to 12 annas per acre as proposed. He observes also that the tax of 12 annas was reduced to two annas on the depreciation of coffee, but that tea has now taken the place of coffee in almost all the estates in his jurisdiction.

5. The Honorary Secretary of the Central Travancore Planters' Association, in his reply, refers to certain unfavourable circumstances to which the industry is subject and states that his Association think it hardly fair to assess these lands on a par with virgin forest. The Secretary of the South Travancore Planters' Association has suggested the appointment of a Committee of Planters to discuss the subject with Government.

ORDER THEREON, No. $\frac{6621}{S.\ R.}$, DATED, TRIVANDRUM, $\frac{\text{12TH AUGUST 1908.}}{\text{28TH KARKADAGOM 1083.}}$

Government have given the matter their careful consideration. All old coffee and tea estates have been granted either under the Memorandum of the 8th March 1862 or under the Rules dated 24th April 1865. The tax originally imposed on all lands was twelve annas per acre, but that was subsequently reduced to two annas per acre by the Proclamation dated 18th May 1891.

2. Government consider that circumstances have greatly changed since the Proclamation of 1891 was issued. The value of land and of agricultural products has risen all over the State. Lands generally have become more accessible with increased facilities of communication. Population too has increased and labour is more easily procurable.

3. It is observed that, when new waste lands for coffee and tea cultivation were sanctioned to be sold in 1895, the assessment was fixed at twelve annas per acre and an upset price of Rs. (10) ten per acre was also fixed, and in the Rules for the sale of waste lands for coffee and tea cultivation dated 7th July 1898, the assessment fixed was twelve annas per acre and the upset price Rs. (10) ten. The Memorandum of 1862 mentioned no upset price which, however, was subsequently fixed at one rupee per acre by the Notification dated 15th December 1864 and raised to Rs. (10) ten by the Notification dated 2nd June 1874.

4. Government are of opinion that it is time that a revision is made of the assessment which was reduced to two annas per acre in 1891. The reasons urged by the Central Travancore Planters' Association against a reversion to the old twelve anna rate do not appear to Government convincing, nor are Government prepared to appoint a Committee of Planters for a discussion of the subject.

5. Government direct that the annual tax on all lands granted for coffee or tea cultivation throughout the State, whether they be under cultivation or not, which had been reduced to two annas per acre by the Proclamation dated 18th May 1891, be raised to the original rate of (12) twelve annas per acre with effect from the 1st Chingom 1084. A Proclamation to this effect will now issue.*

(By order)
A. J. VIEYRA,
Chief Secretary to Government.

To

The Conservator of Forests.
The Superintendent and District Magistrate,
Cardamom Hills.
The Dewan Peishkar, Revenue Settlement.
All Division Peishkars.
All Planters' Associations (with covering letter.)

No. 10981/L. R. Huzur Cutcherry, Trivandrum,
27-8-1908/12-1-1084.

CIRCULAR.

It has been brought to the notice of Government that puduval applications are sometimes struck off by Tahsildars for default of appearance of the parties according to the notices issued to them, even though the lands have been occupied. Government

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* In pursuance of this G. O. a Proclamation was issued on the 29th September 1908 restoring the tax of 12 as. per acre on coffee and tea estates for which the original tax had been reduced to 2 as. per acre by Proclamation dated 18th May 1891.

The tax on all estates was *subsequently raised to Re. 1 per acre by* Proclamation dated 3rd October 1910.

Appendix -XVI

PROCEEDINGS REGARDING ANAKKULAM ESTATE IN KDH VILLAGE-

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS THE MAHA RAJAH OF TRAVANCORE.

Read again:—

(1) G. O. No. 13524/L. R., dated 29th October 1909.

Read also:—

(2) Letter No. S. R. 8052, dated 25th November 1909, to P. R., Buchanan Esq., General Manager, Kannan Devan Hills Produce Company.

(3) Letter No. 432, dated 9th January 1910, from the Superintendent, Travancore Survey.

In para 6 of the G. O. read above, Government directed the constitution of a new taluk, called the Devicolam taluk, consisting of

(1) the six *pakuthis* of Anjanad,

(2) the Kannan Devan Hills Concession,

(3) the Pallivasal Estate,

(4) the Poopara Division of the Cardamom Hills (including the Periakanal and Suriamalli Estates and the Devicolam factory), and

(5) the Oodumbanshola Division of the Cardamom Hills.

The Superintendent, Travancore Survey, in his letter read above, has suggested the desirability of including the Anakulam Estate (West), granted to the Kannan Devan Hills Produce Company, in the Devicolam taluk.

ORDER THEREON No. $\frac{1561}{L.\ S.}$, DATED TRIVANDRUM, $\frac{22\text{ND MAY }1910}{9\text{TH EDAVOM }1085}$.

His Highness' Government direct the inclusion of the Annakulam Estate (West) in the Devicolam taluk. *

(By order)
A. J. VIEYRA,
Chief Secretary to Government.

To

The Superintendent, Travancore Survey.
The Superintendent & District Magistrate, Devicolam Division, P. R. Buchanan Esq., (with covering letter).
The Dewan Peishkar, Kottayam.
The Gazatte.

CIRCULAR.

Instances of the registration, by the Revenue department, of Sirkar land within twenty feet on either side of the central line of the roadway have been brought to the notice of His Highness' Government. This is in contravention of the Government Notification dated the 31st Karkadagom 1053, corresponding to the 14th August 1878, and the subsequent Circular No. 4506/P. W., dated 14th August 1907, issued on the subject.

The attention of all Division Peishkars and Tahsildars is once again drawn to the matter, and they are requested to see that the registration of such land is not allowed in future, and that all unauthorised occupants within the said 40 feet are evicted under the Land Conservancy Regulation.

Huzur Cutcherry, Trivandrum,
31-5-1910/18-10-1085.

(By order)
A. J. VIEYRA,
Chief Secretary to Government.

To

All Division Peishkars and Tahsildars.
The Acting Chief Engineer.
The Gazette.

* *Vide* note under G. O. No. 13524/L. 1B., dated 22-10-'09.

Appendix - XVII

REGARDING DEVASWOM LANDS:-

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS THE MAHA RAJAH OF TRAVANCORE.

Read again:—

(1) Notification No. 5541/L. R., dated 10th April 1909.
(Abstract:—Appointing Mr. P. Cheriyan, B. A. & B. L., District and Sessions Judge, Nagercoil, as Special Settlement Officer, under the Boundary Regulation).

(2) G. O. No. 7033/L. R., dated 9th May 1909.
(Abstract:—Directing the Acting Deputy Peishkar, Kottayam, to represent to the Special Officer the claims of the Sirkar in regard to the land considered to belong to the Sirkar or to the Sirkar Devaswoms).

(3) G. O. No. 7037/L. R., dated 9th May 1909.
(Abstract:—Referring to the Special Officer, for adjudication, the question of the demarcation of the western boundary of the Poonjat Edavaga).

(4) G. O. No. 7840/L. R., dated 9th May 1909.
(Abstract:—Referring to the Special Officer, for adjudication, the dispute regarding the southern boundary of the Edavaga).

(5) G. O. No. 3577/S. R., dated 10th May 1909.
(Abstract:—Referring to the Special Officer, for adjudication, the dispute relating to two bits of land known as Chengadam and Thenpuzha, applied for by Mr. J. J. Murphy).

(6) G. O. No. 3580/S. R., dated 10th May 1909.
(Abstract:—Referring to the Special Officer, for adjudication, the dispute relating to three bits of land, *viz.* Eldorado, Kuttikal and the block of 360 acres north of Kuttikal, applied for by Mr. H. D. Deane).

(7) Letter No. 10013/L. R., dated 24th July 1909, to the Special Officer.
(Abstract:—Defining the scope of the Special Officer's enquiry).

(8) Notification No. 7908/S. R., dated 19th November 1909.
(Abstract:—Defining the term Poonjat *pakuthi* for the purpose of the Special Officer's enquiry).

(9) G. O. No. 15067/L. R., dated 8th December 1909.
(Abstract:—Referring to the Special Officer, for adjudication, the dispute relating to two blocks of *cherikal* land, applied for by Mr. R. D. Fenton)

Read also:—

(10) The decision of the Special Officer, dated 15th Medom 1085, received with his letter No. 426, dated 27th April 1910.

Disputes having arisen regarding the boundaries of the lands claimed by the Poonjat Chief, as his *jenmam*, within the Poonjat *pakuthi*, in the Minachil taluk, and with a view to secure the correct registration of the rights and titles exercised or claimed, in the lands within the said *pakuthi*, Government appointed Mr. P. Cheriyan, B.A. & B. L., District and Sessions Judge, Nagercoil, as Special Settlement Officer, under section 2 of Regulation III of 1058, as amended by Regulation II of 1060, for the adjudication and determination of the disputes, in regard to the lands claimed

by the Poonjat Chief, as well as those owned by the Sirkar, Sirkar Devaswoms and others, in the Poonjat *pakuthi*. Mr. Cheriyan entered upon his special work on 24th May 1909 and finished it on 27th April 1910. On the latter date, he announced his decision.

2. The main conclusions arrived at by the Special Officer are:—

(1) that nearly the whole of the tract in the Poonjat *pakuthi*, forming the subject matter of the Southern Boundary dispute, is situated *outside* the Edavaga limits and consists of unregistered land at the disposal of the Sirkar, and

(2) that the rest of the *pakuthi* constitutes the Chief's Edavaga.

3. As regards the Edavaga itself, as defined above, the Special Officer's findings are:—

(i) that the following institutions or individuals hold lands *within* the Edavaga as their *jenmom* namely,

(*a*) the Sirkar Devaswoms of Thidanad and Arakulam,

(*b*) Poovarani Devaswom,

(*c*) Kondoor Devaswom,

(*d*) Neithaseri, Namburi, and

(*e*) certain Devaswoms owned by the Poonjat Chief;

(ii) that, with regard to lands other than those mentioned above, the Poonjat Chief is at once the *jenmi* and the overlord;

(iii) that there is no *pandaravaga* land within the limits of the Edavaga; and

(iv) that, with regard to the Devaswom lands and the lands belonging to private *jenmis*, the long standing usage in the Edavaga has been to levy $\frac{1}{4}$ of the *pattom* upon registered holdings and to realise $\frac{1}{10}$ of the produce as *melvaram* in the case of *cherikal* lands.

4. In the concluding para of his judgment, the Special Officer has inserted a tabular statement showing the survey numbers, extent and other particulars of the lands, within the Poonjat *pakuthi*.

ORDER THEREON NO. $\frac{2766}{\text{L. R.}}$, DATED TRIVANDRUM, $\frac{\text{17TH MARCH 1911.}}{\text{4TH MEENOM 1086.}}$

His Highness' Government note with pleasure the thorough and satisfactory manner in which the enquiry has been conducted by the Special Settlement Officer and the clearness of his findings. Government accept Mr. Cheriyan's decision, so far as it relates to all the lands within the Poonjat *pakuthi*, owned by the Sirkar and the Sirkar Devaswoms.

