

*LAND UTILISATION ORDER, 1967

S. R. O. No. 176/67.— In exercise of the powers conferred by sub-section (1) and clause (b) of sub-section (2) of Section 3 of the Essential Commodities Act, 1955 (Central Act 10 of 1955), read with the notification of the Government of India in the Ministry of Food and Agriculture No. S. R. O. 3950 dated the 9th December, 1957 and with the prior approval of the Central Government, the Government of Kerala hereby make the following Order, namely:—

1. Short title, extent and commencement.— (1) This Order may be called the Kerala Land Utilisation Order, 1967.

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

(3) It shall come into force at once.

2. Definitions.— In this Order, unless the context otherwise requires:—

(a) "Collector" means the Collector of the district concerned and includes a Revenue Divisional Officer of the division concerned:

(b) "Food Crops" includes paddy, fish, sugarcane, vegetables, tapioca, yam, tea, coffee, cardamom, pepper, groundnut, cocoa and banana plantain]:

(c) "Form" means a form appended to this Order;

(d) "holder of land" means a person holding any land whether as owner, tenant or otherwise.

Case Law

Locus standi: Does not confer any particular right on any particular person. *Annakutty Varkey v. State of Kerala and Others* — 1976 KLT SN 107.

3. Power to require holder of land to grow specified crops.— (1) Notwithstanding anything contained in any law, order, custom or practice for the time being in force, if the State of Government are satisfied that it is necessary or expedient to increase the production of food crops in any area, they may, by order published in the Gazette, direct that every holder of land in that area shall grow, over such portion of his land and within such period as may be specified in the order, such food crop or food crops as may be so specified, in addition, to any crop he may have grown over such land.

(2) Every order made under sub-clause (1) shall also be published by beat of tom in the village or villages in which such area is situated, and copies thereof shall be affixed on the notice boards in the concerned Taluk Offices, Collectorate, Panchayat Offices and Village Offices].

* Published under Notification No. (p) 225/67/Agrl. dt. 17/06/1967 in K. G. No. 26 dt. 04/07/1967 (w.e.f. 04/07/1967).

1. Substituted by S. R. O. No. 240/86, published in K. G. Ext. 146 dt. 12/02/1986. Prior to substitution it read as under: "(b) "Food Crops" includes paddy, sugarcane, vegetables tapioca, yam, tea, coffee, cardamom, pepper, groundnut, cocoa and banana plantain".

2. Substituted by Notification Published in K. G. dt. 30/12/1969.

4. Notice to cultivative land.— Notwithstanding anything contained in any law, order, custom or practice for the time being in force, the Collector may, by notice in writing, call upon the holder of any occupied waste or arable land (Whether appurtenant to a building or not) situated within the Collector's jurisdiction, which is not under cultivation and which, in the opinion of the Collector, is likely to be left fallow during the current cultivation season, to cultivate it with paddy or other food crops, either personally or through any other person, within such period as may be specified in the notice.

(2) The notice shall be served by delivering or tendering to the holder of the land a copy of such notice and if the holder of the land is not readily traceable or refuses to accept the notice, service shall be effected by affixing a copy of the notice on the outer door of his house and another copy on a conspicuous part of the land to which it relates.

(3) If, within ten days from the date of service of the notice or within such further period as the Collector may grant in this behalf, the holder of the land shows to the satisfaction of the Collector that the land is being cultivated or is not capable of being cultivated, the Collector shall cancel the notice.

(4) Every notice under sub-clause (1) shall be in Form A and every order of cancellation under sub-clause (3) shall be in Form B.

5. Sale of right to cultivate land.— (1) Where—

(a) a direction under sub-clause (1) of Clause 3 has been made; or

(b) a notice under sub-clause (1) of clause 4 has been served on any holder of land and such notice has not been cancelled under sub-clause (3) of that clause, the holder of the land shall comply with the direction or notice, as the case may be, within the time allowed, and on his failure to do so, the Collector may, without prejudice to any other action that may be taken against the holder of the land in respect of the contravention, by order direct and arrange for the sale by public auction or otherwise, of his right to cultivate the land in question for a specified period which shall ordinarily be three years.

(2) Every order made under sub-clause (1) shall be in Form C.

(3) Out of the amount realised by sale as provided in sub-clause (1), the revenue due on the land and other dues and to the Government, if any, shall first be adjusted and the balance made over to the holder of the land by way of compensation.

