

## Act 5 of 1971

### THE KANNAN DEVAN HILLS (RESUMPTION OF LANDS) ACT, 1971

An Act to provide for the resumption of lands other than Plantations in the Kannan Devan Hills village in the Devicolam taluk of the Kottayam district and for the Distribution of such lands for cultivation and purposes ancillary thereto

*Preamble.* — WHEREAS the lands comprising the entire revenue village of Kannan Devan Hills in the Devicolam taluk of the Kottayam district had been given on lease by the then Poonjar Chief to late Mr. John Daniel Munroe of London and Peermade on the 11th day of July, 1877, for coffee cultivation;

AND WHEREAS the right, title and interest of the lessor had been assumed by the former Government of Travancore;

AND WHEREAS by such assumption the lands have become the property of the former Government of Travancore;

AND WHEREAS the Government of Kerala have become the successor to the former Government of Travancore;

AND WHEREAS large extent of agricultural lands in that village has not been converted into plantations or utilised for purposes of plantation and such lands are not required for the purposes of the existing plantation;

AND WHEREAS the Government consider that such agricultural lands should be resumed for the distribution thereof for cultivation and purposes ancillary thereto;

Be it enacted in the Twenty-second Year of the Republic of India as follows: —

1. *Short title, commencement application*—(!) This Act may be called the Kannan Devan Hills (Resumption of Lands) Act, 1971.

(2) It shall be deemed to have come into force on the 21st day of January, 1971.

(3) It applies to the lands comprising the revenue- village of Kannan Devan Hills in the Devicolam taluk of the Kottayam district.

2. *Definitions*—In this Act, unless the context other wise requires, —

- (a) "appointed day," means the 21st day of January, 1971;
- (b) "building" shall not include a, temporary shed;
- (c) "Collector" means the District Collector Kottayam, or any other officer not below the rank of a District Collector appointed by the Government, by notification in the Gazette, to exercise the powers and perform the functions of the Collector under this Act;

- (d) "Land Board" means the Land Board constituted under section 100 of the Kerala Land Reforms Act, 1963 (1 of 1964);
- (e) "lessee" means a person in possession of any land situate in the Kannan Devan Hills village in the Devicolam taluk of the Kottayam district, who has derived the right to such possession by means of a document executed by late Mr. John Daniel Munroe of London and Peermade or any person claiming through him or any person claiming under or through any of the successors-in-interest of the said Mr. John Daniel Munroe;
- (f) "plantation" means any land used by a person principally for the cultivation of tea, coffee, cocoa, rubber, cardamom or cinnamon (hereinafter referred to as "plantation crops");
- (g) "prescribed" means prescribed by rules made under this Act.

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

(2) Nothing contained in sub-section (1) shall apply in respect of—

- (a) plantations, other than plantations belonging to trespassers ;
- (b) buildings, other than buildings belonging to trespassers, and lands appurtenant to, and necessary for the convenient enjoyment or use of, such buildings ;
- (c) play-grounds and burial and burning grounds; and
- (d) lands in the possession of the Central Government or any State Government or the Kerala State Electricity Board.

(3) Nothing contained in sub-section (1) shall apply in respect of so much extent of land held by a lessee under his personal cultivation as is within the ceiling limit applicable to him under any law for the time being in force or any building or structure standing thereon or appurtenant thereto.

4. *Restoration of possession of lands in certain cases.*— (1) Where the person in possession of a plantation considers that any land, the possession of which has vested in the Government under sub-section (1) of section 3,—

- (a) is necessary for any purpose ancillary to the cultivation of plantation crops in such plantation or for the preparation of the same for the market; or
- (b) being agricultural land interspersed within the boundaries of the area cultivated with plantation crops, is necessary for the protection and efficient management of such cultivation; or

- (c) is necessary for the preservation of an existing plantation, he may, within sixty days from the date of publication of this Act in the Gazette, apply to the Land Board for the restoration of possession of such land.
- (2) An application under sub-section (1) shall be in such form as may be prescribed.
- (3) On receipt of an application under sub-section (1), the Land Board shall, after giving the applicant an opportunity of being heard and after such inquiry as it deems necessary, by order determine the extent of land necessary for the purpose or purposes specified in the application, and such order shall be final.
- (4) As soon as may be after determining the extent of land necessary for the purpose or purposes specified in the application under sub-section (1), the Land Board shall cause such land to be demarcated and put the applicant in possession of such land.
- (5) Any person put in possession of any land under sub-section (4) shall be entitled to possess that land on the same terms and subject to the same conditions on or subject to which he was holding such land immediately before the appointed day.