2. As regards the tract which has been found to lie within the Poonjat *pakuthi*, but *outside* the Chief's Edavaga, and which consists of unregistered land at the disposal of the Sirkar, the Superintendent, Revenue Survey, is requested to excise this tract

and include it in the *pakuthi* of Kanjirapalli. When this is done, the Poonjat *pakuthi* will be practically conterminous with the Chief's Edavaga. The Superintendent, Revenue Survey, will also carry out such survey or sub-division work as may be found necessary, in regard to the Sirkar Devaswom lands within the limits of the Edavaga, in accordance with the decision of the Special Settlement Officer.

3. In their order No. 2093/L. R., dated 8th March 1911, Government have resolved to put the *pakuthis* of Kanjirapalli and Poonjat into the proposed Peermade taluk, which will be under the control of the Superintendent, Devicolam Division, with effect from the 1st Medom 1086. The Superintendent, Devicolam Division, is accordingly requested to take up and complete, within 6 months, the Settlement of the Sirkar lands within the tract ordered to be transferred to the Kanjirapalli *pakuthi* and also of the Sirkar Devaswom lands within the Poonjat Edavaga, in accordance with the decision of Mr. Cheriyan.

4. The Superintendent, Devicolam Division, will also call upon the Poonjat Chief to fix permanent boundary marks at all the theodolite stations around the limits of the Edavaga, as defined by the Special Settlement Officer, and, should the Chief fail to do so, to fix such boundary marks departmentally and recover the cost from the Chief, under the Boundary Regulation.

5. The Superintendent, Revenue Survey, and the Superintendent, Devicolam Division, should submit monthly progress reports of their work in pursuance of this order.

6. The tabular statement showing the survey numbers, extent and other particulars of the lands, as adjudicated upon by the Special Settlement Officer, is appended to this order.

(By order)
A. J. VIEYRA,
Chief Secretary to Government.

To

The Dewan Peishkar, Kottayam.
The Superintendent, Devicolam Division.
The Superintendent, Revenue Survey.
Mr. P. Cheriyan.
The Gazette.

	Survey numbers	Approximate area in acres.	
I. Poonjat *pakuthi*.	1 to 4154.		50,925
II. Lands falling outside the limits of the Eduvazis and belonging to the Sirkar as a portion of Kanjirapalli proverti.	1048 to 1093, nearly the whole of 1047 and small portions of 1012 and 1046.	4,938	
III. Lands belonging to the Sirkar Devaswoms as their *jenmom*.	1 to 22, nearly the whole of 23. 23 to 44, 49, 64/2, 67/1, 68/1, 87/2 & 3, 90/7, 121/1 & 2, 319/1, 320/1, 342/1, 392/1, 579/1, 5 & 6, 607/2, 629/1, 638/1, 674 to 679, 695/2, 754/3, 725/6, 726/7, 727/1 & 3, 732/1, 723/2, 3 & 4, 734/1, 735/1, 2 & 4, 737/5, 745/1, 750/1, 980/1 and 990/1.	3,273	
Total area of II and III, i. e. lands belonging to the Sirkar and its Devaswoms.			7,311
IV. Lands belonging to the Kandiur Devaswom as its *jenmom*.	1226, 610/1, 9, 10 & 11 and 1006/1	111	
V. Nelthaseri Nambari's *jenmom*.	1385	3	
VI. Lands belonging to the Poovarkal Devaswom as its *jenmom*.	1001, 1002, the southern portion of 1000/3, 1042 to 1046, 1094 to 1111, 1121 to 1151 and the south-eastern portion of 1000/22.	6,832	
Total area of IV, V and VI, i. e. lands which are the *jenmom* of private individuals and Devaswoms.			6,944
II. Lands belonging to the Chief's Devaswoms.	138/10 12, 139/3, 444/1 & 2, 447/7, 449/1, 191/1, 650/1, 653/1 & 2, 654/1, 655/1, 658/1, 660/1, 661/1, 662/1, 672/1, 742/1, 773/1, 774/1, 775/1 & 2, 777/1 779/1 & 2, 797/1, 804/1 810/1, 812/1, 818/3, 821/1, 823/1, 825/2, 826/2 & 4, 844/1, 850/1, 860/1, 875/3, 878/6, 882/1, 906/1, 907/1, 915/2, 919/1, 920/1, 922/1, 924/1, 933/1, 939/1, 940/1, 944/1 & 3, 945/1, 947/1, 948/1, 952/1, 955/1, 1000/1, 3, 8, 9, 10, 13, 15, 18, 19 & 20, 1007/1, 1016/1, 1019/2, 1023/1, 1036/1, 1037/1, 1113/1, 1116/1, 1117/1, 2, 3 & 4, 1118/1, 1119/1 & 1120/1.	653	
VIII. Lands the *jenmom* right in which is not vested in any Brahmaswom or Devaswom.	All the remaining survey numbers in the *pakuthi*.	36,112	
Total area of VII and VIII, i. e. lands the *jenmom* right in which is vested either in the Chief or in his Devaswoms.			36,765

Lands falling under Groups III to VIII fall within the limits of the Eduvazis.

Appendix - XVIII

REGARDING EDAVAGA LANDS -

No. J. 2147. Huzur Cutcherry, Trivandrum, 25-3-13/12-8-88.

To

The Ag. Dewan Peishkar,
Trivandrum.

Sir,

With reference to your sadhanom No. 3798, dated the 8th Vrischigom 1088, *re* the disposal of unclaimed dead bodies, I have the honor to inform you that the Medical department must arrange for the removal and burial of unclaimed dead bodies in the hospitals and dispensaries. The Revenue department have to attend to the removal and interment only of dead bodies found on public roads or other public places.

I have &c.,
M. RAJA RAJA VARMA,
Ag. Chief Secretary to Government.

Similarly to the other Peishkars.

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS THE MAHA RAJAH OF TRAVANCORE.

Read again :—

(1) G. O. No. 3527/L. R., dated the 2nd April 1908, regarding the settlement of the Poonjar Edavaga lands.

Read also :—

(2) Communication No. 249, dated the 8th Edavom 1087, from the Poonjat Chief.

(3) Letter No. 11187/L. R. & F., dated the 22nd October 1912, to the Poonjat Chief.

(4) Memorandum dated the 30th November 1912, presented by Mr. N. Sundararaja Iyengar, High Court Vakil, on behalf of the Poonjat Chief.

In 1083, the Poonjar Chief represented to the Government that arrangements should be made for the settlement of his Edavaga lands, along with the Revenue Settlement of the Minachil taluk, then in progress. The Government, in their order No. L. R. 3527, dated the 2nd April 1908, decided that the request of the Chief could not be complied with.

The Chief again appealed to the Government for a reconsideration of their previous order and asked for a settlement of the Edavaga lands by the Government on the ground that the Estates of the Edapallai and the Kilimanur Chiefs had been settled by the Government

*ORDER THEREON No. 3683/L.R.&F. DATED TRIVANDRUM, 27TH MARCH 1913. / 14TH MEENOM 1088.

His Highness' Government do not see any grounds to reconsider the decision conveyed in G. O. No. 3527/L. R., dated the 2nd April 1908.

(By order)
M. RAJA RAJA VARMA,
Ag Chief Secretary to Government.

To the Poonjat Chief.

No. 3121/L. R. & F. Huzur Cutcherry, Trivandrum, 28-3-1913/15-8-1088.

To

The Dewan Peishkar,
Quilon.

Sir,

With reference to your letter No. 125/A. 63, dated the 21st October 1913, *re* the nature of the work to be entrusted to the Deputy Tahsildars when the Tahsildar is at Head Quarters, I am directed to forward herewith copy of letter No. T. G. 582/5450, dated 22nd February 1913, from the Officer in charge, Central Account and Audit office, and to inform you that the Government accept the opinion of the Account Officer on the subject.

I have &c.,
M. RAJA RAJA VARMA,
Ag. Chief Secretary to Government.

Similarly to the other Division Peishkars.

(ENCLOSURE.)

No. T. G. 582/5450. Central Account and Audit Office, Trivandrum, 22nd February 1913.

From

The Officer in charge,
Central Account and Audit Office.

To

The Chief Secretary to Government.

Sir,

With reference to your reminder No. 1336/L. R. & F., dated 8th February 1913, I have the honor to refer you to this

*Vide note under G. O. No. 3527/L. R., dated 2-4-08.

Appendix - XIX

EXTRACTED FROM THE PROCEEDINGS OF HIS HIGHNESS THE MAHARAJA OF TRAVANCORE, DATED 25.12.1913.

cent. The causes of increase are the same as those mentioned in the preceding para, namely, the increased number of taxable trees, the registry of *puduvals*, the bringing under assessment of unplanted areas in partially planted gardens, the conversion of assessment in kind into money, and, in addition, the enfranchisement of the service Inam tenures and the imposition of fresh and increased tax on lands of favourable tenures. Taking both wet and garden lands together, all the taluks except Tovala and Agastiswaram show an increase, ranging from 6 (in Fraser) to 190 per cent. (in Todupuzha).

43. The extent of single crop wet lands is 3,82,043 acres, or 66 per cent of the total extent of the wet lands, and that of the double crop lands, 1,94,895 or 34 per cent. The double crop lands are, as a rule, found in the southern taluks. They gradually decrease as one proceeds northwards, and in the northernmost taluks the single crop lands predominate over the double crop ones. The net paddy demand on the single crop lands is 46 per cent of the total wet tax and that on the double crop lands 54 per cent.

44. As regards the incidence of taxation, the net average demand on an acre of wet land including all tenures works out at Rs. 2 chs. 26 and cash 2 per acre. It is the highest in the Nanjenad taluks, with an average of Rs. 12 per acre, and lowest in Kunnatnad, with an average of a rupee and a quarter per acre. The average net demand on the garden and dry lands under all tenures works out at chs. 25 and cash 13 per acre. It is the highest in the Parur taluk where it amounts to Rs. 4; but if the *kuthagapattom* gardens are left out of calculation, the highest average stands against the Kartigapalli taluk with Rs. 3 chs. 9 and cash 5 per acre. The average is the smallest in the Tovala taluk, where it works out at 10 chs. and cash 15 per acre. A scrutiny of the average assessment and net demand shows that in the case of both the wet and garden lands, the lower assessment rates have been applied to a much larger extent than the higher ones, and that the incidence of assessment, modified by the peculiar tenures of the country, is undoubtedly moderate.

45. For purposes of comparison of the results of the settlement, the land tenures have been classified into the following nine groups, namely:—

(1) Pandaravaga.
(2) Sirkar Devaswomvaga.
(3) Sripandaravaga.
(4) Sripadomvaga.
(5) Kandukrishivaga.
(6) Oorunma Devaswomvaga.

(7) Brahmaswomvaga.
(8) Madambimarvaga.
(9) Karmozhivu or tax free.

The Pandaravaga lands form the major portion of the cultivated area, being 75·13 per cent. The other groups respectively contribute (5·64), (0·82), (0·06), (0·81), (3·77), (8·10), (1·03) and (4·64) per cent.

