

# **\*THE KERALA LAND ASSIGNMENT RULES, 1964**

**S. R. O. No. 71/64.**— In exercise of the powers conferred by Section 7 of the Kerala Land Assignment Act, 1960 (Act 30 of 1960), and in supersession of the rules for assignment of Government lands issued under notifications I and II G.O. (Press) No. 1029/Rev. dated 18/10/1958 published in the Kerala Gazette Extra Ordinary No. 107 as subsequently amended, the Government of Kerala hereby make the following Rules for the assignment of Government lands, namely:—

## **GENERAL PROVISIONS**

**1. Short title and commencement.**— (a) These rules shall be called "the Kerala Land Assignment Rules, 1964".

(b) They shall come into force at once.

**1A. Exemptions.**— Nothing contained in these rules shall apply to or affect,—

- (i) lands situated within the limits of a Corporation, Municipality or Cantonment or within such other areas as Government may, by order specify;
- (ii) assignment of Government lands made for the specific purpose of cultivating Tea, Coffee, Rubber, Cinchona and Cardamom;
- (iii) assignment of Government lands under any special rules other than Kuthakapattom Rules of 1947 whether already made or to be made in respect of lands reserved for allotment under such rules;
- (iv) Government lands held under special tenures like Kandukrishi, Viruthi, etc;
- (v) Government land held under any special agreement with the Government;
- <sup>1</sup>[(vi) Government lands which stand transferred to and vested in the Panchayats under the Kerala Panchayats Act, 1960 (32 of 1960)].

**2. Definitions.**— In these rules, unless the context otherwise requires—

(a) "Alienation" includes sale, gift, <sup>2</sup>[bequest under a will], mortgage, hypothecation or lease.

(b) "assignee" means a person to whom land is assigned under these rules and includes his heirs or successors in interest.

<sup>2</sup>[(c) "Assignment" means transfer of land by way of registry and includes a lease and a grant of licence for the use of the land].

<sup>3</sup>[(cc) "encroachment not considered objectionable" means encroachment on

\* Published under Notification G. O. (P) No. 200/Rev. dt. 23/03/1964 in K. G. Ext. No. 55 dt. 25/03/1964 (w.e.f. 25/03/1964).

1. Inserted by Notification G. O. (P) 687/67/RD dt. 30/12/1967 published in K. G. Ext. No. 244 dt. 30/12/1967.

2. Substituted by Notification G. O. (P) 687/67/RD dt. 30/12/1967, published in K. G. Ext. No. 244 dt. 30/12/1967.

3. Inserted by Notification G. O. (P) 285/66/RD dt. 17/05/1966, published in K. G. No. 22 dt. 31/05/1966.

Government land, which is available for assignment, by a person or a family eligible to get land, on registry under these rules].

- <sup>4</sup>[(cd) "beneficial enjoyment" means the enjoyment of land for purposes like providing approach road to the assignee's registered holding and protection of his watercourse, standing crops and buildings].
- (d) "Family" includes a person, his wife or her husband, their children living with or dependent on them and also the parents who are solely dependent on such person.
- (e) "Government lands" shall, for purposes of these rules, consist of lands belonging to Government and available for assignment as per lists prepared by the Revenue Department and approved by the competent authority under these rules and such other lands as may be set apart for purposes of these rules.
- <sup>5</sup>[(f) "Hold" with its grammatical variations means to actually possess land].
- <sup>5</sup>[(g) "Scheduled Castes and Scheduled Tribes" means the Scheduled Castes and Scheduled Tribes referred to in clauses (24) and (25) of Article 366 of the Constitution of India, and shall include converts to other religions from Scheduled Castes as well].
- (h) "Tahsildar" means the Tahsildar in charge of a Taluk and includes a Special Tahsildar employed specially for land assignment work.
- (i) "Village Officer" includes Village Assistant.

**3. Assignment to be without auction.**— Assignment of land under these rules shall be without auction.

#### REGISTRY OF LAND

**4. Purposes for which land may be assigned.**— Government lands may be assigned on registry for purposes of personal cultivation, house-sites and beneficial enjoyment of adjoining registered holdings.

**<sup>6</sup>[5. Maximum limit to be assigned for cultivation.**— (1) The extent of land that shall be registered in favour of a single family for personal cultivation by members of the family shall not ordinarily exceed—

<sup>6A</sup>[(a) in the case of unoccupied lands, not more than fifty cents of land, whether wet or dry, in the plains and not more than one acre of wet or dry lands in hilly tract;]

<sup>7</sup>[(b) in the case of lands held on lease, whether current or time expired or by way

4. Substituted by Notification No. G. O. (P) 687/67/RD dt. 30/12/1967, published in K. G. Ext. No. 244 dt. 30/12/1967.

5. Substituted by Notification No. G. O. (P) 687/67/RD dt. 30/12/1967, published in K. G. Ext. No. 244 dt. 30/12/1967.

6. Substituted by Notification No. G. O. (P) 687/67/RD dt. 30/12/1967, published in K. G. Ext. No. 244 dt. 30/12/1967.

6A. Substituted by Notification No. G.O. (P) 63/2005/RD. dt. 03/03/2005, published as SRO. No. 545/2005 in K.G. Ext. No. 1204 dt. 27/05/2005. Prior to the substitution it read as:

"(a) in the case of unoccupied lands, not more than one acre of land whether wet or dry, in the plains and not more than one acre of wet land or three acres of dry land in hilly tracts;"

7. Substituted by Notification No. G.O. (P) 63/2005/RD. dt. 03/03/2005, published as SRO. No. 545/2005 in K.G. Ext. No. 1204 dt. 27/05/2005. Prior to the substitution it read as: "(b) in the case of lands held on lease whether current or time expired or by way of encroachment not considered objectionable,—

(i) where there are no valuable improvements effected on the land by the occupant, not more than one acre of land, whether wet or dry, in the plains and not more than one acre of wet land or three acres of dry land in hilly tracts;

(ii) where there are valuable improvements effected on the land by the occupant, not more than two acres of land wet or dry in the plains and not more than two acres of wet land or four acres of dry land in hilly tracts."



of encroachment not considered objectionable, the lessee or the encroacher as the case may be will, be eligible for assignment of not more than 50 cents of land, whether wet or dry, in the plains, and one acre of land, whether wet or dry in hilly tracts. Land, if any, held in excess of this area shall be surrendered to Government and no compensation shall be payable for the lands so surrendered".]

<sup>7A</sup>[X X X X]

(2) When a family owns or holds any land over which it has proprietary right or has security of tenure, only the balance of extent of Government land necessary to make up the extent admissible under sub-rule (1) shall be granted to it on registry.

**Explanation.**— For the purposes of this rule—

(i) the following Taluks and Villages shall be treated as hilly tracts—

<sup>8</sup>[(a) Poonjar and Melukavu Villages in Meenachil Taluk; Erumely, Kanjirappally, Mundakkayam and Manimala Villages in Kanjirappally Taluk; Vellavur Village in Changanachery Taluk and the Devicolam, Peermade and Udumbanchola Taluks in the District of Kottayam].

(b) Agali, Pudur and Sholayar villages in Attapady Valley in Perinthalmanna Taluk; Nenmara, Vallanghy, Pothundy, Ayilur, Kairadi and Thiruvazhiyad villages in Chittur Taluk in the District of Palaghat.

<sup>9</sup>[(c) Varavoor, Pilakad, Mullurkara, Attur, Nedumpura, Cheruthuruthi, Desamangalam, Pullur, Panjal, Painkulam, Kanjirakode, Kumaranellur, Enkakkad, Karumathara, Virupakka, Thekkumkara, Manalithara, Paralikkad, Wadakkanchery, Venganellur, Killimangalam, Chiramannangad, Vallarakkad, Kadangode, Peringannur, Minalur, Puthuruthi, Mundathicode, Eyyal, Vellattanjur, Chiranellur, Trichur, Arangottukara, Thalassery, Kottapuram, Chitanda, Velur, Thavyur, Kiralur, Kariyannur, Nelluvaya, Thonnurkara, Pulacode, Chelakkara, Kurumala, Pangarappilly, Kondazhi, Mayyannur, Elanad, Vennur, Pazhayannur, Vadakkethara, Chelacode, Thiruvilwamala, Kanearcode and Pampadi villages in Talappilly Taluk; Murinjur Thekkumuri, Murinjur Kizhakkumuri, Melur, Pariyaram, Elinjipara, Kodakara, Kodassery, Varandarappilly, Mupilayam, Nandipulam, Mattathur, Amballur, Kallur and Thrikkur Villages in Mukundapuram Taluk; Pananchery, Vellanikara, Madakkathara, Nettissery, Ollukara, Kozhukully, Viyur, Vilavattom, Kurichikkara, Killannur, Kolazhy, Kainur, Mulayam, Puthur, and Mannamagalam villages in Trichur Taluk in the District of Trichur.