Note.— Twenty-five per cent of the bid amount shall be collected immediately after the sale and balance within ten days. The sale will be confirmed only after the realisation of the entire amount. Failure to remit the balance amount within the said period of ten days will entail forfeiture of the initial deposit.

(4) Every successful bidder, on confirmation of the sale mentioned in this clause, shall be given a certificate of sale in Form D, incorporating the conditions of such sale.

6. Land cultivated with any food crop not to be cultivated with any other food crop.— (1) No holder of any land, which has been under cultivation with any food crop for a continuous period of three years immediately before the commencement of this Order, shall convert or attempt to convert or utilise or attempt to utilise such land for the cultivation of any other food crop or for any other purpose except under and in accordance with the terms of a written permission given by the Collector.

[Explanation.— For the purpose of this sub-clause and sub-clause (2), removal of tree-growth, whether partial or total, on any land cultivated with cardamom shall be deemed to be an attempt to convert or utilise such land for a purpose other than cultivation of cardamom.

(2) No holder of any land who cultivates any land with any food crop for a continuous period of three years at any time after the commencement of this Order shall, after the said period of three years, convert or attempt to convert or utilise or attempt to utilise such land for the cultivation of any other food crop or for any other purpose except under and in accordance with the terms of a written permission given by the Collector:

[Provided that except in the case of lands under cardamom cultivation, no permission under sub-clause (1) or sub-clause (2), shall be necessary where the cultivation for which the land is converted or attempted to be converted or attempted to be converted or utilised or attempted to be utilised is paddy cultivation or fish culture:

Provided further that the lands under cultivation of paddy should not be converted or attempted to be converted or utilised or attempted to be utilised for fish culture permanently, but only seasonally].

Case Laws

Permission under O.6(2) from the District Collector whether mandatory: Since the petitioner has not pleaded that the land was used for cultivating a food crop for a continuous period of three years either before 4-7-1967 or thereafter, the contention premised upon the provisions cannot be entertained. Permission under O.6(2) from the District Collector is mandatory. *Pankajakshan v. RDO — 2005 KHC 314 : 2005 (1) KLT SN 147 : 2005 (3) KLT SN 15.*

Permission whether necessary: For conversion of cultivable land for industrial purpose, permission is necessary unless the statutory rules are amended. Directions of Government have no force. *Samuel v. Secretary to Government — 2002 (2) KLT 339.*

Parties whether entitled to notice before inspection: Permission sought for clearing cardamom area. Decision on the same can be said to be adjudicatory. Parties not entitled to notice before inspection. *Kuttiali v. District Collector and Others — 1987 (1) KLT 911 : 1986 KLJ 941.*

7. Power of Collector to direct cultivation of land with the food crop which was being cultivated.— (1) If it appears to the Collector that any person is attempting to contravene the provisions of sub-clause (1) or sub-clause (2) of clause 6, then, notwithstanding anything contained in any law, order, custom or practice for the time being in force, and without prejudice to any other action that may be taken against such person, the Collector may, by notice in writing in Form E, call upon such person to cultivate such land with those food crops which were under cultivation in the land in the three years referred to in sub-clause (1) or sub-clause (2) as the case may be, of clause 6, either personally or through any other person, within the period specified in the notice:

Provided that no such notice shall be issued unless such person has been given an opportunity of being heard:

Provided further that no such notice shall be issued to the holder of any land if the cultivation attempted to be made in that land is paddy cultivation.

(2) Every notice issued under sub-clause (1) shall be served in the manner provided in sub-clause (2) of clause 4.

3. Added by S. R. O. No. 293/77 dt. 01/04/1977, published in K. G. Ext. No. 210 dt. 06/04/1977.

4. Substituted by S. R. O. No. 240/86, published in K. G. Ext. No. 146 dt. 12/02/1986. Prior to substitution it read as under:

"Provided that [except in the case of lands under cardamom cultivation] no permission under sub-clause (1) or sub-clause (2) shall be necessary where the cultivation for which the land is converted or attempted to be converted or utilised or attempted to be utilised is paddy cultivation."

(3) If the person to whom a notice under sub-clause (1) has been served does not comply with the notice within the time specified in the notice or within such further time as may be allowed by the Collector, the Collector may, without prejudice to any other action that may be taken against him, by order direct and arrange for the sale by public auction of the right to cultivate the land as provided for in Clause 5, subject to such conditions as may be specified in the order.

(4) Every order made under sub-clause (3) shall be in Form F.