In regard to the Sirkar Devaswomvaga lands, it may be stated that in most cases they originally formed the jenmom or private property of the Devaswom prior to the assumption of the latter by the Sirkar in 987 M. E./1812, A. D. They were mostly held on *ven-pattom* tenure. There were also, to a limited extent, other tenures, like those created by the jenmis, but since the assumption of the Devaswoms by the Sirkar, the normal Revenue department treated the Devaswom lands like the ordinary Sirkar lands, with the result that the holders of such lands became the proprietors of the lands instead of being only lessees or mortgagees. Prior to the settlement, the Government were levying '*rajabhogam*' on the Devaswom *kanom* or mortgage tenures, and on some of the Devaswom properties, *michavaram* or rent also in addition to the *rajabhogam*. The *rajabhogam* and *michavaram* are included in the assessment fixed at the present settlement. A large extent of the Sirkar Devaswom lands was treated as *pandarapattom* lands owing to mistake or misconception. In their Order No. 3831/L. R., dated the 9th April 1912, the Government have since directed the separation of the Devaswom lands from the Sirkar lands. In regard to the future policy of the Government in respect of the Devaswom lands, G. O. No. D. 4905, dated the 25th October 1912, observes as follows:—

"The Government would, however, mention that it is not "now their intention to make any change, either in the tenure or "in the assessment of the Devaswom lands. They recognise that "the settlement of the Devaswom lands already made cannot be "disturbed for the balance of the settlement period. But when "the next settlement is taken up, it will be the duty of the "Government so to regulate it, in regard to the Devaswom lands, "that the Devaswoms should get the full revenue due to them. "The Government will bear in mind that their position in regard "to the Devaswom lands is fundamentally different from their "position in regard to the Sirkar lands."

46. Though the land tenures have been classified into nine main groups, as stated in the preceding para, the *agaram*, according to tenures, of the State, comprises over ten thousand subheadings each for wet and garden lands and covers more than

2,500 printed foolscap pages. This clearly shows how very little has been done towards the simplification of the system of land tenures. The substitution of the *munkaram* in place of the *rajabhogam* of $\frac{1}{2}$ of the present *pattom*, wherever the latter has been found to fall short of the former, the continuance of the old tax as the future demand on *otti* properties of which the *munkaram* was found higher than the present one-half *pattom*, and the adoption of the *munkaram* as the future demand on all tax paying properties falling under para 25 of the Settlement Proclamation as well as those on which no *rajabhogam* rate was levied in the past, have tended to continue the inequalities and varying rates of assessment obtaining under the older settlements. Further, G. O. No. 104, dated the 13th Chingom 1076 M. E./28th August 1900 A. D. (*vide* para 18 *supra*) directing the retention of all the numerous tenure sub-heads, irrespective of the tax leviable on the properties comprised in them, is said to have contributed to swell the State *ayacut* to an inordinate extent, without any corresponding benefit either to the Sirkar or to the ryots, and to mar the effect of what little simplification has been otherwise achieved.

47. An examination of the rent roll statement appended to the report shows that the average area per pattadar varies from 1·68 acres in the Eraniel taluk to 6·40 acres in the Todupuzha taluk. Taking the State as a whole, the average area stands at 3·31 acres. The average tax per pattadar taking all tenures together ranges from Rs. 2 chs. 17 and cash 12 in the Eraniel taluk to Rs. 15 chs. 6 and cash 5 in the Tovala taluk. The average cultivated area per head of population varies from 0·26 acre in the Trivandrum taluk to 1·47 acres in the Todupuzha taluk. For the whole State the average stands at 0·59 acre.

Cherikal Lands.

48. The *cherikal* lands were unregistered dry lands in hilly tracts in certain taluks of the Quilon and Kottayam Divisions, in which paddy or other cultivation was being carried on in recurring periods of years and on which the tax was being either levied or was leviable by the Government during the years of actual cultivation. The assessment was known as *malavaram* or *vilumeladi*, according as the cultivation raised was paddy or other crop. The assessment used to be fixed, after local inspection, at a certain proportion of the produce, and used to be levied, either in kind or in money, at the current market rate in the case of the paddy tax, and in money at certain *pathivu* or fixed rate in the case of any other crop. In some places, besides the *malavaram* tax, an extra cess called *paranellu* and *katta* was also levied on all Sirkar or *pandaravaga cherikals*. In the case of

pandaravaga cheritals held on favourable terms, and also in the case of *cherikals* claimed by Devaswoms and Jenmis, only one half the *malavaram* or *vilameladi* tax was ordinarily levied. Later on, the basis of the assessment was altered from the produce of the land to the extent cultivated ; and irrespective of the crop raised, the tax was fixed entirely in money. Prior to the present settlement, the *pandaravaga cherikal* lands, when registered by the Revenue department, were treated in the same manner as ordinary *puduval* lands ; while the *cherikals* claimed by the Jenmis and demised by them on *kanom* &c., were assessed with the *rajabhogam* like ordinary *kanapattom* lands. The Settlement Proclamation did not make any provision for the special treatment of *cherikals*. Towards the beginning of 1905, the ryots of the Kottayam Division, which contained the bulk of the *cherikal* lands, complained to the Government of the hardships arising from the application of the Puduval Rules to the *cherikal* lands, and they prayed for a more favourable treatment on the ground of the peculiarities of the cultivation of the *cherikal* lands and of the difficulties attending the same. Thereupon the settlement of the *cherikals* was arranged to be held in abeyance, pending the issue of final orders by the Government on the question. These orders were contained in the Proceedings of the Government, No. 949/R, dated the 13th February 1907. The *cherikal* lands were, therein, ordered to be treated as ordinary *puduvals* and registered as *pandarapattom* under the rules relating to the *puduval* registry, subject, however, to the following modifications :—

(i) In the place of the varying rates of dry assessment from 1 to 15 fanams per acre, applicable to *puduvals*, the rates for the *cherikals* were to be within a scale of 1 to 7 fanams per acre.

(ii) The tax on the *cherikals* held by Jenmis or others on favourable terms and on which the Government had been levying only one-half of the *malavaram* or *vilameladi* tax was to be one-half of the full assessment leviable on the *pandaravaga cherikals*.

(iii) The maximum *thiaravila* leviable on the *pandaravaga cherikals* was reduced from five years' to three years' assessment, and a concession was made in levying the *thadivila* by leaving out of account all trees below 8 *ramnams* in girth.

(iv) The enquiries in respect of the *cherikals* held by Jenmis or others on favourable terms were to be conducted in a quasi-judicial manner, both parties being heard, evidence received, and written decisions passed by superior officers.

By a later G. O., No. 14627/L. R., dated the 22nd November 1908, the levy of the *tharavila* and the *thadivila* was restricted to the *pandaravaga cherikals* liable to pay the full assessment, while these dues were remitted in the case of all *jenmom cherikals* as well as on *pandaravaga cherikals* held on favourable terms. The settlement of the *cherikal* lands was completed on the 29th Dhanu 1086/13th January 1911, as already stated in para 30 *supra*.

49. The special concessions allowed for the registry of *cherikal* lands have, however, since been withdrawn by G. O. No. 3427/L. R., dated the 16th April 1911, and all *pandaravaga cherikals* or other Sirkar lands yet available for registry have been ordered to be registered under the ordinary Puduval Rules, without any special concessions being made in respect of *tharavila*, *thadivila*, assessment &c. The grant of lands for the cultivation of coffee, tea, rubber, cardamom &c., will, of course, be governed by the special rules relating to them. The last named G. O. has also wholly prohibited the system of *malavaram* or *vilameladi* cultivation and has directed that all unauthorised occupation of *cherikals* or other Government lands should be dealt with under the Land Conservancy Regulation. This order does not, of course, affect the *cherikals* already settled.

Kuthagapattom Lands.

50. There were some lands not brought under any fixed settlement, but they were being held under the Sirkar on temporary leases. These comprised the following :—

(1) the Palliport Farm in the Parur taluk, purchased from the Dutch ;

(2) the tract called Puliyanthuruthu also in the Parur taluk, purchased from the Paliath Menon ;

(3) a small tract of land in the Shertallai taluk ; and

(4) various small pieces of land scattered throughout the State and forming the sites and compounds of palaces, cutcherries and other public buildings.

The properties in the case of tracts (1), (2) and (3) having been acquired by purchase, used to be rented out to middlemen as a temporary expedient pending a better settlement, but as the farmers cared for nothing but their own profits and sought to rack-rent the ryots, the lands were, later on, leased direct to the ryots themselves, also as a temporary arrangement. The Sirkar was looked upon as the absolute proprietor of the lands, while the tenants were regarded as mere tenants-at-will without any rights of occupancy. The rates of assessment paid were higher than in

the case of the *pandarapattom* lands. In these circumstances, the Government would have been legally justified in selling the properties and recouping themselves for the money invested in the purchase. Nevertheless, with a view to encourage private industry and enterprise and impart to the tenants already on the estate, a sense of security, the Settlement Proclamation dated the 14th Kumbhom 1061/24th February 1886 confirmed to the tenants the garden lands in their possession and conferred upon them full rights in regard to them, subject only to the payment of the *kuthagapattom* assessment, all extra payments being abolished. It was left open, at the same time, to the holder to purchase exemption from the high assessment and have his garden placed on the same footing as a pure *pandarapattom* one by paying down once for all twenty times the difference between the normal or *pandarapattom* and the exceptional or *kuthagapattom* assessment. This was allowed to be done either at the time of the settlement or subsequently according to the convenience of the holder. As regards the rice* lands comprised in (1) and (2) and also all the areas in (3), these were entirely at the disposal of the Government and had no resident tenants with any rights. Hence they were all ordered to be sold by public auction to the highest bidder to be held like other *pandarapattom* lands, subject to the payment of the *pattom* assessment fixed at the settlement. The lands coming under (4) were not of course available for permanent registry; hence the system of leasing them on *kuthagapattom* was ordered to continue without change. (*Vide* section 27 of the Proclamation dated the 14th Kumbhom 1061 M. E./24th February 1886 A. D.)

51. A large portion of the lands comprised in tracts (1), (2) & (3) was settled by the normal Revenue department on the above lines in anticipation of the regular settlement. In the course of the settlement of the rice lands by the Revenue department, it was found that some of the rice lands situated in the Palliport Farm had been planted up and converted into gardens. These were known as the *thaiveppu* gardens as distinguished from the *old* gardens. Though the Government would have been within their rights if they had disposed of these areas also by public auction, it was decided that the *thaiveppu* gardens should be registered as *pandarapattom* in the names of the occupants on recovery of the market value assessed at not less than 31½ times the normal *pattom*. Later on, the value or *vilayartham* was allowed to be paid in easy instalments. Notwithstanding these concessions, some of the ryots failed to make payment of the *vilayartham*, which was an essential condition precedent to the registry of the *thaiveppu* lands as *pandarapattom*. In the case of

these ryots, it was decided to treat the *thaiveppu* lands as *kuthagapattom* gardens and issue pattahs for the same at the rates applicable to the old gardens in the tract. It was, at the same time, directed by the Government that the pattahs should also mention the assessment due on the lands at *pandarapattom* rates and also the *vilayartham* fixed, so that a holder might, if he chose, pay the *vilayartham* and convert the land into *pandarapattom* either at the time of settlement or afterwards according to his convenience. The work of the settlement of these gardens, the old as well as the *thaiveppu*, commenced by the Revenue department, was continued by the Settlement department, and brought to a close in 1083 M. E./1908 A. D.