(d) The entire South Wynad Taluk in the District of Kozhikode.

**7A.** Deleted by Noti. No. G.O. (P) 63/2005/RD. dt. 03/03/2005, published as SRO. No. 545/2005 in K.G. Ext. No. 1204 dt. 27/05/2005. Prior to the deletion it read as: "Note.— In the case of occupied lands and lands held on lease, whether current or time expired, or by way of encroachment not considered objectionable, where the occupant has not effected valuable improvements on the lands, one acre of wet land in the plains shall be deemed to be equivalent to one acre of dry land, and one acre of wet land in the hilly tracts shall be deemed to be equivalent to three acres of dry lands; and in the cases of lands held on lease whether current or time expired or by way of encroachments not considered objectionable where the occupant has effected valuable improvements on the lands, one acre of wet land in the plains shall be deemed to be equivalent to one acre of dry land and one acre of wet land in the hilly tracts shall be deemed to be equivalent to two acres of dry land."

**8.** Substituted by S. R. O. No. 424/68 dt. 12/12/1968, published in K. G. Ext. No. 279 dt. 17/12/1968.

**9.** Inserted by Notification No. G. O. (P) 338/68/RD dt. 24/06/1968, published in K. G. Ext. No. 141 dt. 25/06/1968.



- (e) Anikad, Kottangal, Perumpatty villages in Thiruvella Taluk in the District of Alleppey].
- <sup>10</sup>[(f) The entire North Wynad Taluk, Bayar, Kadamerkala, Kumbadaje, Ubrangala, Nettanije, Bellurn, Bedadka, Bendadka, Adoor, Delampady, Abhur, Karbka, Muliya, Kuttikode, Kolathur, Vorkady, Heroor, Paivalike, Chippar, Pathur, Kadlamogru, Talakala, Meenja, Kuloor, Mugu, Angadimogru, Badoor, Maire, Enmakaje, Padre, Kattukkukke, Bela and Pordal villages in Kasargode Taluk; Panathady, West Eleri, Meloth, East Eleri, Kinanur, Karnidalam, Beloor, Kayyur, Kilaikode and Thimiri villages in Hosdurg Taluk; Eravessi, Thedikadavu, Neduvil, Padiyoor, Kalliyad and Vayakkara Villages in Taliparamba Taluk in the District of Cannanore].
- <sup>11</sup>[(g) Kunnathukal A and B and Ottasekharamangalam A and B Villages in Neyyattinkara Taluk, Palode B, Aryanad B and Mannoorakara Villages in Nedumangad Taluk in District of Trivandrum].
- <sup>12</sup>[(h) Perinad, Chethakkal, Konni, Vadasserikara, Malayalapuzha, Konnithazham and Iravon Villages in Pathanamthitta Taluk; Chithra and Ittava Villages in Kottarakara Taluk; Piravathoor, Edamon, Arianjavu, Kulathupuzha, Yeroor and Alayamon villages in Pathanapuram Taluk and Koodal, Kodumon and Enadimangalam villages in Kunnathur Taluk in the District of Quilon].
- <sup>13</sup>[(i) Kurimannur, Kodikulam and Kanni Elam tract villages in Thodupuzha Taluk; Kuttamangalam, Keerampara, Kottappady and Kadavoor Villages in Muvattupuzha Taluk; Vengoor East village in Kunnathunad Taluk; Manjapara and Malayattur Villages in Alwaye Taluk in the District of Ernakulam].
- <sup>14</sup>[(ii) "Valuable improvements" shall mean improvements by cultivation of tea, coffee, rubber, cardamom, arecanut, pepper or coconut or by way of construction of contour bunds or Kayal bunds or by way of construction of buildings.
- (iii) for the purpose of calculating the extent of land that may be assigned to a family, the total extent of land possessed or held with proprietary right or fixity of tenure by the head of the family and also the members of the family both individually and collectively shall be taken into account. Assignment made in favour of a family under these rules shall, for the purpose of calculating the maximum extent that may be so assigned, include assignment made to members of the family both individually and collectively, the total extent so assigned not exceeding the maximum area that may be assigned to that family. The area under encroachment by a member of a family shall, for the purpose of these rules, be deemed as the area under encroachment by the family].

## 6. Assignment for house site and for beneficial enjoyment.— (1) The extent

10. Substituted by S. R. O. No. 171/70 dt. 17/04/1970, published in K. G. Ext. No. 132 dt. 20/04/1970.
11. Substituted by S. R. O. No. 424/68 dt. 12/12/1968, published in K. G. Ext. No. 279 dt. 17/12/1968.
12. Substituted by S. R. O. No. 103/69 dt. 01/03/1969, published in K. G. Ext. No. 69 dt. 07/03/1969.
13. Inserted by S. R. O. No. 424/68 dt. 12/12/1968, published in K. G. Ext. No. 279 dt. 17/12/1968.
14. Substituted by Notification No. G. O. (P) 338/68/RD dt. 24/06/1968, published in K. G. Ext. No. 141 dt. 25/06/1968.

of Government land that shall be registered in favour of a family as house site shall not exceed <sup>15</sup>[fifteen cents (6.072 ares)]. The assignee shall be liable to pay land value for house sites at the rate of <sup>16</sup>[Rs. 200 per cent].

(2) The extent of Government land that may be granted on registry when the same is indispensably required for the beneficial enjoyment of adjoining registered holdings <sup>17</sup>[shall not exceed, in the case of one registered holding <sup>17A</sup>[fifteen cents (6.072 ares)].

<sup>18</sup>[Note.— (1) The authority competent to assign land for beneficial enjoyment shall be the Revenue Divisional Officer. He may pass order of assignment in such cases only after personally satisfying himself that the land is absolutely necessary for that purpose].

<sup>19</sup>[x x x x]

<sup>20</sup>[(3) An assignment under sub-rule (2) shall be subject to the payment of market value of the land at the time of assignment and survey and demarcation charges at the rates specified in sub-rule (4) of Rule 10 excluding the value of improvements, if any, made by the occupants on the land].

<sup>21</sup>[7. Priority to be observed in assignment.— (1) Where any person is in occupation of Government lands under lease, whether current or time expired, or by way of encroachment not considered objectionable <sup>22</sup>[such land if such occupation is before the 1st day of August, 1971 shall be assigned to him on registry:]

<sup>23</sup>[Provided that the total extent of land, if any, owned or held by him in proprietary right or with security of tenure is less than the limits laid down in sub-rule (1) of rule 5 or the annual family income from sources other than the Government land held by him is below Rs. 30,000;

Provided further that, in the case of any land set apart for assignment on registry to the members of Scheduled Caste/Scheduled Tribe and subsequently encroached upon by those persons who are landless and eligible for assignment of land under these Rules, such land may be assigned to such encroachers, only after setting apart equal extent of

15. Substituted by Notification No. G. O. (P) 63/2005/RD. dt. 03/03/2005, published as SRO. No. 545/2005 in K. G. Ext. No. 1204 dt. 27/05/2005, for "twenty five cents (10 ares)."
16. Substituted by Notification No. G. O. (P) 63/2005/RD. dt. 03/03/2005, published as SRO. No. 545/2005 in K. G. Ext. No. 1204 dt. 27/05/2005, for "Rs. 200 per acre (40.47 ares)."
17. Substituted by G. O. (P) 687/67/RD dt. 30/12/1967, published in K. G. Ext. No. 244 dt. 30/12/1967.
- 17A. Substituted by Notification No. G. O. (P) 63/2005/RD. dt. 03/03/2005, published as SRO. No. 545/2005 in K. G. Ext. No. 1204 dt. 27/05/2005, for "twenty-five cents (10.12 ares)."
18. Added by G. O. (P) 531/66/Rev. dt. 28/09/1966, published in K. G. No. 40 dt. 11/10/1966.
19. Omitted by Notification. G. O. (P) 687/67/RD dt. 30/12/1967, published in K. G. Ext. No. 244 dt. 30/12/1967.
20. Substituted by S. R. O. No. 180/75 dt. 24/02/1975, published in K. G. Ext. No. 103 dt. 25/02/1975. Prior to substitution it read as under:  
<sup>(3)</sup> An assignment under sub-rule (2) shall be subject to the payment of—  
 (a) market value of the land assigned and survey and demarcation charges at the rates specified in sub-rule (4) of Rule 10, where the assignment is in favour of a person whose annual family income exceeds Rs. 3,000;  
 (b) the land value, tree value and survey and demarcation charges at the rates prescribed by or under Rule 10, where the assignment is in favour of a person whose annual family income does not exceed Rs. 3,000."
21. Substituted by Notification No. G. O. (P) 687/67/RD dt. 30/12/1967, published in K. G. Ext. No. 244 dt. 30/12/1967.
22. Substituted by S. R. O. No. 284/71 dt. 03/08/1971, published in K. G. Ext. No. 346 dt. 06/08/1971.
23. Substituted by Noti. No. G. O. (P) 63/2005/RD. dt. 03/03/2005, published as SRO. No. 545/2005 in K. G. Ext. No. 1204 dt. 27/05/2005. Prior to the substitution it read as: "Provided that the total extent of land, if any, owned or held by him in proprietary right or with security of tenure is less than the limits laid down in sub-rule (1) of Rule 5 or the annual family income from sources other than the Government lands held by him is below Rs. 10,000."



other suitable unoccupied area for the members of Scheduled Caste/Scheduled Tribe Community;

Provided also that, in the case of landless Scheduled Caste and Scheduled Tribe families income limit mentioned in the first proviso shall not be applicable.]

