

# THE KERALA GOVERNMENT LAND ASSIGNMENT ACT, 1960

(Act 30 of 1960)

**Amended by Acts 7 of 1980, 21 of 1991 and 16 of 2000**

*An Act to provide for the assignment of Government lands*

**Preamble.**— WHEREAS it is expedient to regulate the assignment of Government lands and to remove doubts as to the validity of the limitations and restrictions imposed in assignments of land by the Government or under their authority;

**BE** it enacted in the Eleventh Year of the Republic of India as follows:—

**1. Short title, extent and commencement.**— (1) This Act may be called the Kerala Government Land Assignment Act, 1960.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once.

**2. Definitions.**— (1) The following, that is to say:—

(i) all public roads, streets, lanes and paths, the bridges, ditches, dykes and fences on or beside the same;

(ii) the bed of the sea and of harbours and creeks below high water mark, the beds and banks of rivers, streams, irrigation and drainage channels;

(iii) all canals, tanks, lakes, back-waters and water courses;

(iv) all land wherever situated, save in so far as the same are the property of—

(a) jenmis or holders of Inams; or

(b) holders of land in any way subject to the payment of land revenue to the Government; or

(c) any other registered holder of land in proprietary right; or

(d) any person holding land under grant from the Government otherwise than by way of lease or licence; or

(e) any person claiming through or holding under any of the persons referred to in clause (a), (b), (c) or (d), are, and are hereby declared to be, Government lands except as may be otherwise provided by any law for

## Statement of Objects and Reasons

Act 30 of 1960

In the Travancore-Cochin area, assignments of Government lands are regulated by the provisions contained in the Travancore-Cochin Government Land Assignment Act, 1950. In the Malabar area assignments of Government lands are not regulated by any specific statute as in the Travancore-Cochin area. In the Malabar area the Government Grants Act, 1895, is in force and it merely provides that the conditions and restrictions imposed in the grant will have effect notwithstanding anything contained in any other law. It is considered necessary to have a comprehensive legislation for the whole State for the purpose of regulating the assignments of Government lands. Hence the Bill.  
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the time being in force, subject to all rights of way and other public rights and to the natural and easement rights of other land owners and to all customary rights legally subsisting.

**Explanation I.**— Land registered in the name of a person but subsequently abandoned or relinquished and all lands held by right of escheat, purchase, resumption, reversion or acquisition under the Land Acquisition Act for the time being in force as Government lands within the meaning of this sub-section.

**Explanation II.**— In this sub-section the expression 'high water mark' means the highest point reached by the ordinary spring tide at any season of the year.

(2) In this Act, unless the context otherwise requires,—

- (a) "assignment" includes a transfer of land by way of lease and a grant of licence for the use of land;
- (b) "assignee" includes his heirs;
- (c) "prescribed" means prescribed by rules made under this Act.

#### Case laws

**Right of trees:** No provision which entitles an assignee to get the trees that had been there at the time of the assignment. A reserved tree can be reserved perpetually and the assignee has no option to assume control over it as he wishes. *Gopi v. Tahsildar* — 2002 (3) KLT 526.

**Bunk constructed on concrete on Government land, allotted to a person with stipulation to pay rent:** Held, amounts to an assignment. *B. Govinda Rao v. District Collector And Others* — 1983 KLT 328 : AIR 1983 Ker. 10.

**Officers entrusted with powers have to act judicially:** Oral hearing should be afforded in certain cases. Local inspection with notice, only to one of the parties. Held is against the principles of Natural Justice and is void. *Vareed v. Thasildar* — 1980 KLT SN 80.

**3. Assignment of Government Land.**— (1) Government land may be assigned by the Government or by any prescribed authority either absolutely or subject to such restrictions, limitations and conditions as may be prescribed.

[(2) No Government land assignable for public purpose may be assigned under sub-section (1) without consulting the local authority as defined in the Kerala Panchayat Raj Act, 1994 (13 of 1994) or the Kerala Municipality Act, 1994 (20 of 1994) as the case may be and if such local authority required such land, for carrying out any of the functions assigned to it, Government may set apart such land for that purpose.]

**Explanation.**— Any restriction as to alienation, whether voluntary or otherwise, of the rights of the assignee, shall, be a restriction within the meaning of this section.

#### Case laws

**Assignment proceedings during 1943 under Government Grants Act, 1895: Not granted by the Board of Revenue:** Cannot be compelled to remit the land value at the present market rate. *Ammini Zacharias v. District Collector* — 2000 (1) KLJ 480.