52. Later on, Royal Proclamation dated the 3rd Mithunom 1085/17th June 1910, modified section 27 of the Settlement Proclamation mentioned in para 50 *supra*, and permitted the holders of the *old* gardens in the Palliport Farm to have their gardens placed on the same footing as the *pandarapattom* lands with effect from the 1st Chingom 1086 M. E./15th August 1910 A. D., on their undertaking to pay a *vilayartham* amounting to *ten times the pandarapattom* assessment on their gardens, as fixed by the Settlement department, and the Proclamation also allowed the *vilayartham* to be paid in twenty equal yearly instalments commencing from the above date. Subsequently, with a view to extend the above relief to the holders of the *thaiveppu* gardens also and to do away with the *kuthagapattom* tenure wholly in Munambom, the holders of the *thaiveppu* gardens were also allowed, by G. O. No. 12892/L. R. & F., dated the 1st December 1912, to pay the *vilayartham* due on their gardens in ten equal yearly instalments with effect from the 1st Chingom 1088/15th August 1912, the *pandarapattom* assessment being imposed on the holdings and recovered from the holders from the above date. The result was that the whole of the *Kuthagapattom* lands in Munambom, with the exception of 2 acres and 82 cents, had been converted into *pandarapattom* by the close of 1088 M. E./August 1913.

Sripandaravaga Lands.

53. *Sripandaravaga* lands, though administered by the Government, belong exclusively to the Sri Padmanabhaswamy temple. The lands lie scattered in the taluks of the Padmanabhapuram and Trivandrum Divisions. The rents due to the *Sripandaravaga* on these lands come within the meaning of public revenue as defined by the Revenue Recovery Regulation, I of 1068. These lands have been settled wholly at the cost of the Government. They are more or less similar to the Government lands, as regards

varieties of tenure and rates of assessment; and the method of revision applicable on the latter has likewise been applied to the *Sripandaravaga* lands. The bulk of the lands pay a *rajabhogam* to the Sirkar. The *Sripandaravaga* revenue does not enter into the general accounts of the State, and separate *pattahs* have been issued at the settlement showing the payments due to the Sirkar and those due to the *Sripandaravaga*. The calculation of the *rajabhogam* due to the Sirkar and the rent due to the *Sripandaravaga* on the lands subject to both sets of payments has been made on the following principle, namely, that the *Sripandaravaga* revenue should suffer no diminution from the old amount in any case except on the ground of deterioration of the land and its consequent inability to bear an assessment sufficient to square with the old *Sripandaravaga* tax. Where the tax as at present assessed is insufficient to meet the claims of both the Sirkar and the *Sripandaravaga* (to the original extent) the Sirkar tax has been reduced to the necessary extent. In some cases, only a nominal amount of one *edangali* of paddy in the case of wet lands and of one cash in the case of gardens has been charged on behalf of the Sirkar, merely as an indication of the right of the Sirkar to levy the *rajabhogam* tax on the lands. The *Sripandaravaga* revenue on wet lands is payable three-fourths in paddy and one-fourth in money (at 6 chuckrams per *parah*) in some places and one-half in paddy and one-half in money (at 6 chuckrams per *parah*) in others. The assessment on what are called the *cadakadama* wet lands (that is, lands the tax on which is under no circumstance remitted) is payable wholly in money at 6 chuckrams per *parah*.

Edavaga Villages.

54. There are fifteen villages in the State which are full free-hold *jenmom* and three villages which are partially Sirkar and partially free-hold *jenmom*. The fifteen full free hold villages consist of seven villages in the Chirayinkil taluk belonging to the Sreepadom Palace, two in the same taluk belonging to the Kilimanur Koil Thampuran, one village in the Kartigapalli taluk and two villages in the Alengad taluk belonging to the Edappalli Chief, and three villages in the Peermade taluk belonging to the Vanjipuzha Chief. Out of the three partially free-hold villages, two in the Tiruvalla and Kunnatnad taluks respectively belong to the Edappalli Chief; the remaining one, namely, Poonjar, is in the Peermade taluk, and it belongs to the Poonjat Chief. These are called partially free-hold villages, because they comprise within their limits lands belonging to the Sirkar Devaswoms, other Jenmis, &c.

55. The settlement of the Poonjar village, that is, of the properties in that village on which tax is due to or leviable by the

Government, was at first arranged to be conducted by the Settlement department. It was not, however, carried out by that department, but was transferred to the normal Revenue department, pending the adjudication of certain disputes between the Sirkar and the Poonjat Chief. These disputes were subsequently decided by a special officer appointed for the purpose by the Government under the Boundary Regulation. But the Poonjat Chief and other parties adversely affected by the decision having appealed to the Civil Court against the special officer's decision, the settlement of the Sirkar lands within the village has, for the time being, been held in abeyance under the orders of the Court. The tax-paying lands in the other two partially free-hold villages—belonging to the Edappalli Chief—have been settled along with the settlement of those villages.

56. As regards the completely free-hold villages, those owned by the Vanjipuzha Chief were left to be settled by the Chief himself, because the relations between himself and his tenants appeared to be governed by the Jenmi and Kudiyan Regulation, of 1071, or by the ordinary law of land-lord and tenant. The villages belonging to the Sreepadom Palace, the Kilimanur Koil Thampuran and the Edappalli Chief, stood on a different footing. The *pattom* (rent) due on the Sreepadom lands came within the meaning of *public revenue* as defined by the Revenue Recovery Regulation (1 of 1068). The rents due to the Kilimanur and Edappalli Chiefs were also treated as public revenue by Regulation IV of 1068. This Regulation also expressly laid down that the rents recoverable in the said estates should be at the rates assessed by the Government from time to time. The settlement and survey of these villages was accordingly undertaken by the Government at the request and on behalf of the proprietors concerned. As regards the villages of the Sreepadom Palace and the Kilimanur Koil Thampuran, the cost, both of survey and settlement, was borne entirely by the Government, while, in the case of the villages of the Edappalli Chief, one-half of the cost of settlement and three-fourth of that of survey have been borne by the Government. The settlement of these villages has been carried out more or less on the principles applicable to the Sirkar lands. The tenures in the Sreepadom and Kilimanur Edavaga villages are identical with those of the Sirkar villages, while those in the Edappalli Edavaga villages correspond in their characteristics with like groups in the Sirkar villages. The assessment leviable on the lands of the several tenures is regulated on the same principles as those applied to similar ones in the Sirkar villages. As regards the assessment on the wet lands, it is payable one-fourth in money and the remaining three-fourths in paddy in the villages belonging to the Sreepadom Palace and the Kilimanur Koil Thampuran.

With regard to the villages of the Edappalli Chief, the demand on the wet lands is wholly payable in paddy in some villages, while in others one-half is payable in paddy and the remaining half in money at 6 chuckrams per *parah*. Calculating the paddy portion of the rent at chuckrams 20 per *parah*, the total rent due to the Sreepadom, Kilimanur and Edappalli Edavagas, as per settlement, amounts to Rs. 24,179, Rs. 10,147 and Rs. 35,378 respectively per annum.

Nair Viruthi Service.

57. Mr. Padmanabha Iyer has, in more than one place in his report, referred to what are called "Nair Viruthis". These at one time formed an important class of tenures. They existed in all the taluks of the State, except Tovala, Agastiswaram and Shencottah. The performance of certain stated services on certain stated occasions was an essential condition of this tenure. The holders were generally allowed, in return, to enjoy certain lands on light assessment. In some cases, the *viruthikars* (or holders) had had loans advanced to them (in paddy or in money) in lieu of land; these loans were known as *muthalelpu*, which means literally "capital invested"; no interest was levied on these loans, but it was set off against the remuneration due to the *viruthikars* for the services. The services were of various kinds, the supply of vegetables and other articles ordinarily required for the Sirkar *Oottupuras* (feeding houses) and on occasions of particular festivals in Sirkar temples and on certain ceremonial occasions in the Palace, the putting up of sheds and finding supplies during Royal tours, the thatching of certain public buildings, the assisting in the collection of the land revenue, the watching of public buildings, and other miscellaneous duties. The *viruthis* granted for helping in the collection of the land revenue were known as the *munnila-viruthis*. There was also another set of *viruthis* called "Kandukrishi Vazhathope viruthis"; these were confined to the four taluks of the Trivandrum Division; the main obligation of the *Vazhathope viruthikars* was to supply vegetables &c., required for the daily use of the Palace. The provisions, materials and labour thus supplied by all *viruthikars* were paid for at certain *pathiru* or fixed rates, which were, however, below the market rates. All services used to be specified and valued at money rates; the net demand on a *viruthi* land would be fixed after deducting from the full assessment the value of the service attaching to it and adding to the remainder the *rajabhogam*, the latter representing a varying proportion of the full assessment in some cases and of the deduction made for the service in others. An extra cess known as *chumattupanam* (or literally load-tax) was also levied on the lands, in addition to the *rajabhogam*, at rates varying from 4 to 12 chuckrams. The *viruthi* tenure had permanency so long as the

holder continued to render the service regularly; he was entitled to undisturbed possession; and when he died, the holding passed to his legal heirs, subject to the payment of a succession duty and certain other dues. If the holder's family became extinct, the property lapsed to the Government. Where the *Viruthi-holder* failed to render the stipulated service on any occasion, a penalty called *pattokotta*, equal to a year's full rental on the holding, was levied on the same; and when he refused to do the service absolutely, the holding became liable to resumption by the Government.

38. In his Settlement Memorandum, dated the 14th April 1885, Mr. Ramiengar suggested the *entire abolition* of the *viruthi* services, but the idea of total abolition was subsequently given up. On the 4th Edavom 1061/16th May 1886, a Royal Proclamation was issued for the purpose of revising the *viruthi* system and placing it on an improved footing. The Proclamation provided for the re-arrangement of the services, and the settlement of the surplus lands remaining after re-distribution or those relinquished by the hloders seeking relief from the service, under the terms offered by the Proclamation. All alienations of *viruthi* lands made by the holders were declared null and void by the Proclamation, and the Governmeent took power to resume such alienated *viruthi* lands. The system of levying the succession duty and other fees on *viruthi* lands was done away with. The work of the adjustment of the *viruthi* service was not, however, taken up immediately. In 1062 M. E./1887 A. D., a Committee was appointed to examine the *viruthi* system and to suggest measures for reforming it in accordance with the Proclamation mentioned above. The Committee recommended that the *viruthi* service should be retained only so far as it related to mere personal service and that the holdings in excess of those required for such service should be either publicly sold or confirmed to the occupants on recovery of a fair value. This was in 1064 M. E./1889 A. D. In the same year, the Committee's suggestion, so far as it related to the removal of the obligation for the supply of provisions in the Mofussil, was tentatively given effect to. Subsequently, by Royal Proclamation dated the 24th Karkadagom 1068 M. E./7th August 1893 A. D., all *viruthikars* were completely and permanently relieved of all Mofussil obligations and some other items of service, and the scope of the *viruthi* service was restricted to the rendering of simple personal labour throughout the State and to the supply of provisions and materials for certain festivals and ceremonies at the Capital and to other demands of a customary nature not specifically exempted by the Proclamation. The re-arrangement of the *viruthi* service, contemplated by the Proclamation dated the 4th Edavom 1061 M. E./16th May 1886 A. D., was commenced in the already settled taluks of the State, in 1069 M. E./1894 A. D. The following *viruthis* were retained:—

(1) *viruthi* for *velakali** and for certain other personal services in the Sri Padmanabhaswamy temple, Trivandrum ;

* This is a mock fight in which the *viruthkkars*, peculiarly dressed and wearing shields, wooden swords &c., pretend to fight an imaginary enemy. This is a peculiar feature of the Panguni Oolsavam in the temple of Sri Padmanabhaswamy.