(2) In the case of unoccupied lands, the following order of preference shall be observed in granting registry:—

(i) **First Preference.**— for persons who do not own or hold any land either in proprietary right or with security of tenure and whose annual family income does not exceed Rs. <sup>23A</sup>[30,000];

Provided that in assigning lands under this clause <sup>24</sup>[ten per cent of the area shall be assigned to Ex-servicemen and] not less than twenty five per cent of the area shall be assigned to the members of the Scheduled Castes and Scheduled Tribes subject to availability of applicants.

**Explanation.**— For the purposes of this clause, a Kudikidappukaran or the holder of a Kudiyruppu shall be deemed to be a person who does not own or hold any land;

(ii) **Second preference.**— for persons who do not own or hold any land either in proprietary right or with security of tenure who are disabled while in active military service or who are dependents of those who are killed or disabled while in active military service;

(iii) **Third Preference.**— for small holders who have not been able to resume their lands due to expiry of the time for applying for resumption and whose annual family income does not exceed Rs. <sup>23A</sup>[30,000].

**Explanation.**— For the purposes of this clause, "small holder" means a small holder as defined in the Kerala Land Reforms Act, 1963 (1 of 1964);

(iv) **Fourth Preference.**— for serving military personnel with an approved service of not less than three years and who are decorated for gallantry or their dependents who do not own or hold any land either in proprietary right or with security of tenure;

<sup>25</sup>[Provided that in the absence of applications from such military personnels as aforesaid, the applications of other serving Military personnel with an approved service of not less than 10 years, and who do not own or hold any land either in propriety right or with security of tenure shall be considered].

(v) **Fifth Preference.**— for persons whose annual family income does not exceed Rs. <sup>23A</sup>[30,000] and the total extent of the lands owned or held by them either in proprietary right or with security of tenure is less than the extent prescribed in these rules.

(3) No registry shall be granted to any family in occupation of Government land either under a lease, current or time expired or by way of encroachment, unless it surrenders to Government, without claiming any compensation, the land in excess of the

**23A. Substituted by Notification No. G.O. (P) 63/2005/RD. dt. 03/03/2005, published as SRO. No. 545/2005 in K.G. Ext. No. 1204 dt. 27/05/2005, for "10,000".**

**24. Inserted by S.R.O. No. 73/72 dt. 14/02/1972, published in K. G. Ext. No. 109 dt. 15/02/1972.**

**25. Added by Notification No. G.O. (P) 63/2005/RD. dt. 03/03/2005, published as SRO. No. 545/2005 in K.G. Ext. No. 1204 dt. 27/05/2005.**

extent proposed to be registered in its favour. If there is excess land, in its possession and if is not willing to surrender the excess land eviction will be resorted to.

#### **Case Law**

**Possession of another piece of land is no ground to refuse the grant of patta:** When once registry is granted, the same can be cancelled only under R.8(3). Government can assign the lands in favour of any person if the conditions in the rules are satisfied. *Latheef v. State of Kerala* — 1999 (2) KLT 285.

**<sup>26</sup>[7A. Preference to Kumkidars.**— (1) Preference shall be given to the former Kumkidars <sup>27</sup>[who had applied for assignment before the 6th December, 1968] in the matter of assignment of Kumki lands upto a limit of two chains (40.234 metres) from the warg land but subject to the ceiling prescribed in the Kerala Land Reforms Act, 1963 (Act 1 of 1964).

(2) If the source of water supply to the warg land lies beyond the two chains (40.234 metres) limit, a plot including the water source and sufficient to enjoy the irrigation facilities shall be assigned even if it be beyond the limit of two chains (40.235 metres) mentioned in sub-rule (1).

(3) The assignment shall be subject to the payment of land value as prescribed in these rules.

(4) Tree value, except for Sandalwood, shall not be collected from the kumkidars

<sup>28</sup>[(5) The cultivating tenants of the former Kumkidars who could not apply for the assignment of Kumkilands may apply for the assignment of the same within three months from the date of order of the Land Tribunal declaring them eligible for the purchase of the tenancy right in respect of the warg land under the Kerala Land Reforms Act, 1963 (1 of 1963).

**Note.**— The concession provided for in sub-rules (1) to (5) shall apply to the legal heirs of the Kumkidars also provided the original Kumkidars had applied for the assignment of the land in question within the period mentioned in sub-rule (1).

(6) Persons who have purchased warg lands from Kumkidars who had applied for assignment before the 6th December, 1968 will also be eligible for assignment under these rules subject to the condition that land value at market rate prevailing at the time of assignment shall be payable by such assignees.

**Note.**— Market value at the prevailing rate shall be exclusive of the improvements, if any, made by the occupants of the land].

#### **Case Laws**

**Assignment of kumki right in favour of one of the co-owners:** Enures to the benefit of the other members also. *Keshava Bhat v. Krishna Bhat* — 2000 (3) KLT SN 80.

**Kumkidars have preferential claim for assignment:** Nature of kumki rights. Rights cannot be taken away and assigned to third parties. *Govinda Batta v. Shankaranarayana Bhatta* — 1990 (1) KLT SN 20.

**8. Conditions of assignment on registry.**— <sup>29</sup>[(1) Lands, granted on registry shall be heritable and alienable.]

26. Inserted by Notification No. G. O. (P) 353/66/Rev. dt. 24/06/1966, published in K. G. No. 27 dt. 05/07/1966.

27. Inserted by S. R. O. No. 844/79 dt. 11/07/1979, published in K. G. No. 31 dt. 31/07/1979.

28. Substituted by S. R. O. No. 844/79 dt. 11/07/1979, published in K. G. No. 31 dt. 31/07/1979. Prior to substitution it read as under:

"(5) The former Kumkidars may apply to the Tahsildar or the District Collector concerned for the assignment of the Kumki lands within six months from the date of publication of these rules in the Gazette, failing which such lands may be assigned in favour of other applicants, if any, on the expiry of the period of six months fixed in the sub-rule."

29. Substituted by S. R. O. No. 477/69 dt. 21/11/1969, published in K. G. Ext. No. 281 dt. 22/11/1969.



<sup>30</sup>[(1A) Notwithstanding anything contained in sub-rule (1), unoccupied lands assigned on registry shall not be alienable for a period of three years from the date of registry:

Provided that the assignee may mortgage such lands—

<sup>31</sup>[(a) to the Government or Co-operative Institutions or the Tea Board or the Rubber Board or any other financial institution recognised by the Government in this behalf, as security for obtaining loans for agricultural or land improvement purposes or for growing tea or rubber, and]

(b) to the Government or Co-operative Institutions as security for obtaining loans for house construction under the Village Housing Project Scheme or any other housing schemes sponsored by the Government, if such house is required for the occupation of the assignee or his family].

(2) The assignee or a member of his family or his successor-in-interest shall reside in the land if it is granted as house site, or shall personally cultivate the same if it is granted for cultivation; and such residence or cultivation, as the case may be, shall commence effectively within a period of one year, from the date of receipt of the patta or of the provisional patta in cases where a provisional patta is issued in the first instance:

Provided that—

(i) In the cases of assignment to military personnel or their dependents as the case may be, the assignee may cultivate the land by his own labour or by the labour of any member of his family and with the occasional assistance, if any, of hired labour or servants on wages payable in cash or in kind but not in crop share;

(ii) the military personnel may apply for land anywhere in the State irrespective of the State to which they belong; and in the matter of assignment preference shall be given to persons belong to Kerala;

(iii) the military personnel may lease for cultivation purposes the lands assigned to them whilst they are away on active service.