(5) Out of the amount realised by sale as provided in sub-clause (3), the revenue due on the land and other dues to the Government, if any, shall first be adjusted and the balance made over to the holder of the land by way of compensation.

Note.— Twenty five per cent of the bid amount shall be collected immediately after the sale and the balance within ten days. The sale will be confirmed only after the realisation of the entire amount. Failure to remit the balance amount within the said period of ten days will entail forfeiture of the initial deposit.

(6) Every successful bidder, on confirmation of the sale mentioned in this clause shall be given a certificate of sale in Form D, incorporating the conditions of such sale.

Case Laws

Notice: Opportunity to be heard to be given. *X v. Y — 1974 KLT SN 42.*

Order whether legal: No finding that the land was utilised for food crop in the previous three years. Extraneous matters taken into consideration. Order illegal. *X v. Y — 1974 KLT SN 86.*

8. Failure of purchaser to cultivate.— (1) Every sale under this Order, of the right to cultivate the land shall be subject to the condition that the purchaser cultivates the land concerned, with paddy or other food crops only and on the failure of the purchaser to so cultivate the land, the right to cultivate shall, subject to the provision of sub-clause (2) be liable to be terminate before the expiry of the period for which such right was sold, without prejudice to any other action that may be taken against the purchaser. In such a case, the purchaser shall also be responsible for any loss arising out of the termination of the right to cultivate.

(2) Before terminating the right to cultivate any land as provided in sub-clause (1), the purchaser shall be given an opportunity of being heard.

9. Power of Collector to arrange for cultivation in certain cases.— (1) Where at a public auction held in pursuance of clause 5 or clause 7, no person comes forward to bid or the amount of the highest bid is, in the opinion of the Collector, low, having regard to the profit that is likely to be derived by cultivating the land are also found impracticable, the Collector may make arrangements for the cultivation of the land for a period not exceeding three years.

(2) Where arrangements are made as provided for in sub-clause (1) and cultivation is undertaken accordingly, the Government shall have all the rights of the land-holder to manage and cultivate the land and to realise the profits accruing therefrom.

(3) Out of the sale proceeds of the produce of such cultivation, the expenses of cultivation (including supervision charges), and the revenue due on the land and other dues to the Government, if any, shall be adjusted and the balance shall be made over to the holder of the land.

10. Eviction of purchaser in certain cases.— The purchaser of the right to cultivate a land shall have no right whatsoever to the land, after the expiry of the period

for which such right has been sold or after the termination of such right, as the case may be, and shall be liable to summary eviction if he continues in possession after such expiry or termination.

11. Appeal.— (1) Any person aggrieved by an order of the Collector under this Order may prefer an appeal to the Board of Revenue within thirty days from the date of receipt of the order.

(2) Every appeal preferred under sub-clause (1) shall be accompanied by the order appealed against or a certified copy of it.

(3) The Board of Revenue shall, after giving an opportunity to the appellant to be heard, dispose of the appeal as expeditiously as possible.

12. Use of force by the Collector.— The Collector may take or cause to be taken such steps or use or cause to be used such force as may in his opinion be reasonably necessary for securing compliance with any order made by him under this Order.

13. Sums due recoverable as arrears of land revenue.— Any amount due to the Government under this Order shall be deemed to be arrears of land revenue and shall be recoverable under the Revenue Recovery Act for the time being in force.

14. Revision.— The State Government shall have the power to call for the records of the acts and proceedings of the Collector or the Board of Revenue in any case under this Order and pass such orders thereon as they think fit.

15. Repeal.— The Kerala land Utilisation Order, 1958, is hereby repealed except as respects things done or omitted to be done thereunder.

FORM A

[See Clause 4(4)]

Notice under Clause 4(1) of the Kerala Land Utilisation Order, 1967

To

Shri.....of Village.....Taluk.....

Whereas the lands specified below and situated in the Village of..... in the Taluk of..... are not under cultivation and are likely to be left fallow during the current cultivation season, you are hereby called upon to cultivate the lands with paddy or other food crops, either personally or through any other person, within a period of..... from the date of service of this notice.

Any contention that the land is being cultivated or is not capable of being cultivated should be raised within ten days from the date of service of this notice or within such further period as may be granted in this behalf, failing which it will be presumed that no such contention is being raised and further action will be taken.

Collector/Revenue Divisional Officer.

LIST OF WASTE OR ARABLE LAND NOT CULTIVATED

Name of Taluk	Name of Village	Survey Number	Classification	Extent
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Station:

Date:

Collector/Revenue Divisional Officer.