(2) *viruthi* for similar services in the Ambalapuzha temple ;*

(3) *viruthi* for rowing the Royal boats and the boats of the Thekedathu Bhattathiri ;

(4) *viruthi* for carrying of *amrithari* (rice) to the Palace ;

(5) *vazhathope viruthi* ;

(6) *viruthi* for the collection of vital statistics : and

(7) *munnila viruthi*.

* The holdings falling under (1), (2), (3) and (4) were charged with the full or *pattom* assessment, while those coming under (5), (6) and (7) were made subject only to the *rajabhogam*. The *vazhathope viruthis* were placed on an improved footing and arrangements were made for a quinquennial revision of the fixed prices to be paid for the articles supplied by the *viruthi* holders. The vital statistics *viruthi* was a new service created for the first time. The holders of the vital statistics *viruthis* and the *munnila viruthis* were given, in addition to land, a small stipend in money in some taluks. The *muthalelpu* loan and the *chumattupanom* cess were remitted, and all services rendered on account of *muthalelpu* were discontinued.

59. As regards the surplus and relinquished lands, they were enfranchised and settled in favour of the holders in cases in which such holders belonged to the families of the original grantees or where they had had undisturbed possession for not less than 50 years, subject to the payment of a *vilayartham*. In other cases, the lands were disposed of by public auction. The *vilayartham* in the case of the lands settled in favour of the holders was at first fixed at 25 times the assessment. Subsequently, the minimum period of enjoyment which secured proprietory right over the lands by the payment of *vilayartham* was reduced from 50 to 25 years. The *vilayartham* payable on lands of which the period of possession extended from 25 to 50 years was fixed at 30 times the assessment, the former rate of 25 times the assessment being continued for lands held for 50 years and above. The enfranchisement on payment of *vilayartham* was also extended to holdings of which possession was less than 25 years, if the lands contained

valuable improvements. Later on, the system of levying *vilayartham* on lands in the possession of the original holders or their descendants was completely done away with, by G. O. No S/262, dated the 23rd September 1904, and a simple procedure was laid down for the enfranchisement of the *viruthi* lands as follows :—

(1) if the land was proved to be in the possession of the *viruthi-holder*, it was to be confirmed in his name on full *pattom* ;

(2) if it was in the hands of an alienee for 12 years and upwards, a *vilayartham* of 5 times the assessment was to be levied ; and

(3) if the period of possession was less than 12 years, 10 times the assessment was to be levied.

The *viruthi* services for the collection of the land revenue and vital statistics were given up in 1081 M. E./1905 A. D., and the former, which had existed in the non-settled taluks, were abolished by G. O. No. 247/S, dated the 15th May 1905. The land revenue and vital statistics *viruthis* retained in the settled taluks were also ordered to be enfranchised and brought under the *pandarapattom* tenure, by G. Os. Nos. 10728/L. R. and 10801/L. R., dated the 8th August 1909 and 11th August 1909, respectively. The former order also abolished all services coming under (2), (3) and (4) in para 58 *supra*. The only *viruthis* now retained in the State are the *vazhathope viruthis* (for the daily supply of vegetables &c. to the Palace) and the *viruthis* for the performance of the *velakali* and certain other personal services in the Sri Padmanabhaswamy temple, Trivandrum.

Thiruppu-varam.

60. A *thiruppu-varam* is the assignment, in favour of a third party, of a specific portion of the revenue payable to the Government by the holder of a specified land. These assignments are old ones. The circumstances under which they were made cannot now be fully traced in all cases. In some cases, the *thiruppu-varam* represents probably the interest on money lent to or due by the Sirkar. In other cases, it is probably the *misha-varam* due to the *jenmi* of a property, by its tenant, when the interests of the latter (alone) lapsed to the Government by escheat or otherwise. In other cases again, it is probably an allowance or gift to a religious or charitable institution. There is also another class of cases in which it is a remuneration for services to be rendered in certain Sirkar temples. The procedure, however, in all *thiruppu* cases is the same. In every case, the *thiruppu-holder* collects the *varam* direct from the holder of the land on which it is charged. In case of default, payment is enforced by civil suit.

61. The question of *thiruppu-varam* assignment was, unfortunately, not considered and dealt with at the introduction of the settlement. The Settlement Proclamation is silent about it. Dewan Mr. Ramiengar's idea seems to have been, "where the "sums are small and payable to individuals, to commute them "into a lump payment, and when the payments are for the benefit "of a pagoda or for appointed services, to make them payable "direct from the treasury". This idea was not, however, given effect to. The policy of the Settlement department was to reduce the *thiruppu-varam* on a land in proportion to the settlement assessment on it, and where the assignment was found to have lapsed to the Government from any cause, to disallow it and add the same to the net demand on the property. Again, when a land charged with *thiruppu-varam* was relinquished by the holder and was subsequently re-assigned on *paularapattom* tenure, the original *thiruppu-holder* was not allowed to revive his claim. In some cases, the *thiruppu* was completely ignored by the Settlement department. The matter having come to the notice of the Government, the Government first issued the following instructions, in their order No. 11859/L. R., dated the 25th September 1908:—

(i) in a case where the Settlement department had *already* reduced the *pattom*, with the result that both the assessment due to the Government and the *varam* due to the *thiruppu-holder* had been reduced, nothing further was to be done *by the Government*;

(ii) in the taluks where the settlement operations were going on, the Settlement department was to put the *pattom* sufficiently high, so that there would be no reduction in the old *varam*;

(iii) if, in a settled taluk, *thiruppu* had been wholly ignored by the Settlement department, the *thiruppu-holder's* claim to his *varam* at the old rate was to be recognised, and the *iruppu-varam* as fixed by the Settlement department, was to be reduced by the amounts so recognised.

62. The suggestion to convert all *thiruppu varams* into treasury payments, was, at the same time, vetoed by the Government, because by doing so, it was thought that the Government would be giving a fixity to these *thiruppus* which they did not appear then to possess. Subsequently, however, a Full Bench of the High Court decided that the *thiruppu-holder* has the right to collect his *varam* at the pre-settlement rate, that the Sirkar should not reduce a *thiruppu varam* without the consent of the *thiruppu-holder*, and that, if the *varam* is reduced without such consent, the Sirkar would be liable to the *thiruppu-holder* for the balance of the *varam*. In pursuance of this decision, the Government have, in their Order No. 13027/L. R., dated the

6th December 1912, modified instruction No. (i) mentioned above and have recognised the right of all *thiruppu-holders* to collect their *varams* at the pre-settlement rates. The Government have directed that, in cases where the Settlement department has reduced a *thiruppu-varam*, the *varam* at the pre-settlement rate should be allowed to the *thiruppu-holder*, the necessary reduction (to make up the full amount of the pre-settlement *varam*) being made in the *iruppukaram* due to the Sirkar, the reduction of the *iruppukaram* being, of course, possible only in those cases where the *pattom* is not less than the pre-settlement *varam*. In regard to those cases where the settlement *pattom* is less than the pre-settlement *varam*, the Government have ordered that the whole of the settlement *pattom* should go to the *thiruppu-holder* and that he should also be given the balance by the Government till the next revenue settlement of the State. In regard to the *varam* charged on Service Inam lands, the Government have directed that, if a Service Inam holder makes persistant default in the payment of the *varam*, the land should be resumed from the holder and given over to some other person who may be prepared to pay the *varam* regularly and also perform the allotted service.

Karathil-chilavu.

63. Mr. Padmanabha Iyer makes no mention of what is known as *karathilchilavu* in the old accounts. This literally means "expenditure out of the land revenue." It is, in effect, an *assignment* of the whole or of a specific portion of the revenue due on land, generally in favour of its holder. The amount assigned used to be neither actually collected from the holder nor paid to him, but it was fictitiously entered in the accounts as collected and then paid. As in the case of *thiruppu varam*, the general question of *karathilchilavu* was not considered, nor was any definite policy laid down in regard to it, in connection with the general revenue settlement. The matter came up before the Government in 1083 M. E./1908 A. D. It was then felt that the *karathilchilavu* arrangement was not compatible with the new system of accounts and that it should be done away with. The Government accordingly laid down, in their Order No. 10099/L. R., dated the 8th August 1908, that, in a case like this, the *whole* of the settlement tax should be recovered from the *pattadar* and that, whatever amount he was entitled to on account of *karathil-chilavu*, should be paid to him from the public treasury.

64. It has been stated in para 45 *supra* that there have been cases of the lands of incorporated Sirkar Devaswoms having been treated as *pandarapattom* by mistake or by misconception by the Settlement department. Similarly, it is feared that lands belonging to the unincorporated Sirkar Devaswoms and of

even private Devaswoms as their *jenmom* have, in some cases, been treated as *pandarapattom*. The question is how to rectify these mistakes. To cancel a *pandarapattom* registry and reconvert a land into its original tenure may not always be expedient or possible after a time. It is also doubtful if the Government can always enforce the right to cancel a registry already made by them. Secondly, even if there is the right, a cancellation would, in many cases, be only on paper, because the Government have no power to resume a land from its occupant by executive action, and return it to its lawful owner. Thirdly, the cancellation of the registry may expose the Government to civil action by the occupant who might have improved the land on the strength of the registry made by the Government. On the other hand, to leave a wrong *pandarapattom* registry alone, without making amends for the loss sustained by a Devaswom or other rightful owner, would be unfair to the latter and might involve the Government in litigation with private Devaswoms. An adjustment has therefore to be made which would be satisfactory alike to the Government, the occupants and the Devaswoms concerned. The Government feel that some such arrangement as the one referred to in para 63 *supra* may be made in cases like these. That is to say, in every case in which a land belonging to a Sirkar or private Devaswom as its *jenmom* is proved *beyond doubt* to have been registered as *pandarapattom* in the name of a stranger, the registry would ordinarily be left alone, but an amount equal to what the Devaswom or other owner would have realised as rental on the land but for such wrong registry would be paid to the Devaswom or other owner from the public treasury till the next general revenue settlement, so that, in the event of the *pandarapattom* tax on the land being less than the amount so made payable, the Government may be in a position to raise the tax to the level of the latter sum. The lands owned by each such Devaswom, whether Sirkar or private, should form the subject of a separate communication, which would be scrutinised by the Government in the Land Revenue department and the necessary instructions issued according to the facts and circumstances of each case.