(3) The registry shall be liable to be cancelled for contravention of the provisions in <sup>32</sup>[sub-rule (1A) or sub-rule (2)]. The registry may be cancelled also, if it is found that it was grossly inequitable or was made under a mistake of facts or owing to misrepresentation of facts or in excess of the limits of the powers delegated to the assigning authority or that there was an irregularity in the procedure. In the event of cancellation of the registry, the assignee shall not be entitled to compensation for any improvements he may have made on the land. The authority competent to order such cancellation shall be the authority which granted the registry, or one superior to it:

Provided that no registry of land shall be cancelled without giving the party or parties affected thereby, a reasonable opportunity of being heard:

<sup>33</sup>[Provided further that no assignment of Land shall be cancelled if the annual family

30. Inserted by S. R. O. No. 284/71 dt. 03/08/1971, published in K. G. Ext. No. 346 dt. 06/08/1971.

31. Substituted by S. R. O. No. 1150/79 dt. 20/09/1979, published in K. G. No. 40 dt. 09/10/1979. Prior to substitution it read as under:

"(a) to the Government or Co-operative Institutions or the Tea Board or the Rubber Board as security for obtaining loans for agricultural land improvement purpose or for growing tea or rubber, and"

32. Substituted by S. R. O. No. 284/71, published in K. G. Ext. No. 346 dt. 06/08/1971.

33. Inserted by Notification G. O. (P) No. 569/89/Rd. dt. 13/07/1989, published in K. G. No. 33 dt. 15/08/1989 as S.R.O. No. 1423/89.

income of the transferee occupant does not exceed Rs. 10,000 (Rupees ten thousand only) and who does not own or possess any landed property, anywhere in the State:

Provided also that in the case of a transfer of Land covered by the above proviso the assignee shall not be eligible for further assignment of Land anywhere in the State].

#### Case Law

**Superior authority:** "superior authority" includes Government. *N. Raman Pillai v. State of Kerala and Others* — 1976 KLT SN 122.

**9. Collection of arrears of Government dues and issue of Provisional Patta.**— (1) Order granting registry shall be issued in the form in Appendix I to these rules.

<sup>34</sup>[(2) In cases where registry is made, patta shall be issued in the form in Appendix II to these rules. Where such patta is issued pending survey and demarcation, a note to the effect that the area noted in the patta is subject to revision after finalisation of the survey and demarcation shall be made in the patta. In such cases, when survey and demarcation is completed, the exact area assigned shall be noted in the patta by the assigning authority].

<sup>35</sup>[**Note.**— A patta issued under this sub-rule shall be liable to stamp duty of appropriate value].

<sup>36</sup>[(3) In cases where the land granted on registry is already held by the assignee either under a lease, current or time expired or by way of encroachment, not considered objectionable, the arrears of assessment recoverable by the Government (whether by way of land revenue or any tax or fee levied in lieu thereof including prohibitory assessment and fines, arrears of lease amount or licence fee outstanding from such assignee) shall be limited to the amount of basic tax due on the land <sup>37</sup>[for the period of actual occupation].

(4) <sup>37A</sup>[The liability for land revenue or any tax or fee levied in lieu thereof shall arise with effect from the year of issue of the patta] and any difference in the tax consequent on the change in extent after survey and demarcation, shall be adjusted to the future land revenue or any tax or fee levied in lieu thereof due from the assignee, if it is in excess of the land revenue or any tax or fee levied in lieu thereof due from the assignee, or be collected straight way, if it is less than the land revenue or any tax or fee levied in lieu thereof due from the assignee.

(5) The land revenue or any tax or fee levied in lieu thereof shall be liable to revision.

<sup>38</sup>[(5A) In cases where the Kerala Land Development Corporation Limited has executed any development work on the land, the assignee shall be liable to pay the cost or the proportionate cost as the case may be, with interest thereon to the said Corporation].

(6) The land shall also be subject to all general taxes and local rates payable by law or custom.

<sup>39</sup>[(6A) Notwithstanding the order of registry of any land and the communication of

34. Substituted by S. R. O. No. 41/70 dt. 21/01/1970, published in K. G. Ext. No. 34 dt. 21/02/1970.

35. Inserted by S. R. O. No. 785/76 dt. 10/07/1976, published in K. G. No. 31 dt. 03/08/1976.

36. Substituted by Notification No. G. O. (P) 687/67/RD dt. 30/12/1967, published in K. G. Ext. No. 244 dt. 30/12/1967.

37. Substituted for the words "for the period commencing from 01/04/1961 or for the period of actual occupation whichever is less" by S. R. O. No. 1141/75 dt. 01/12/1975, published in K. G. Ext. No. 714 dt. 02/12/1975.

37A. Substituted by S. R. O. No. 41/70 dt. 21/01/1970, published in K. G. Ext. No. 34 dt. 21/02/1970.

38. Inserted by S. R. O. No. 594/76 dt. 25/05/1976, published in K. G. No. 23 dt. 08/06/1976.

39. Inserted by S. R. O. No. 85/70 dt. 25/02/1970, published in K. G. Ext. No. 71 dt. 02/03/1970.



that order to the assignee, the title to that land shall not pass to the assignee until he remits that land value and tree value payable in respect of that land, the arrears of tax, if any due in respect of the land and other charges due from him].

(7) If the assignee does not remit land value, tree value and arrears of tax due from him and other charges within three months from the date of sanctioning the registry, the registry shall be cancelled, the occupants evicted, the land resumed and reassigned to other eligible families. The <sup>40</sup>[patta] for the land shall be issued only after the entire amount is paid within three months;

<sup>41</sup>[Provided that the Tahsildar may, in the case of assignees who are landless and whose annual family income does not exceed Rs. <sup>42</sup>[10,000], in his discretion, allow the payment of land value, tree value and other dues in half yearly instalments not, however, exceeding four in number. In such cases patta for the land shall be issued only after the entire amount has been paid by the assignee. If the assignee wants to cut and remove the trees from the land before the patta is granted, the prior permission, in writing of the Tahsildar shall be obtained. The Tahsildar may, before granting permission, direct the assignee to remit the estimated value of the trees sought to be cut and removed];

<sup>43</sup>[Provided further that if the occupants had not been evicted, the Revenue Divisional Officer may, at his discretion and in deserving cases condone the delay in payment of land value, tree value, arrears of tax and other charges due from the assignee, upto a period of one year from the date of the order sanctioning the registry. In such cases, the assignee shall remit the entire dues in a lump within fifteen days from the date of the orders of the Revenue Divisional Officer. If the occupants fail to remit the amount within the time so allowed, they shall be summarily evicted];

<sup>44</sup>[Provided also that the District Collectors and the Board of Revenue shall be competent to condone delay in payment of land value, tree value, arrears of tax and other charges due from the assignees in deserving cases upto a period of <sup>45</sup>[three years] and <sup>46</sup>[five years] respectively from the date of the order sanctioning registry. In all cases where the delay exceeds <sup>47</sup>[five years] sanction of Government shall be obtained for condoning the delay].

<sup>48</sup>[Note.— Arrears of assignment dues shall bear interest at <sup>49</sup>[6 per cent per annum]].

**10. Land value and other dues to be paid.—** (1) For the assignment of lands under <sup>50</sup>[clause (ii)] of the proviso to sub-rule (3) of Rule 5, for the land in excess of the limit specified in clause (ii) of the said proviso, the assignee shall be liable to pay—

- (i) the value of the land, where the land is held on lease, whether current or time expired; and
- (ii) one-and-a half times of the value of the land, where the land is held by way of encroachment.

40. Substituted by S. R. O. No. 41/70 dt. 21/01/1970, published in K. G. Ext. No. 34 dt. 21/01/1970.
41. Inserted by S. R. O. No. 1141/75 dt. 01/12/1975, published in K. G. Ext. No. 714 dt. 02/12/1975.
42. Substituted for the figure "3000" by S. R. O. No. 1142/89 dt. 28/06/1989, published in K. G. No. 45/89 dt. 14/11/1989.
- 42A. Substituted by S. R. O. No. 1142/89 dt. 28/06/1989, published in K. G. Ext. No. 45/89 dt. 14/11/1989.
43. Added by Notification No. G. O. (P) 569/Rev dt. 12/10/1966, published in K. G. No. 41 dt. 18/10/1966.
44. Substituted by S. R. O. No. 281/70 dt. 09/07/1970, published in K. G. Ext. No. 201 dt. 09/07/1970.
45. Inserted by S. R. O. No. 180/75 dt. 24/02/1975, published in K. G. Ext. No. 103 dt. 25/02/1975.
46. Substituted for the words "12 per cent per annum" by S. R. O. No. 1141/75 dt. 01/12/1975, published in K. G. Ext. No. 714 dt. 02/12/1975.
47. Substituted by Notification No. G. O. (P) 285/66/Rev. dt. 17/05/1966, published in K. G. No. 22 dt. 31/05/1966.

**Explanation.—** (i) For purpose of this sub-rule "value of the land" shall mean the value of the land without improvements effected by the lessee or the encroacher, as the case may be;

(ii) in determining the value of the land for the purposes of this sub-rule, the District Collector shall have due regard to the value of similar lands without improvements situated in similar locality.