**Ecology: Protection of environment: Diversion of forest land:** Government orders laying down condition to regulate exploitation of environment and natural resources. Not imposing total prohibition in matter of enjoyment of environment. Supply sufficient guarantee for development of agriculture, trade and industry. Not violative of Arts. 48A & 51A. *Nature Lovers Movement v. State of Kerala* — ILR 2000 (1) Ker. 677 : AIR 2000 Ker. 131.

**Government acquiring land: Land not fully utilised:** Balance area cannot be reconveyed or assigned to the erstwhile owner at the price it was acquired years later. Should be sold in public auction. *State of Kerala v. Bhaskaran Pillai* — 1997 (2) KLT 217 : 1997 (5) SCC 432.



**Government land likely to be needed for a public purpose:** When the Government land is likely to be needed for a public purpose, the authorities should desist from assigning away such land only to acquire the same later. *Thadathil Varghese Chacko v. Government of Kerala* — 1997 (1) KLJ 543 : ILR 1997 (3) Ker. 137.

**Application for assignment of land dismissed:** Cannot circumvent Land Conservancy Act and direct surrender of the property in the possession of the applicant to be handed over to a third party. *Kesava Reddiar v. District Collector* — 1992 (1) KLT SN 16.

**Government acquiring land: Land not fully utilised:** Balance area cannot be reconveyed to the erstwhile owner on the basis of G.O.M.S. 530/67/RD dated 30-10-1967. G.O. is not constitutionally valid. Procedure laid down in the Act has to be followed for assignment. *Bhaskaran Pillai v. State of Kerala* — 1991 (2) KLT 332 : 1991 (2) KLJ 373 : ILR 1991 (3) Ker. 645 : AIR 1992 Ker. 86.

**Cancellation of assignment:** Cancellation of assignment already made, grounds for. *George Paul v. Administrative Officer* — ILR 1979 (1) Ker. 269.

**Land Assignment Rules, 1964, R.12:** Proper procedure to be adopted for assignment of land. Discussed. *Kottarakara Panchayat v. State of Kerala And Others* — 1975 KLT SN 63.

#### 4. Procedure to be followed before Government lands are assigned.—

(1) When any Government land is proposed to be assigned by the prescribed authority, otherwise than by way of lease or licence, the Tahsildar of the taluk in which the land is situate or any officer empowered by the Government in this behalf shall notify in the prescribed manner that such land will, by public auction or otherwise, be assigned, and call upon those who have got any claim to such land to prefer to him their objections, if any, in writing, within a time which shall be specified in such notification.

(2) If any objection is preferred within the time specified in the notification, the Tahsildar or such other officer shall enquire into the same and pass an order in writing either accepting or rejecting the claim in full or in part and intimate in writing the fact of such disposal to the claimant.

(3) For the purposes of the enquiry under sub-section (2) the officer making the enquiry shall have all the powers conferred upon the Collectors and Tahsildars by the law for the time being in force regarding summoning of persons for disposal of matters connected with revenue administration.

#### Case laws

**Land acquired for public purpose:** Procedure to be followed by the Government while disposing of the land acquired for public purpose. *Secretary to Government v. Narayanaru Madhusoodharu* — 2002 (1) KLT SN 101.

**Assignment of Government land to private persons:** Preparation and approval of the lists under R.11 are conditions precedent for initiating steps for assigning the land. Government have no power to transfer Government property according to its whims and fancies. Locus standi of petitioner deserves to be overruled to deal with matter on merits. *Youth Voice Arts Social And Cultural Orgn. v. State of Kerala* — 2001 (3) KLT 909 : 2001 (2) KLJ 761.

5. Order of assignment.— (a) when the time fixed in the notification under sub-section (1) of Section 4 has elapsed and no objection has been preferred; or

(b) when any objection preferred is rejected and—

(i) the time for preferring an appeal from the order has elapsed and no appeal has been preferred; or

(ii) when an appeal has been preferred and the appeal is, rejected by the appellate authority

the land may, subject to such rules as may be made by the Government in this behalf, be assigned by the prescribed authority.

**6. Bar of suits.**— No suit against the Government shall be entertained in any Civil Court in respect of any order passed under this Act except upon the ground that—

- (a) the order is in breach of any completed agreement to assign, or
- (b) the land in respect of which such order has been passed is not Government land:

Provided that any such suit by a person who was a party or privy to and had due notice of the proceeding under this Act shall be instituted within two years from the date of service of the notice of such order.