Cost of Survey & Settlement.

65. Chapter IX of the report deals with the cost of the survey and settlement. The total outlay on account of the survey of the Sirkar villages is said to be Rs. 14,62,857, and that on account of the settlement of those villages Rs. 39,84,245. The total outlay on account of both the survey and settlement together is thus put down as Rs. 54,47,102. The average cost of the survey works out at Rs. 311 per square mile and of the settlement at Rs. 847

per square mile. Taking both together, the average cost stands at the very high figure of Rs. 1.158 per square mile. The increase in the land revenue due to the settlement is Rs. 8,45,805. This is 16 per cent of the total cost of the survey and settlement and 21 per cent of the settlement cost alone. The corresponding figures for Cochin and Malabar are stated by Mr. Padmanabha Iyer to be 38 per cent and 47 per cent, and 57 per cent and 158 per cent respectively.

66. The expenditure on account of the settlement, as given above, does not include the cost of printing the settlement registers, the taluk *ayacuts*, and other final records, or the proportionate cost incurred by the Government on account of the settlement of the free-hold Edavaga villages. The expenditure incurred by the Government in connection with the settlement of these villages comes to Rs. 27,817. Including this and including also the cost of printing the final settlement records referred to above, the total out-lay on account of settlement amounts to * Rs. 42,19,232. Similarly, the cost of the survey, as given in the preceding para, does not include the expenditure incurred on account of the survey of the Edavaga villages. Including this, the total expenditure on Survey amounts to Rs. 14,88,271. The *total* outlay on the Survey and Settlement departments thus aggregates to Rs. 57,07,503.

* The total cost of settlement, as given in para 352 of the report, is Rs. 42,18,421. In making this total, only the *probable* expenditure for 1088 has been taken into consideration. Including the *actual* expenditure for 1088, the total comes to Rs. 42,19,232. Hence this figure has been adopted.

67. In the concluding portion of his Chapter IX, Mr. Padmanabha Iyer brings to notice that, over and above the annually recurring increase of the *ayacut* revenue due to the settlement, the Department has brought in an additional lump income of Rs. 27,54,215, on account of *vilayartham*, acreage value, arrears of tax &c., collected. Deducting this sum out of the total expenditure on account of the settlement, given in para 66 *supra*, the net cost to the Government on account of the settlement under all heads is shown as Rs. 14,64,206. In regard to this claim of the Settlement department that it has been instrumental in bringing an additional revenue, the Government would point out that this claim is untenable and that most of the addition could have been secured by the normal Revenue department without the intervention of a costly special agency like the Settlement department.

Conclusion.

68. Chapter X of the report is devoted to a brief retrospect of the results and principles of the settlement scheme as actually introduced, and it also contains certain suggestions for the future revision of the settlement. The objects intended to be served by the survey and settlement, as set forth in Dewan Mr. Ramiengar's Memorandum, were the following, viz:—

(1) the preparation of field and village maps;

(2) the revision of the territorial units and the re-arrangement of taluks;

(3) the systematisation of the varying proportions in which the Government demand used to be collected in kind and money;

(4) the equalisation of assessments according to the productive capacity of the land and other considerations of a cognate character and the removal of the gross inequalities which disfigured the pre-settlement system;

(5) the simplification of the land tenures; and

(6) the collection and record of accurate statistics relating to the amount of agricultural stock in the country and as to the condition and resources of the State.

Mr. Padmanabha Iyer proceeds to consider how far these objects have been achieved during the settlement. The first two items relate mainly to the survey operations, and the remaining four wholly concern the work of the Settlement department.

69. (1) *Preparation of the field and village maps.* The maps prepared by the Survey department relate to the revenue fields, as they existed prior to the settlement, and do not indicate the sub-divisions thereof made in the course of and subsequent to the settlement. The survey of such sub-divisions and of minor circuits was entrusted to the Classifiers, except in the seven taluks wholly worked under the new scheme. In these latter taluks, the work was carried out *pari passu* with the settlement by trained surveyors, working under the orders of the Settlement department. The mapping of these sub-divisions made by the Classifiers with no technical knowledge of survey and plotting does not in most cases, represent the actual state of affairs on the ground. Even these imperfect maps are not available for all the sub-divisions brought into the settlement register, and their absence or inaccuracies, as the case may be, must necessarily handicap the officers engaged in the actual administration of the land. In some taluks, for example, Nedumangad, the land records had become so obsolete that a regular re-survey has had to be resorted to. Mr. Padmanabha Iyer hopes that the system of Land Records Maintenance

introduced in all the taluks of the State would remove the confusion in the land records.

His Highness' Government have seen enough in recent years of the work of the Survey department to make them feel that that work could not have been done with the care and accuracy which its importance demanded. In most of the taluks which have been taken up for Land Records Maintenance, it is being found that efficient maintenance means the practical re-doing of a great deal of survey work, and the task is now imposing an almost intolerable burden on the Taluk and Village staff. The Nedumangad taluk is a typical case. The land records of the taluk had come into such a hopeless condition—within ten years after the settlement, as to necessitate a re-survey. The Government have very little doubt that, befor the next general settlement is taken up, a careful re-survey will be absolutely necessary.

70. (2) *The revision of the present territorial units and the re-arrangement of taluks.* The *proverti* was the unit of the revenue administration prior to the settlement. It embraced an average area of 27 sq. miles and was, therefore, considered to be far too large to serve as a unit. Accordingly, each *proverti* was ordered to be sub-divided into *pakuthis* or villages, during the survey, but all the *provertis* were not so sub-divided, nor were the instructions issued for the determination of the territorial or administrative units generally kept in view, except in a few taluks such as Tovala, Agastiswarom, Trivandrum, Chirayinkil &c. The *pakuthi* has now been definitely adopted as the unit. But it varies in extent from 0·81 to 203 sq. miles, and has an average area of 11·9 sq. miles, which is at least twice as much as the average area originally proposed. In regard to the re-arrangement of the taluks, it was originally thought that, with the simplification of the revenue work that would result from the survey and settlement, the number of the taluks would be capable of reduction. But nothing was done in this direction excepting a petty redistribution of the villages comprised in a very few taluks.

His Highness' Government recognise that one of the first things which will have to be done, antecedent to the next general survey and settlement, will be a careful revision of the boundaries of several of the *pakuthis* and to some extent of that of the taluks also. Experience has shown that, in the majority of cases, the *pakuthi* is now a satisfactory unit. There are, however, several *pakuthis* whose size makes efficient administration by single village agency absolutely impossible. The following are typical cases:—Anchal (203.54 sq: miles), Pathanapuram (141.58 sq: miles), Kanjirapalli (101.22 sq: miles), Periyar (98.20 sq: miles), Peermade (91.77 sq: miles), Ranni (87·66 sq: miles), Karikode (75.13 sq: miles), Ottasekaramangalom (50.15 sq: miles),

Enadimangalom (49.09 sq: miles), Kondur (44.03 sq: miles), Anad (42.37 sq: miles), and Karimannur (41.19 sq: miles). Also, it so happens that the unwieldy *pakuthis* are just the ones where, on account of the rapid extension of cultivation, the volume of the revenue work to be got through is very heavy. Again, there are a few *pakuthis* where neither the area nor the work would justify a staff wholly for them, for example, Kudamalur (·81 sq: mile), Bhuthapandi (1.14 sq: miles), Haripad (1.47 sq: miles), Kunthallur (1.47 sq: miles), Parakka (1.70 sq: miles) and Chirayinkil (1.74 sq: miles). The Government, therefore, feel that, well in advance of the next general survey and settlement, a careful revision of the boundaries of the *pakuthis* will be necessary. In regard to the taluks, however, the Government are by no means certain that any substantial reduction of the number of the taluks will, at any time, become possible. The large increase in the land revenue which has taken place in recent years and the higher quality of work now demanded (and which is certain to be demanded to an increasing extent in the future) will render any substantial increase in the average size of a taluk inexpedient. But while the total number of the taluks will have practically to remain unchanged, His Highness' Government recognise that a revision of the taluk boundaries may, in some cases, be made to the advantage of the public and with beneficial results to the administration of the Land Revenue department.

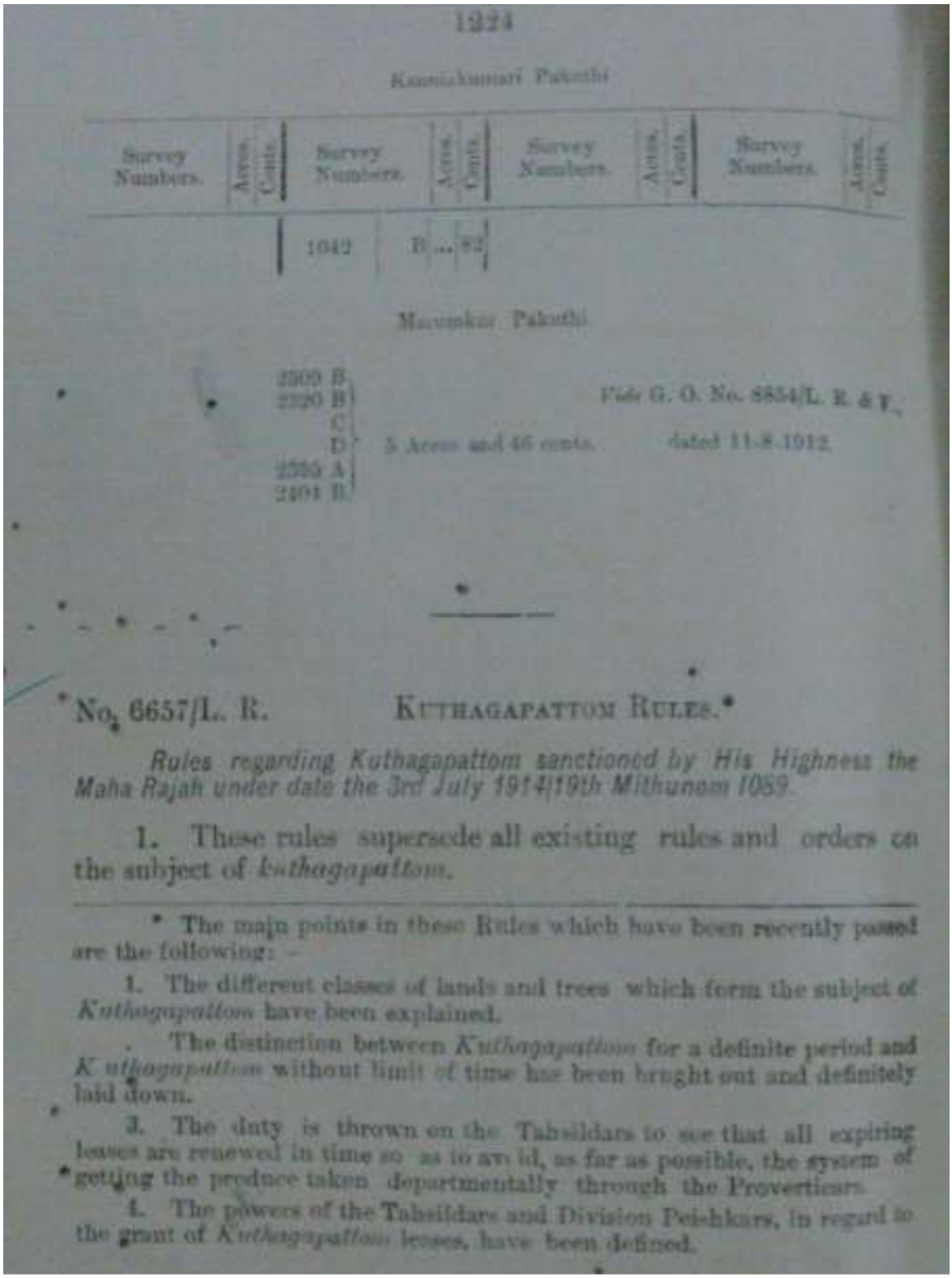
71. (3) *The systematisation of the varying proportions, in which the Government demand used to be collected in kind and in money.* Prior to the settlement, there were six different rates for the commutation of the portion of the wet land paddy tax payable in money. By the Settlement Proclamation dated the 14th Kumbhom 1061, a rate of 6 chs. was fixed uniformly for the whole State, but, in the course of the actual settlement, this rate was departed from in the Shencottah taluk, where the old lesser rate was confirmed. Again, when payment in kind was wholly abolished and a rate of 11 chs. per *parah* was fixed, the rates of equivalence of the *kottahs* in Nanjenad and Shencottah in terms of the *parah* were reduced, so far as the above portion of the paddy tax was concerned. This reduction, coupled with the system of apportionment of the paddy tax prevailing in different parts of the State, has resulted in four different average commutation rates being actully applied to the paddy tax as under:—