(2) In cases other than those falling under sub-rule (1), the assignee, on registry, shall be liable to pay the land value at the following rates:—

Dry land	<sup>48</sup> [Rs. 1000 (Rupees One thousand only) per acre/40.47 ares].
Wet land (including lands reclaimed from rivers, canals, backwaters or the sea)	<sup>49</sup> [Rs. 1000 (Rupees One thousand only) per acre/40.47 ares].
Grass lands including waste lands	<sup>50</sup> [Rs. 200 (Rupees two hundred only) per acre/40.47 ares].

(3) The assignee shall also be liable to pay the value of the trees, plants and [vines] if any, specified in Parts A and B of Appendix III to these rules standing on the land <sup>51</sup>[at the time of assignment] at such rates as may by order, be specified by Government and subject to the following conditions:—

- <sup>52</sup>[(a) No value shall be charged in respect of trees the girth of which is 90 c.m. or less at breast height].
- <sup>53</sup>[(b) If the assignee was already in occupation of the land and he or his predecessor in occupation has planted trees etc. thereon, no tree value shall be charged in respect of such of those trees etc., planted by him or his predecessor in occupation as are specified in Part B of Appendix III to these rules].
- (c) If the assignee is not agreeable to pay the tree value as specified in clause (a), in respect of trees specified in Part A of Appendix III, to the Tahsildar shall dispose of, in public auction, the trees growth <sup>54</sup>[which is not allowed free to the assignee under that clause].

<sup>54</sup>[(4) In cases falling under sub-rule (2) of Rule 9, the cost of survey and demarcation shall be recovered from the assignee at the following rates, namely:—

48. Substituted for the figure "Rs. 500 (Rupees five hundred only)" by Notification No. G. O. (P) No. 223/92/RD dt. 28/04/1992, published in K. G. Ext. No. 508 dt. 30/04/1992 as S. R. O. No. 502/92.
49. Substituted for the figure "Rs. 500 (Rupees five hundred only)" by Notification G. O. (P) No. 223/92/RD dt. 28/04/1992, published in K. G. Ext. No. 508 dt. 30/04/1992 as S. R. O. No. 502/92.
50. Substituted for the words and figure "Rs. 100 (Rupees one hundred only) per acre/40.47 ares" by Notification G. O. (P) No. 223/92/RD dt. 28/04/1992, published in K. G. Ext. No. 508 dt. 30/04/1992 as S. R. O. No. 502/92.
51. Inserted by S. R. O. No. 41/70 dt. 21/01/1970, published in K. G. Ext. No. 34 dt. 21/01/1970.
52. Substituted by S. R. O. No. 281/70 dt. 09/07/1970, published in K. G. Ext. No. 201 dt. 09/07/1970.
53. Substituted by S. R. O. No. 696/74 dt. 23/08/1974, published in K. G. No. 39 dt. 24/09/1974. Prior to substitution it read as under:  
 "(b) If the assignee was already in occupation of the land and has planted trees etc., thereon, no tree value shall be charged in respect of such of those trees etc. planted by him as are specified in Part B of Appendix III to these rules".
54. Substituted by S. R. O. No. 792/79 dt. 26/06/1979, published in K. G. No. 29 dt. 17/07/1979. Prior to substitution it read as: "(4) In cases falling under sub-rule (2) of Rule 9, the cost of survey and demarcation shall be recovered from the assignee at the following rates:—  
 (a) Survey charges:— Five Rupees per acre/40.47 ares or fraction thereof and Three Rupees if the area is less than fifty cents.  
 (b) Demarcation charges:— Three Rupees and fifty paise per survey stone (including cost of planting the stone)".



- (i) in Taluks where re-survey work has been completed or is in progress, the maximum rate of survey charges per hectare arrived at during re-survey for the area so far completed under re-survey; and
- (ii) in Taluks where re-survey has not been taken up, the maximum rate of survey charges as per re-survey in the nearest Taluk in the District where re-survey has been completed].

(5) No land value, survey and demarcation charges and arrears of assignment shall be recovered from the assignee belonging to the Scheduled Castes or Tribes.

#### Case Law

**No obligation on the part of the Government to sell the tree to the assignee:** The requirement is that the Government has to decide to sell the tree or not. Held in which case assignee can pay the price. *Gopi v. Tahsildar* — 2003 (1) KLT SN 33 : 2003 (1) KLJ 24.

### **MACHINERY AND PROCEDURE FOR GRANTING REGISTRY**

**11. List of assignable land to be prepared.**— (1) Before granting registry, Government shall cause to be prepared lists of the lands which should be reserved for Government or public purposes in each village and lists of the lands which may be made available for assignment in each village.

(2) Lands to be reserved for Government or public purposes shall include, among others, as may be found necessary;

- (i) Porambores as defined in the Kerala Land Conservancy Act, except those which may be assigned without detriment to Government or public interest;
- (ii) Lands required for Government or public purposes, other than those covered by the definition of 'poramboke' in the Kerala Land Conservancy Act;
- <sup>55</sup>[(iii) Lands required or likely to be required for any settlement scheme or any other scheme sponsored by the Government];
- (iv) Lands likely to be required for the present or future Government or public purposes;

<sup>56</sup>[x x x x]

- <sup>57</sup>[(v) Lands on the sides of roads required for the widening of roads; lands within port limits or within fifteen links (3.017 metres) on either side of streams; <sup>58</sup>[x x x x] or within one chain (20.117 metres) of important irrigation channels without embankments or within twenty links (4.02 metres) of less important irrigation channels without embankments; or within fifteen links (3.017 metres) of irrigation channels with embankments <sup>55</sup>[or within one hundred metres of the boundary of railway stations]; or within two hundred yards (183 metres) of the boundary of aerodromes and landing grounds; or land near sea-coast <sup>55</sup>[within 100 feet (30.480 metres) of the high water mark of the sea].

**Note.**— Land near sea coast <sup>55</sup>[within 100 feet (30.480 metres)] of the high water mark of the sea may, however, be temporarily assigned as house sites for fishermen and also for purposes of casuarina <sup>55</sup>[coconut] plantations and erection of fish oil and fish guano factories beyond hundred yards (91.5 metres) from the high water mark].

55. Substituted by Notification No. G. O. (P) 687/67/RD dt. 30/12/1967, published in K. G. Ext. No. 244 dt. 30/12/1967.

56. Omitted by Notification No. G. O. (P) 687/67/RD dt. 30/12/1967, published in K. G. Ext. No. 244 dt. 30/12/1967.

57. Substituted by Notification No. G. O. (P) 285/66/Rev. dt. 17/05/1966, published in K. G. No. 22 dt. 31/05/1966.

58. Omitted by S. R. O. No. 41/70 dt. 21/01/1970, published in K. G. Ext. No. 34 dt. 21/01/1970.

- (vi) Lands required for colonisation purposes;
  - (vii) Lands specially reserved for assignment to backward communities;
  - (viii) Lands containing or believed to contain valuable minerals, quarries etc.;
- and
- (ix) Lands acquired for Government purposes but not required for such purposes.
  - <sup>59</sup>[(x) Lands required for libraries and reading rooms].

(3) After setting apart the lands required for future Government or public purposes, as stated in sub-rule (2), 25 per cent of the land available for assignment in each village shall be reserved for assignment to members of the Scheduled Castes and Tribes <sup>60</sup>[and ten per cent of such land shall be reserved for assignment to Ex-servicemen]:

Provided that—

- (i) if, in any village, the lands available for assignment under these rules are already occupied either under leases (current or time expired) or by way of encroachment and the occupants thereof are entitled to assignment of lands under these rules, only the balance area, if any, that will be available after such assignment shall be reserved as aforesaid;
- (ii) in the assignment of lands for house sites in sea coast villages, priority shall be given to landless fishermen in respect of lands which are situated beyond <sup>60A</sup>[one hundred feet] but within four furlongs from the high water mark of the sea, if the lands are not already in the occupation of other persons who are entitled to get the lands assigned under these rules;

<sup>61</sup>[x x x x]

(5) Lands held on leases with or without limit of time including leases, under Kuthakapattam rules, shall also be taken into consideration for purposes of registry.

(6) The lists of lands to be reserved for Government or public purposes, and the lists of lands to be set apart for assignment on registry shall be submitted to the Government for approval, and action to assign such lands on registry shall be taken only after the Government approve those lists:

Provided that Government may authorise any authority subordinate to it to scrutinise and approve such lists.

(7) The lists of lands which may be made available for lease or licence shall be finally approved by the District Collector without reference to the Board of Revenue or the Government.