**7. Power to make rules.**— (1) The Government may make rules.—

- (a) prescribing the manner in which assignment of land may be made; whether by public auction or otherwise;
- (b) prescribing the qualifications of persons to whom assignment of lands may be made;
- (c) prescribing the order of priority for the assignment of land whether by public auction or otherwise;
- (d) prescribing the authority by which such assignment may be made;
- (e) prescribing the procedure to be followed in assigning the land;
- (f) providing for the publication of notifications and service of notices;
- (g) prescribing the procedure to be followed in the enquiry regarding claims preferred;
- (h) prescribing the rates at which land may be assigned and tree growths may be valued, and the mode of recovery of the amounts due;
- (i) providing for the protection of royalties on the land assigned;
- (j) prescribing the restrictions, limitations and conditions subject to which an assignment can be made in any case or class of cases;
- (k) providing for appeals from the orders of any authority competent to assign any land;
- (l) prescribing the time within which appeals may be preferred;
- (m) regulating the powers of the appellate authority and the procedure to be followed by such authority;
- (n) providing for revision by the Board of Revenue of any order passed by the prescribed authority, and prescribing the time within which such revisional power may be exercised;
- (o) regulating the issue of Pattah or other title deed evidencing the assignment;
- (p) prescribing forms where forms are necessary; and
- (q) generally for carrying out the purposes of this Act.

(2) All rules made under this Act shall be published in the Gazette and thereupon they shall have the force of law.



(3) All rules made under this Act shall be laid for not less than fourteen days before the Legislative Assembly, as soon as possible after they are made, and shall be subject to such modifications as the Legislative Assembly may make during the session in which they are so laid or the session immediately following.

**Case law**

**Kuthakappattom Rules apply to existing leases also:** Government can prescribe rate of rents, alter or vary the rates. *Athanasius College Association v. State of Kerala* — 1983 KLT SN 17.

**8. Assignment to take effect with restrictions, conditions, etc. according to their tenor.**— All the provisions, restrictions, conditions and limitations contained in any Pattah or other document evidencing the assignment of Government land or of any interest therein shall be valid and take effect according to their tenor, notwithstanding any law for the time being in force or any custom or contract to the contrary.

**Explanation.**— In this section, the expression "Government land" shall include land under the control or management of the Government at the time of the assignment.

**Case laws**

**Restrictions contained in the assignment should prevail:** In view of the non-obstante clause in S. 8 restrictions contained in the assignment should prevail notwithstanding anything contained in Transfer of Property Act. *Gopi v. District Collector* — 1992 (2) KLT 605 : 1992 (2) KLJ 622.

**Agreement that lands would not be alienated till amounts due to Government had been paid:** Alienation after the amounts were paid. It cannot be said that there was any patta or other document containing any condition to which S.8 could apply. *State of Kerala v. Joseph* — AIR 1977 SC 625 : 1977 (1) SCC 213.

• <sup>2</sup>[8A. x x x x]

**9. Repeals.**— (1) The Travancore-Cochin Government Land Assignment Act, 1950 (XXXII of 1950), is hereby repealed.

(2) The Government Grants Act, 1895 (Central Act 15 of 1895), in so far as it relates to any grant or other transfer of land or of any interest therein by or on behalf of the Government of Kerala, shall cease to apply to the Malabar District referred to in sub-clause (2) of Section 5 of the State Reorganisation Act, 1956 (Central Act 37 of 1956).

(3) All rules and orders made or deemed to have been made under the Travancore-Cochin Government Land Assignment Act, 1950, hereby repealed, and all rules and orders in force immediately before the commencement of this Act relating to the assignment of Government lands in the Malabar District referred to in sub-section (2) of Section 5 of the State Reorganisation Act, 1956 (Central Act 37 of 1956), so far as they are not inconsistent with this Act, shall be deemed to have been made under the corresponding provisions of this Act, and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under this Act.

**Case law**

**Preference in assignment of land:** Persons having kumki privileges and or have been in possession if entitled for preferential rights. Nature of kumki rights. *Parameswara Bhat v. Tahsildar, Kasaragod And Others* — 1967 KLT 766 : 1967 KLJ 308.

2. Inserted by Act 7 of 1980, published in K. G. Ext. No. 36 dt. 27/05/1980 and subsequently omitted by Act 21 of 1991. Prior to omission it read as under:

**"8A. Exercise of powers of Government by District Councils.**— The powers of the Government under this Act except those under Section 7 shall be exercisable by the district council constituted under Section 3 of the Kerala District Administration Act, 1979, subject to such restrictions and control as may be laid down by the Government from time to time."