(a) in the Nanjenad taluk, 8 chs. 6 cash per *parah*;

(b) in other taluks of the Padmanabhapuram Division and in the taluks of the Trivandrum Division, 8 chs. 8 cash per *parah*;

(c) in the Shencottah taluk, 6 chs. 10 cash per *parah*;

THE *KUTHAGAPATTOM RULES & TRANSFER OF REGISTRY RULES* ISSUED BY HIS HIGHNESS THE MAHARAJAH OF TRAVANCORE DATED 3.7.1914 IS AS FOLLOWS:-



1224

Kanniakumari Pakuthi

Survey Numbers.	Acres.	Cents.	Survey Numbers.	Acres.	Cents.	Survey Numbers.	Acres.	Cents.	Survey Numbers.	Acres.	Cents.
			1042	B ...	82						

Macumkar Pakuthi

2309 B
2320 B
C
D
2335 A
2401 B

5 Acres and 46 cents.

Vide G. O. No. 8854/L. R. & T., dated 11.8.1912.

No. 6657/L. R. KUTHAGAPATTOM RULES.*

Rules regarding Kuthagapattom sanctioned by His Highness the Maha Rajah under date the 3rd July 1914/19th Mithunom 1089.

1. These rules supersede all existing rules and orders on the subject of *kuthagapattom*.

* The main points in these Rules which have been recently passed are the following: –

1. The different classes of lands and trees which form the subject of *Kuthagapattom* have been explained.

2. The distinction between *Kuthagapattom* for a definite period and *Kuthagapattom* without limit of time has been brought out and definitely laid down.

3. The duty is thrown on the Tahsildars to see that all expiring leases are renewed in time so as to avoid, as far as possible, the system of getting the produce taken departmentally through the Proverticars.

4. The powers of the Tahsildars and Division Peishkars, in regard to the grant of *Kuthagapattom* leases, have been defined.

2. *Kuthagapattom* means and includes

(a) Lease of *poramboke* land on fixed ground-rent for putting up shops in bazaars and markets.

(b) Lease of trees standing on *poramboke* land.

(c) Lease of land or trees or both included under "*thanuthuchitto*".

(d) Lease of trees standing on *thariso* land.

3. *Kuthagapattom* is of two kinds—

(1) For a definite period.

(2) Without limit of time.

4. The procedure prescribed in the following sections shall be followed in respect of *kuthagapattom* of all kinds falling under sections (2) and (3).

5. A 'Kuthagapattom Register' shall be maintained in each *pakuthi* in Form (A) appended to these rules. This register shall include all *kuthagapattom* leases now existing but leases for a definite period shall be entered in the First Part and leases without limit of time in the Second Part of the register.

6. In regard to *kuthagapattom* for a definite period, it is the duty of the Provertiar to send up to the Tahsildar an extract from Register (A) two months before the expiry of the existing lease, giving particulars regarding the date of expiry of the lease, the amount of the *kuthagapattom* as per existing lease, and the survey number, nature, and extent of the land. The number and description of the trees standing on the land at the time of report shall be noted in the 'Remarks' column.

7. On receipt of the statement, the Tahsildar shall publish a notice fixing a date for auction sale of the lease and the time and place for the auction. This notice shall be published in the Taluk and Village offices 15 days before the auction takes place. A notice shall also be served on the holder of the existing *kuthagapattom* lease announcing the time and place for the auction sale.

8. On the date fixed, the Tahsildar shall hold the auction commencing with the amount of the existing lease as the upset price. He shall, after the auction is closed, prepare the auction list giving the name of the highest bidder and the amount of the bid. This list shall be signed by the Tahsildar, Provertiar, Accountant and the persons who bid at the auction. The Tahsildar shall sanction the *kuthagapattom* lease himself in case the period of the lease does not extend beyond 3 years, and in

other cases, recommend to the Division Peishkar the grant of the lease in the name of the highest bidder.

9. The Division Peishkar to whom a recommendation is made under section 8 shall, after examining the records, either sanction the lease or order a fresh auction, if he finds any irregularity of procedure in connection with the auction, or if he thinks that the auction bid is too low to be accepted.

It is open to the Division Peishkar to sanction *kuthaga-pattom* kases for periods not exceeding 12 years.

10. In all cases in which the *kuthagapttom* lease extends to a period exceeding 12 years, the sanction of Government shall be obtained by the Division Peishkar before granting the lease.

11. As a rule, all *kuthagapattom* leases should be given only for definite periods. "Kuthagapattom without limit of time" relates to leases of trees on *poramboke* land which have been already given out without limit of time under the Rules dated the 27th Karkadagom 1074, and leases of shop sites in bazaars and markets.

12. Whenever lands are acquired for public purposes, it is the duty of the department to which the land is handed over to arrange for leasing out the produce of the trees, if any, standing on such lands. But in cases in which there is delay in handing over the land, or in which the land is acquired for purposes connected with the Land Revenue department, it is the duty of the Tahsildar, when possession of the land is taken by the Sirkar under the Land Acquisition Regulation, to arrange for leasing out the produce of the trees standing on such land. This should also be done by auction sale, for which a short notice shall be published on the spot by beat of drum.

13. The Tahsildar shall maintain a *pakuthi-seiv* Kuthaga-pattom Register in the Taluk office in the same form as the Village Register (A). The extract from Register (A) sent up by the Proverttion should be checked with the Taluk Register before the notice under section 7 is issued. It shall be the duty of the Tahsildar to examine this register from time to time and see that prompt action is taken in time for renewal of leases. The Tahsildar shall record a certificate in this Register before the end of Karkadagom each year that all old leases have been renewed.

14. The prompt and regular renewal of *kuthagapattom* leases would obviate the necessity for authorising the Proverti-vars to take the produce of trees departmentally, as is sometimes

done at present. This should be the last resort when, after all the steps have been taken for renewal of the lease, no person has come forward to take up the lease on reasonable terms.

15. When a *Luthagapattom* lease is sanctioned, a document on stamped paper shall be executed by the lessee setting forth the particulars of the lease. Every new lessee shall be put in possession of the lands and trees, if any, only after the document is executed. On failure of the lessee to execute the document, the lease shall be re-auctioned at the risk of the original bidder.

16. On the expiry of any existing lease, if the old lessee has not taken up a further lease, the Tahsildar shall direct him by notice to quit, and instruct the local Provercar to take possession of the land or trees or both.

17. Notwithstanding anything contained in these rules, it shall be open to the Tahsildar to grant permission for the temporary occupation of *poramboke* or other Government land in connection with fairs and festivals. The Tahsildar shall hold a public auction for the purpose to determine the ground rent to be levied per diem or for the whole period of occupation.

18. These rules shall come into force from the 1st Chingom 1090.

Huzur Cutcherry, Trivandrum,
3rd July 1914.

(By order)
M. RAJA RAJA VARMA,
Under Secretary to Government.

FORM A.

KUDIYAIPATTOM REGISTER.

Village.....
Taluk.....

Serial No.	No. and date of order sanctioning lease	Full name of lessee	Survey number and area.				Description of land and No. and description of trees covered by the lease	Amount of lease.			Date of commencement and termination of lease	Remarks
			Number.	Sub-division number or letter.	Acres.	Cents.		Rs.	Chs.	C.		

No. 6673/L. R.

Rules regarding pokkuvaravu or transfer of registry sanctioned by His Highness the Maha Rajah under date the 7th July 1914/23rd Mithunom 1089*

1. These rules supersede all existing rules and orders on the subject of *pokkuvaravu* or transfer of registry.

2. "*Pokkuvaravu*" means transfer of registry or the recording of changes in the names of 'landholders' for the purposes of collection of revenue.

3 The term 'landholders' includes all holders of land liable to the payment of public revenue as defined in section 1, clause (*a*), of the Revenue Recovery Regulation, I of 1068, and is synonymous with 'pattadar'.

4. '*Pattah*' does not create or confer any title to land. It recognises the holder of the *pattah* as the landholder for the purpose of recovery of revenue.

5. The Settlement department having issued *pattahs* at the settlement to all holders of land liable to the payment of revenue, all changes subsequent to settlement have to be brought to book in order to keep the land revenue accounts up to date. The process by which these changes or mutations of names are ascertained and recorded in the Government accounts is known as *pokkuvaravu*.

6. The procedure laid down in the following sections shall, in future, be followed in conducting *pokkuvaravu* enquiries.

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* These Rules which have been recently sanctioned have introduced an important change of procedure in regard to *Pokkuvaravu* or transfer of registry. The following are some of the main points:

1. *Pokkuvaravu* enquiries have been converted from office work to field work.

2. Definite instructions are laid down as to the general principles to be observed in dealing with different classes of *Pokkuvaravu* cases.

3. The duty has been thrown on the Proverticars of reporting the deaths of pattadars with the names of the next legal heirs so far as could be ascertained from the Proverticar's personal knowledge and local enquiry.

4. It is laid down that no case should be rejected or thrown out on default of appearance of the party, as it is the immediate concern of the Land Revenue department to bring on record the names of the real holders to be held liable to the payment of Government revenue.

5. The real nature and effect of *pokkuvaravu* decisions have been explained.

6. The duty is thrown on the Tahsildars to see that *pattahs* are promptly issued in pursuance of *pokkuvaravu* decisions.