(8) Applications for assignment of land shall be made to the Tahsildar in the form in Appendix IV to these Rules. Each such application shall bear court fee stamp of the value of 75p:

Provided that applications for assignment of lands under clause (iii) of the proviso to sub-rule (3) of Rule 5 shall be made to the District Collector and each such application shall bear a court fee stamp of the value of Rs. 2.

<sup>62</sup>[**Note.**— Applicants belonging to Scheduled Castes or Tribes and serving military personnel shall be exempt from affixing stamp on their applications].

59. Inserted by S. R. O. No. 128/70 dt. 20/03/1970, published in K. G. Ext. No. 99 dt. 24/03/1970.

60. Inserted by S. R. O. No. 73/72 dt. 14/02/1972, published in K. G. Ext. No. 109 dt. 15/02/1972.

60A. Substituted by Notification No. G. O. (P) 687/67/RD dt. 30/12/1967, published in K. G. Ext. No. 244 dt. 30/12/1967.

61. Omitted by S. R. O. No. 73/72 dt. 14/02/1972, published in K. G. Ext. No. 109 dt. 15/02/1972.

62. Substituted by Notification No. G. O. (P) 285/66/Rev. dt. 17/05/1966, published in K. G. No. 22 dt. 31/05/1966.



**12. Enquiry to be held.**— <sup>63</sup>[(1) Before considering an application for assigning the land, the Tahsildar shall publish a notice under his signature inviting objections in writing from interested persons to the registry of land. The notice shall be in the form in Appendix V to these rules and give a minimum of fifteen days' time from the date of publication for preferring objections and the Tahsildar may, in his discretion admit objections received after that period. The notice shall be published by affixture in a conspicuous place in the land concerned and also in the Village Panchayat and Taluk offices and such publication shall be deemed to be legal and sufficient for purposes of these rules].

(2) Application by persons in possession for the assignment of land involved in Kuthakapattam and Land Conservancy cases may be disposed of by the Tahsildar, if the applicants are eligible to get the land on assignment under these rules and if there is no pronounced disparity regarding the particulars of the land as furnished in the case records and as found in actual occupation.

<sup>64</sup>[(3) The list of assignable lands and the list of lands to be reserved for Government or public purposes are to be placed before the Taluk Land Assignment Committee for its recommendation and to be forwarded to the District Collector for approval. The applications received for assignment on registry shall be duly enquired into by the Tahsildar and placed before the Taluk Land Assignment Committee for considering its merits. The reasons for rejection, if any, should be recorded in writing. In cases where the orders of the District Collector have to be obtained, the Tahsildar shall submit the case to the District Collector along with the recommendation of the Taluk Land Assignment Committee].

(4) On receipt of applications for the assignment of lands under clause (iii) of the proviso to sub-rule (3) of Rule 5, the District Collector shall as far as may be, follow the procedure laid down in sub-rules (1), (2) and (3) and, if he is satisfied that it is in public interest so to do, he shall assign such excess lands as admissible under these rules.

<sup>65</sup>[**12A.** (i) Notwithstanding anything contained in sub-rules (3) and (4) of Rule 12, the Government may constitute for each Taluk, a Committee called the Taluk Land Assignment Committee which may consist of officials and non-officials, for advising the Tahsildar in regard to the assignment on registry of lands available for assignment (vide Rule 11) for personal cultivation or house sites.

(ii) The Taluk Land Assignment Committee shall ordinarily have the following members:—

- (1) One representative each of all the political parties who have representative(s) in the Legislative Assembly (in case the State Committee of a party desires to change its nominee in any Taluk Committee, the State Committee may intimate the fact to the Government in writing; and the change shall accordingly be given effect to by the Government).

63. Substituted by Notification No. G. O. (P) 285/66 Rev. dt. 17/05/1966, published in K. G. No. 22 dt. 31/05/1966.

64. Substituted by Notification G. O. (P) No. 51/97/Rd. dt. 28/01/1997, published in K. G. Ext. No. 112 dt. 28/01/1997 as S. R. O. No. 67/97. Prior to substitution it read as under:

"If no objections or claims are preferred, the Tahsildar shall straight away assign the land either himself or in accordance with the orders of the District Collector. In cases where objections or claims have been preferred, the Tahsildar shall duly enquire into them and if on such enquiry, he finds them to be not valid and worthy of consideration, he shall reject them and proceed with the registry. If on the contrary the Tahsildar finds that the objections and claims are valid, [xxxx] he shall for reasons to be recorded in writing reject the application and in cases where the orders of the District Collector have to be obtained he shall submit the case with his recommendations for orders wherever necessary".

\* Omitted by Notification No. G. O. (P) 285/66 Rev. dt. 17/05/1966 in K. G. No. 22 dt. 31/05/1966.

65. Inserted by Notification No. G. O. (P) 331/68/RD dt. 21/06/1968, published in K. G. Ext. No. 137 dt. 22/06/1960.

- (2) Members of Parliament/Members of the Legislative Assembly representing the Taluk or any part of the Taluk.

<sup>66</sup>[(2)(a) The President of the concerned Grama Panchayat and the Block Panchayat and the members representing the concerned area in the District Panchayat],

- (3) One Harijan Member to be nominated by the Government.

- (4) The Tahsildar of the Taluk.

- (5) The Special Tahsildar or the Special Tahsildar for Assignment, if any, of the Taluk,

(iii) The Tahsildar of the Taluk (or the Special Tahsildar for Assignment, if specifically ordered so by the District Collector in respect of any Committee) shall be the Convener of the Committee and shall preside over the meeting of the Committee.

(iv) Not less than <sup>67</sup>[1/5] of the total number of members of the Committee shall constitute the quorum for the meeting of the Committee.

(v) The Committee shall consider applications for assignment of land on registry for personal cultivation or house sites. Only those lands which are listed as available for assignment under Rule 11 of the Kerala Land Assignment Rules, 1964, shall come within the purview of the Committee. The Tahsildar shall place before the Committee all applications for registry of land of the aforesaid category, along with the relevant records of enquiry under Rule 12. After consideration of the applications as also the records of enquiry, particularly, the objections or claims if any, the Committee shall give their advice strictly according to the preferences stated in the rules as to the persons to whom the particular lands may be assigned. The Committee will indicate the survey number, extent and such other particulars as are necessary to identify the lands that are proposed to be assigned in each case. The assignment of lands to institutions, companies, for commercial purposes and for schemes will be outside the purview of the Committee.

(vi) The advice of the Committee supported by not less than 3/4 of the members present shall be accepted and given effect to by the Tahsildar. In cases where the committee fails to reach the decision as aforesaid with the required majority, the Tahsildar shall assign the land according to rules.]

<sup>68</sup>[(via) Notwithstanding anything contained in sub-rules (iv), (v) and (vi), if at any meeting there is not sufficient number of members present to form the quorum, the Tahsildar or the Special Tahsildar, as the case may be, shall assign the lands, the applications for assignment of which were proposed to be placed before the Committee at that meeting, according to rules].

(vii) Provisions relating to appeals and revisions will apply to all cases of assignment resorted to on the advice of the Land Assignment Committee also.

(viii) The Committee shall have right to bring to the notice of the Tahsildar any case of assignment in the past to persons who are not eligible according to rules within a period of two years from the date of the final order assigning the land on registry. Such case together with the records, if any, are to be placed before the Committee for its consideration, and if the Committee recommends cancellation of such assignment, the Tahsildar shall

66. Inserted by Notification G. O. (P) No. 51/97/Rd. dt. 28/01/1997, published in K. G. Ext. No. 112 dt. 28/01/1997 as S. R. O. No. 67/97.

67. Substituted for the figure "1/3" by S. R. O. No. 21/69 dt. 13/01/1969, published in K. G. Ext. No. 9 dt. 13/01/1969.

68. Inserted by S. R. O. No. 883/78 dt. 07/08/1978, published in K. G. No. 39 dt. 26/09/1978.



forward the records together with the recommendation of the Committee to the Board of Revenue for its decision.

(ix) The members of the Committee shall not be given any travelling allowance or daily allowance in connection with their sittings].

### LEASES AND LICENCES

**13. Lease or licensing of Government land.**— Lands which are likely to be required in future for Government or public purposes, but not immediately may be leased or licensed for the following purposes without auction.

(a) Lease of land for agricultural purposes to families of Scheduled Castes and Tribes <sup>69</sup>[x x x x] and landless and indigent families belonging to other Communities.

(b) Lease of land indispensably required for beneficial enjoyment of adjoining <sup>69</sup>[x x x x] holding.

<sup>70</sup>[**Note.**— In such cases the lease shall automatically terminate on the date on which the lessee ceases to be in enjoyment of the adjoining holding].

(c) Lease of land under any scheme approved by the Government.

✓(d) Lease of land for agricultural purposes to Co-operative Societies.

(e) Lease or licence of land for temporary occupation for purposes like putting up pandals or sheds for conferences, fairs, festivals and marriages and for entertainments like cinema, circus, drama and exhibition.

(f) Lease or licence of land for purposes like the following:—

(i) Retting of coconut husks;

(ii) Stocking of materials;

(iii) Use as play grounds;

(iv) Laying of pipe lines;

(v) Putting up drainage coverings and construction of steps on road margins;

(vi) Putting up shops;

(vii) Construction of petrol bunks; and

(viii) Such other purposes as may be decided upon by Government from time to time.

<sup>71</sup>[**13A. Lands within port limits.**— (1) Lands within port limits shall be leased out or licensed for marine purposes by the Port Department in consultation with the Revenue Department.

(2) Lease or licence of land within the port limits for non-marine purposes shall be made by the concerned officers of the Revenue Department in consultation with the Port Department.

(3) The revenue realised from lease or licence for marine and non-marine purposes shall be to the credit of the receipt head of the concerned departments viz. the Port Department or the Revenue Department as the case may be.

**Note.**— Marine purposes for which the use of Government lands in port limits shall be considered are the following:—

69. Omitted by Notification No. G. O. (P) 275/66/Rev. dt. 17/05/1966, published in K. G. No. 26 dt. 31/05/1966.

70. Added by S. R. O. No. 21/69 dt. 13/01/1969, published in K. G. Ext. No. 9 dt. 13/01/1969.

71. Inserted by Notification No. G. O. (P) 88/67/Rev. dt. 27/02/1967, published in K. G. No. 9 dt. 07/03/1967.

(a) For hauling up or docking a sea-going vessel.

(b) For building a sea-going vessel.

(c) For storing timber, firewood, clay and tiles before shipment and after landing.

(d) For storing cargo other than (c) before shipment and after landing.

(e) For hauling up a cargo or other boat for repairs.

(f) For building a cargo or other boat.

(g) For a crane site.

(h) For saw pits or sheds.

(i) For scrapping native craft at a boat bunder for repairs.

(j) For hauling up a vessel on a boat bunder for repairs etc.

(k) For laying up logs of timber or boats plying for hire at a boat bunder.

(l) For oil installations].

**14. Period of lease etc.**— (1) Leases, under clause (a) of Rule 13, shall subject to the provisions of Rule 16, be granted by the Tahsildar for periods not exceeding two years at a time and upto a Maximum extent of three acres <sup>71A</sup>[1.2141 hectares] for a family;

(2) Leases, under clause (b) of Rule 13, shall, subject to the provisions of Rule 16, be granted by the Tahsildar for periods not exceeding two years at a time and up to a maximum of 50 cents <sup>72</sup>[20.23 ares] in each case.

(3) Leases, under clause (c) of Rule 13, shall be granted for periods not exceeding five years and upto a maximum extent of five acres (2.0234 hectares) by the Tahsildar, for periods not exceeding ten years and upto a maximum extent of 10 acres <sup>72</sup>[(4.0468 hectares)] by the Revenue Divisional Officer, for periods not exceeding twenty years and upto a maximum extent of twenty acres <sup>72</sup>[(8.0937 hectares)] by the District Collector, and in other cases by the Government:

Provided that in cases where the scheme, as approved by Government itself specifies the period of the lease and the extent of the land to be leased, the grant shall be limited to such period and extent.

(4) Leases under clause (d) of Rule 13, shall be granted for periods not exceeding ten years, by the Tahsildar upto a Maximum extent of three acres <sup>72</sup>[(1.2141 hectares)] by the Revenue Divisional Officer upto a maximum extent of ten acres <sup>72</sup>[(4.0468 hectares)] and by the District Collector upto a maximum extent of twenty acres <sup>72</sup>[(8.0937 hectares)]. In other cases sanction of the Government shall be obtained.

(5) Leases or licences, under clauses (e) and (f) of Rule 13, shall be granted for periods not exceeding three years by the authorities competent to do so under the existing rules or orders or by such other authorities as may, from time to time, be specified by the Government:

<sup>73</sup>[Provided that Government shall be the authority competent to give leases or licences for the purpose of conducting cinema]

<sup>74</sup>[(6) Lease or licence under sub-rule (2) of Rule 13A, shall, subject to the provisions of Rule 16, be granted by the Tahsildar for periods not exceeding two years at a time and upto a maximum extent of three acres (1.2141 hectares) by the Revenue Divisional Officer

71A. Added by Notification No. G. O. (P) 285/66/Rev. dt. 17/05/1966, published in K. G. No. 22 dt. 31/05/1966.

72. Added by Notification No. G. O. (P) 285/66/Rev. dt. 17/05/1966, published in K. G. No. 22 dt. 31/05/1966.

73. Added by S. R. O. No. 273/69 dt. 26/06/1969, published in K. G. Ext. No. 159 dt. 08/07/1969.

74. Inserted by Notification No. G. O. (P) 88/67/Rev. dt. 27/02/1967, published in K. G. No. 9 dt. 08/03/1967.



for periods not exceeding 5 years, at a time and upto a maximum extent to five acres (2.0234 hectares) and by the District Collector for periods not exceeding 10 years at a time and upto a maximum extent of 10 acres (4.0468 hectares). In all other cases the lease shall be granted by the Board of Revenue].

**15. Conditions of lease or licence.**— (1) Orders granting lease or licence under these rules for agricultural purposes shall be issued in the form in Appendix VI to these rules and those for non-agricultural purposes shall be issued in the form in Appendix VII to these rules. The lease or licence shall also be subject to the terms and the conditions specified in the order of grant.

(2) Lease or licence granted under these rules shall be heritable, but not alienable;<sup>75</sup>[x x x x]:

Provided that the military personnel may lease for cultivation purposes the land assigned to them, whilst they are away on active service<sup>75</sup>[x x x x].

(3) The assignee shall not be competent to determine the lease or licence of his own accord during the currency thereof except when otherwise provided for in the order of grant.

(4) It shall be competent for the authority who granted the lease or licence, to terminate the same, after giving sixty days' notice, in writing, to the assignee, if the land or portion thereof is required for Government or public purposes. The grant shall also be liable to termination,<sup>76</sup>[after giving reasonable notice, not exceeding fifteen days], if the assignee violates any of the conditions of the grant order.

#### Case Law

**Lease of Government land:** Cancellation of it without notice and hearing of lessee. Is illegal. Lease granted as a result of proceedings of council of Ministers cancelled without their approval is not proper. *Janatha Tin Factory Ltd. v. State of Kerala* — 1987 (2) KLT SN 17.

### **MACHINERY AND PROCEDURE FOR GRANTING LEASES OR LICENCES**

**16. Enquiry to be held.**— (1) Applications for lease or licence of land shall be made to the Tahsildar in the form in Appendix IV to these Rules. Each application shall bear court fee stamp of the value of 75p.

<sup>76</sup>[**Note.**— Applicants belonging to Scheduled Castes or Tribes and serving military personnel shall be exempt from affixing stamp on their applications].

(2) On receipt of the applications, the Tahsildar shall, after conducting such preliminary enquiry as may be deemed necessary, publish a notice under his signature inviting objections, in writing from interested persons to the lease or licence of the lands to which the applications relate.

(3) The notice shall be in the form in Appendix V to the rules and shall give a minimum of [fifteen days time] from the date of its publication for preferring objections, but the Tahsildar may, in his discretion, admit objections received after the expiry of that period.

<sup>77</sup>[(4) The notice shall be published by affixture in a conspicuous place in the land concerned and also in the Village, Panchayat and Taluk offices and, such publication shall be deemed to be legal and sufficient for purposes of these rules].

75. Omitted by Notification No. G. O. (P) 285/66/Rev. dt. 17/05/1966, published in K. G. No. 22 dt. 31/05/1966.

76. Substituted by Notification No. G. O. (P) 285/66/Rev. dt. 17/05/1966, published in K. G. No. 22 dt. 31/05/1966.

77. Substituted by Notification No. G. O. (P) 285/66/Rev. dt. 17/05/1966, published in K. G. No. 22 dt. 31/05/1966.

(5) The objections or representations if any, preferred in response to the notice, shall be duly enquired into by the Tahsildar. In cases where the Tahsildar is himself competent to finally dispose of the applications, he shall take into consideration the objections and representations. In other cases, he shall submit the applications and all the records together with his own recommendation and giving full reasons therefor, to the competent authority.

<sup>78</sup>[**17. Rental for trees.**— Lease or licence of land may include lease or licence of trees, but where it does not include the trees, the trees may be separately granted on lease or licence at such rates as the Government may, by order from time to time specify. The order of lease or licence shall be in the form in Appendix VIII to these Rules:

Provided that in the case of trees for which no rates have been specified by order under this rule, the rates in respect of those trees shall be fixed on a fair and equitable basis].