7. *Pokkuvaravu* or transfer of registry falls under three classes :—

(*a*) by voluntary transfer,
(*b*) by decree of court,
(*c*) by succession.

8. In regard to class (a), the Sub-Registrars are required to send to the Tahsildars, from time to time, all copies of documents relating to sale, partition, gift or agreement involving permanent transfer of rights relating to immovable property. The Sub-Registrars are required also to take down '*sammathapathrams*' or declarations from the alienors, on the back of the copies of documents as to the transfer of registry in the names of alienees. All transfers falling under class (*a*) will, therefore, be intimated to the Tahsildars in the first instance by the Sub-Registrars with copies of documents.

9. In regard to transfer under class (*b*), the decrees or orders of the civil courts creating or transferring any right to immovable property are bound to be registered under the Registration Regulation. Copies of such documents will also be sent to the Tahsildars by the Sub-Registrars.

10. In regard to transfers due to succession, under class (*c*), it is the duty of the Proverticar, whenever a pattadar whose name is entered in the Thandaper account dies, to report the fact to the Tahsildar with the name of the next legal heir so far as can be ascertained from his personal knowledge or local enquiry.

11. It is open to any party desiring transfer of registry under any of the classes mentioned in section 7 to apply to the Tahsildar in writing, with copies of the documents, if any, in support of the application.

12. On receipt of the copy of document under section 8 or 9, the Proverticar's report under section 10, or an application under section 11, the Tahsildar shall file each case in the 'Register of Pokkuvaravu cases' and then forward the record to the Proverticar for preparation of a statement in Form (A) giving particulars regarding the survey number, area, tenure and assessment on the land, No. and name of old pattadar, nature of alienation or succession and name of the person ascertained by the Proverticar as the person entitled to *pokkuvaravu* registry. When the case involves any sub-division, an entry to that effect shall be made in the column provided for the purpose, with particulars of the position and area of the sub-division to be made.

A sketch drawn to scale showing the measurements and extent of the sub-division and also its position with reference to the adjoining holdings shall be prepared and incorporated with the records of the case.

13. The statements prepared under section 12 shall be consecutively numbered and arranged and kept ready in the village office for the Tahsildar's enquiry and orders.

14. The Tahsildar shall conduct all *pakivarave* enquiries in the *pakuthi*, in the presence of the ryots and village officers. He shall visit each *pakuthi* at least once in 6 months for this purpose, after giving previous notice of the date or dates fixed for such work in each *pakuthi*. Such notice shall be published by beat of drum in the *pakuthi*, and copies of the notice shall also be affixed to the Taluk and Village offices.

15. The notice referred to in section 14 shall give the survey numbers of the lands for which transfer of registry has been applied for or found necessary, with the names of the existing pattadar and proposed transferee, and shall require all persons who may be interested in the registry to appear in person or by authorised agent, with the documentary and oral evidence in support of their claim.

16. On the day fixed in the notice, the Tahsildar shall hold a summary enquiry in each case in the presence of the ryots and village officers, note down the evidence adduced and record his decision, in his own hand, as to the person in whose name the *pattah* should be transferred. The decision shall be announced on the spot and a note recorded to that effect under the Tahsildar's decision, in his own hand.

17. The nature of the summary enquiry to be made by the Tahsildars under section 16 will, of course, depend upon the nature of each case. The following general principles are however laid down for their guidance.

(a) When the transfer of registry is sought under the authority of a court decree or registered document, the production of the document, with a certificate by the Proverticar as to possession and payment of tax, will be sufficient evidence.

[NOTE.—Possession of a mortgagee or lessee is the possession of the holder for the purpose of this section.]

When the alienor is not the pattadar, the series of transactions connecting the alienor with the pattadar should be ascertained and recorded.

(b) When the transfer of registry is due to inheritance, a summary enquiry as to who is the nearest legal heir to the deceased pattadar according to the law applicable to the parties concerned, with a certificate from the Proverticar as to possession and payment of tax, would be sufficient.

(c) No 'conditional' or 'temporary' *pakivarave* in the names of mortgagees, lessees &c., should be made.

18. The essential features of the payeshire prescribed above are the following :—

(*a*) The enquiries will be conducted in the villages themselves, instead of in the Taluk office as hitherto, and in the presence of the ryots and village officers.

(*b*) The enquiries will be as summary as is consistent with due examination.

(*c*) The enquiries will be public.

19. With the help of the information contained in the statement prepared by the village officials and such further information as the Tahsildar could easily obtain from the ryots and village officials on the spot, at the time of his enquiry, regarding the fact of possession and payment of tax and other particulars, he should be able to easily determine the person in whose name the *pattah* should be transferred in each case. Even if the parties in particular cases are absent, the necessary information should be obtained from the other ryots present and the village officials and a decision arrived at. No case should be rejected or thrown out for default of appearance of the party, as it is the immediate concern of the Land Revenue department to keep the Thandaper account up to date and bring into it the names of the real land holders who should be held liable for the payment of Government revenue.

This summary enquiry and decision is only an arrangement for fiscal purposes and does not affect the legal rights of any person in respect of the lands covered by the *pokkuvaravu* decisions. The question of legal rights is always subject to adjudication by civil courts and *pattahs* will be revised from time to time in accordance with judicial decisions.

20. There shall be an appeal from the decision of the Tahsildar to the Division Peishkar, provided that the appeal is preferred within one month from the date of the decision.

21. The Tahsildar's decision shall not be given effect to until the period prescribed for appeal has elapsed or the appeal, if preferred, has been disposed of.

22. After the decision has become final, the Tahsildar shall issue a *pattah* in the prescribed form under his signature, in accordance with the decision and cause the necessary entries to be made in the Thandaper.

23. The Nos. of the *pattah* and entry in Thandaper shall run on consecutively except in cases in which the transferee is already the holder of a *pattah*. Any blanks in the old Nos. shall be retained as blanks until the periodical re-writing of the Thandaper account once in 5 years.

24. The Tahsildar should satisfy himself during his inspections that the *pattahs* have been issued and Thandaper account brought up to date. Any delay or laxity in this respect should be severely noticed.

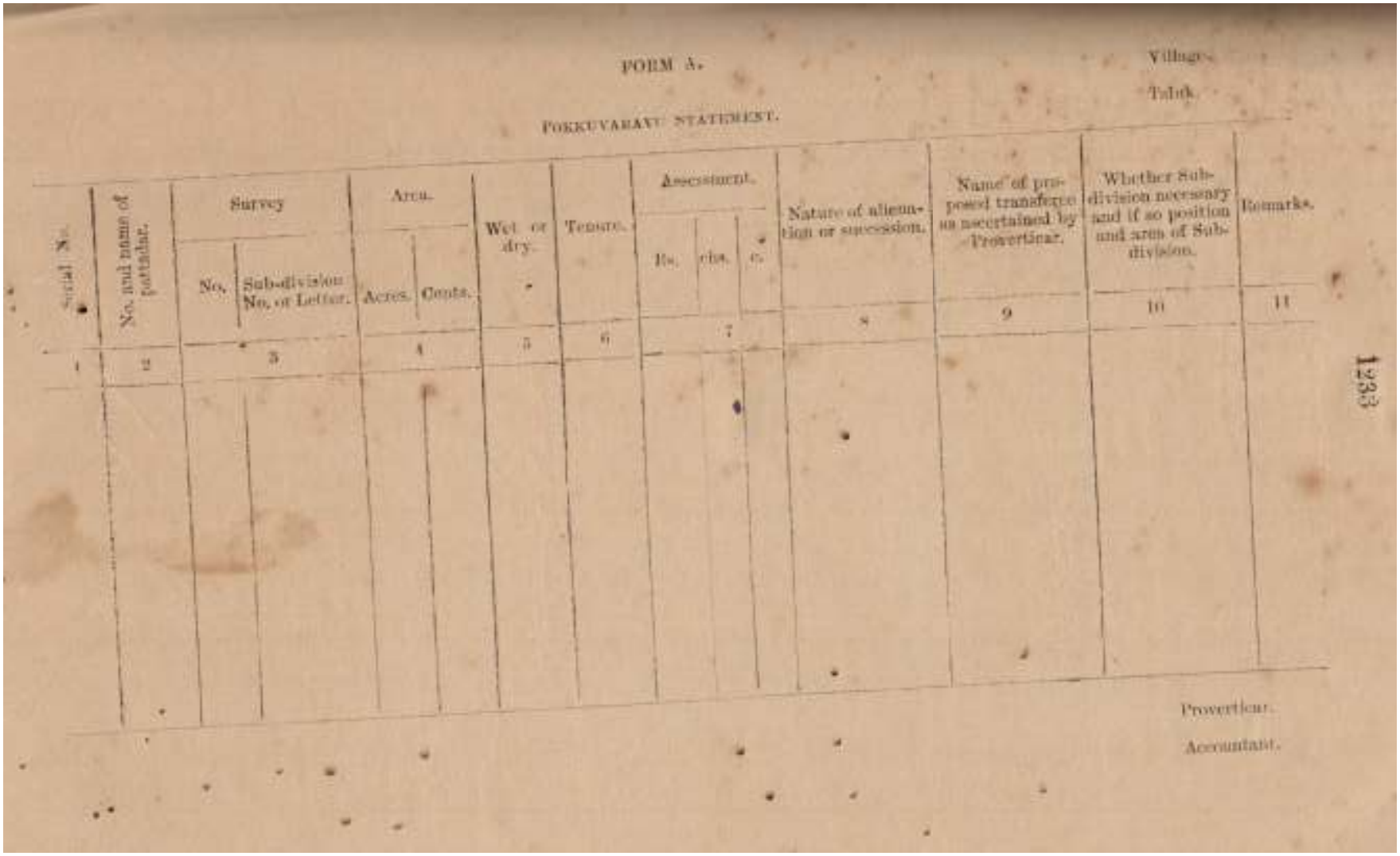
25. Before the close of Karkadagom of each year, the Tahsildar shall record a certificate in the Thandaper account of each *pakuthi* that all the *pokkuvaravu* pattahs have been issued and that the Thandaper account has been brought up to date.

26. These rules shall come into force from 1st Chingom 1090.

(By order)

Huzur Cutcherry, Trivandrum,
7th July 1914.

M. RAJA RAJA VARMA,
Under Secretary to Government.



FORM A.

Village.

Taluk.

POKKUVARAVU STATEMENT.

Serial No.	No. and name of patadar.	Survey No.	Survey Sub-division No. or Letter.	Area. Acres.	Area. Cents.	Wet or dry.	Tenure.	Assessment. Rs.	Assessment. chs.	Assessment. c.	Nature of alienation or succession.	Name of proposed transferee as ascertained by Provertiear.	Whether Sub-division necessary and if so position and area of Sub-division.	Remarks.
1	2	3		4		5	6	7			8	9	10	11

Provertiear.

Accountant.

1233

1234

1. Notes of Tahsildars' enquiry.

2. Order of Tahsildar.

3. Date of issue of pattah.

4. Date of entry in the Thandaper.

STATE SPECIAL OFFICE, GOVERNMENT LAND RESUMPTION, PUBLIC OFFICE BUILDINGS,
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