**18. Rental to be charged.**— (1) Rents shall be charged for the lease or licence as the case may be, of land and the trees, if any, standing thereon and included in the lease or licence at such rates as Government may, by order, specify.

(2) The assignee shall, in addition to paying rent under sub-rule (1) deposit with the Government in advance an amount equal to one year's rent as security.

**19. Leasing or licensing of Government Office compounds etc.**— Lease or licence of land within the premises of Government offices or institutions shall ordinarily be granted by the competent authority only in consultation with the Department concerned and the P. W.D. In cases of difference of opinion between the competent authority and the Department or Departments concerned, such authority shall obtain the orders of the Revenue Divisional Officer, if that authority is the Tahsildar, or the District Collector, if that authority is the Revenue Divisional Officer, and of the Board of Revenue if that authority is the District Collector:

Provided that notwithstanding these rules, the Government shall be competent to issue special rules for regulating the lease or licence of the land mentioned in this rule.

**20. Proportionate rental to be collected.**— If a lease or licence granted under these rules is set aside or modified in appeal, or revision and if the assignee having possession of the land under such lease or licence has to vacate the same by reason of its being set aside or modified he shall be liable to pay to Government, for the period he was in possession the proportionate rent, according to the terms of the lease or licence set aside or modified, together with the value as determined by the Tahsildar, of the trees, if any, destroyed or appropriated by him.

### **APPEALS AND REVISIONS**

**21. Appeal to lie to Revenue Divisional Officer etc.**— <sup>79</sup>[(1) An appeal shall lie to the Revenue Divisional Officer against an order passed by the Tahsildar or any other Officer not above the rank of a Tahsildar authorised by the Government under Rule 23A,

78. Substituted Notification No. G. O. (P) 544/66/RD. dt. 30/09/1966, published in K. G. No. 40 dt. 11/10/1966.

79. Substituted by S. R. O. No. 548/80 dt. 02/06/1980, published in K. G. No. 25 dt. 17/06/1980. Prior to substitution it read as under:

"**21. Appeal to lie to Revenue Divisional Officer etc.**— (1) An appeal shall lie to the Revenue Divisional Officer against an order passed by the Tahsildar, to the District Collector, against and order passed by the Revenue Divisional Officer and to the Board of Revenue against an order passed by the District Collector".



to the District Collector against an order passed by the Revenue Divisional Officer or an Officer of the rank of Revenue Divisional Officer authorised by the Government under the said Rule 23A, and to the Board of Revenue against an order passed by the District Collector.]

(2) There shall be no second appeal.

(3) Appeals shall be presented within thirty days from the date of receipt of the order by the aggrieved party.

(4) The appellate authority may, in his or its discretion, admit an appeal, not submitted within time, if sufficient grounds exist for condoning the delay.

(5) No appeal shall be admitted unless it is duly stamped and is accompanied by the original decision or order appealed against or a certified copy thereof.

(6) The appellate authority may confirm, vary or cancel the decision or order appealed against.

(7) No decision or order interfering with the original order, shall be made in appeal, without giving the party or parties interested thereon a reasonable opportunity to be heard.

(8) The Board of Revenue shall be competent to revise, cancel or alter, on its own motion or otherwise any decision made or order passed by the Tahsildar, <sup>80</sup>[an Officer authorised by the Government under Rule 23A], Revenue Divisional Officer or District Collector, under these rules:

Provided that no proceedings in this behalf shall be initiated by the Board after the expiry of two years from the date of such decision or order, and no such decision or order shall be set aside or modified by it without giving the party affected thereby, a reasonable opportunity to be heard.

<sup>81</sup>[(9) The Government may at any time revise, cancel or alter on their own motion or otherwise any decision made or order passed by the Tahsildar, <sup>82</sup>[an Officer authorised by the Government under Rule 23A], Revenue Divisional Officer, District Collector or the Board of Revenue under these rules:

Provided that no such decision or order shall be revised, cancelled or altered under this sub-rule without giving the party affected thereby a reasonable opportunity of being heard].

#### Case Laws

**Sub-r.(9) of R.21 is void and unenforceable:** Sub-r.(9) of R.21 is beyond the rule making power contained in S.7(1) of the Act and is void and unenforceable. Land Assignment Act, 1960 (Kerala) S.7(1). *Karimtharuvu Tea Estates Ltd. v. State of Kerala* — 1999 (1) KLT 33 : 1998 (2) KLJ 752 : ILR 1999 (1) Ker. 584 : AIR 1999 Ker. 47.

**Order set aside in revision by Government without hearing the affected party: Is improper:** Amounts to violation of principles of natural justice. *Ulloor Panchayat v. RDO, Trivandrum* — 1997 (2) KLT SN 22 : 1997 (2) KLJ 22.

### REGISTERS AND ACCOUNTS TO BE MAINTAINED

**22. Registers etc., to be maintained.**— The Registers and accounts necessary for purposes of these rules shall be duly maintained by the authorities concerned. The Tahsildar concerned shall maintain a register showing the lands assigned in each Taluk

80. Inserted by S. R. O. No. 548/80 dt. 02/06/1980, published in K. G. No. 25 dt. 17/06/1980.

81. Inserted by Notification No. G. O. (P) 687/67/Rd., published in K. G. Ext. No. 244 dt. 30/12/1967.

82. Inserted by S. R. O. No. 548/80 dt. 02/06/1980, published in K. G. No. 25 dt. 17/06/1980.

with particulars of the assignee and conduct periodical check to ensure that the conditions of the assignment are not violated.

**23. Recovery of Government dues.**— All amounts due to Government under these rules shall, in cases of default be recoverable, as if they are arrears of revenue due on land under the Revenue Recovery Act, for the time being in force.

### SPECIAL PROVISIONS REGARDING ASSIGNMENT

<sup>83</sup>[23A. Notwithstanding anything contained in these rules, the powers and functions which may be exercised and performed by a Tahsildar under these rules may be exercised and performed by any other officer authorised by the Government in this behalf].

<sup>84</sup>[24. Powers of Government.— Notwithstanding anything contained in these rules the Government may, if they consider it necessary so to do in public interest, assign land dispensing with any of the provisions contained in these rules and subject to such conditions, if any, as they may impose].

<sup>85</sup>[x x x x]

#### Case Laws

**R.24 confers power on the Government to assign land:** The assignment should be in public interest. *Pushpavally v. State* — 1996 (2) KLT 197 : 1996 (2) KLJ 1 : ILR 1996 (3) Ker. 436.

**Order of assignment granted by Govt. invoking the rule in Public interest stipulating certain conditions:** Govt. has power to modify or relax the conditions and there is no necessity for the order to indicate that the same is issued in public interest. That order is not one issued under Rule 24. *Parent Teacher Association, Maharaja's College v. State & Others* — 1995 (1) KLJ 387 : ILR 1995 (2) Ker. 705 : AIR 1995 Ker. 209.

Power of Govt. to dispose land dispensing with any of the provisions of the Rules. *Bharanival Amma Thampuram v. State of Kerala* — 1979 KLT SN 150.

### APPENDIX I

[See Rule 9(1)]

### FORM OF ORDER OF ASSIGNMENT ON REGISTRY

Shri/Smt... of..... village is informed that his/her application for the land/lands described in the schedule appended to this order has been accepted and that the above land/lands is/are assigned to him/her on registry subject to the following conditions:—

<sup>86</sup>[(1) That the land/lands shall be heritable and alienable.

\*That the lands shall be heritable, but shall not be alienable for a period of three years from the date of registry:

Provided that the assignee may mortgage such lands-(a) to the Government or Co-operative institutions or the Tea Board or the Rubber Board, as security for obtaining loans for agricultural or land improvement purpose or for growing tea or rubber; and (b) to the Government or co-operative institutions as security for obtaining loans for house construction under the Village Housing Project Scheme or any other housing schemes sponsored by the Government, if such house is required for the occupation of the assignee or his family].

(2) That the assignee or any member of his/her family or successor in interest shall reside

83. Inserted by S. R. O. No. 548/80 dt. 02/06/1980, published in K. G. No. 25 dt. 17/06/1980.

84. Substituted by Notification No. G. O. (P) 698/Rev. dt. 20/12/1966, published in K. G. No. 51 dt. 27/12/1966.

85. Omitted by S. R. O. No. 643/73 dt. 15/10/1973, published in K. G. Ext. No. 1060 dt. 22/10/1973. Prior to substitution it read as under:

"Provided that no such assignment shall be made without complying with the requirements of Section 4 of the Kerala Government Land Assignment Act, 1960 (Act 30 of 1960)."

86. Substituted by S. R. O. No. 284/71 dt. 03/08/1971, published in K. G. Ext. No. 346 dt. 06/08/1971.