*5. Temporary arrangements pending restoration.*— If, during the period after the appointed day and before the restoration of possession of any land under section 4, the Collector is satisfied on representation or otherwise that the person in possession of a plantation in any area to which this Act applies is likely to be put to hardship in the management of the plantation on account of the vesting of possession of any land under sub-section (1) of section 3, the Collector shall take such measures and make such arrangements as he deems fit for removing the hardship during such period:

Provided that if the person in possession of the plantation does not apply to the Land Board under section 4, or the Land Board determines under that section that such person is not entitled to restoration of possession of any land, any arrangement if already made by the Collector shall be discontinued with effect from the date on which the period for making the application expires or the date of determination by the Land Board, as the case may be.

*6. Demarcation of boundaries.*—(1) As soon as may be after the appointed day, the Collector shall cause the boundaries of each parcel of land, the possession of which has vested in the Government under sub-section (1) of section 3, to be demarcated.

(2) As soon as may be after the demarcation of the boundaries of a parcel of land under sub-section (1), the Collector shall publish a notification in such manner as may be prescribed specifying the extent, identity and such other particulars as may be prescribed of such land.

(3) Where the possession of a portion of a parcel of land is restored under section 4, or the alteration of the boundaries of a parcel of land is necessary consequent on the order of the Land Board under section 7, the Collector shall cause the boundaries of the remaining portion of such parcel of land or such parcel of land, as the case may be, to be re-demarcated and shall also publish a notification of such re-demarcation under sub-section (2).

*7. Decision of disputes regarding vesting.*— (1) If any question arises as to whether the possession of a parcel of land or a portion of a parcel of land has vested in the Government under sub-section (1) of section 3, such question shall be referred by the Collector to the Land Board for decision.

(2) As soon as may be after the receipt of a reference under sub-section (1), the Land Board shall, after giving the persons interested an opportunity of being heard and after such inquiry as it deems necessary, decide the question, and such decision shall be final.

(3) Notwithstanding the reference of a question to the Land Board under sub-section (1), the Collector may, if he is satisfied that the possession of such parcel of land or portion has vested in the Government under sub-section (1) of section 3, cause the boundaries of such parcel of land to be demarcated as if the possession thereof has vested in the Government under that sub-section:

Provided that if the Land Board decides that such parcel of land or portion has not vested in the Government under sub-section (1) of section 3, the Collector shall, as soon as may be, restore possession of such parcel or portion, as the case may be.

8. *No compensation to be payable for vesting.*— Notwithstanding anything contained in any law for the time being in force, or in any contract or other document, no compensation shall be payable for the extinguishment under sub-section (1) of section 3 of the right, title and interest of the lessees or other persons or of the rights of mortgagees or holders of encumbrances.

9. *Assignment of lands.* —(1) The Government shall, after reserving such extent of the lands, the possession of which has vested in the Government under sub-section (1) of section 3 (other than lands, the possession of which has been restored under section 4), as may be necessary for purposes directed towards the promotion of agriculture or the welfare of the agricultural population to be settled on such lands, assign on registry the remaining lands to agriculturists and agricultural labourers in such manner, on such terms and subject to such conditions and restrictions, as may be prescribed.

(2) The Government may, by notification in the Gazette, delegate their power of assignment under sub-section (1) to the Collector, subject to such restrictions and control as may be specified in the notification.

10. *Eviction of persons in occupation on the appointed day.* — (1) The Collector or any officer authorised by him in that behalf may summarily evict any person in occupation of any land, the possession of which has vested in the Government under sub-section (1) of section 3

(2) Notwithstanding anything contained in any other law for the time being in force, the Collector or the officer authorised under sub-section (1) may, for the purposes of that sub-section, use such force as he deems necessary.

11 *Trespass after appointed day.*—(1) It shall not be lawful for any person to enter upon any land, the possession of which has vested in the Government under sub-section (1) of section 3, so long as it is in the possession of the Government, with intent, to occupy such land or to cut or remove any trees standing thereon, without the permission of the Collector or any officer authorised by the Collector in that behalf.

(2) Without prejudice to any penalty under sub-section (4), the Collector or any officer authorised by him in that behalf may summarily evict any person who contravenes the provisions of sub-section (1) and may confiscate or demolish any building, shed or other structures put up on such land.

(3) Notwithstanding anything contained in any other law for the time being in force, the Collector or the officer authorised under sub-section (2) may, for the purposes of that sub-section, use such force as he deems necessary.

(4) If any person contravenes the provisions of subsection (1), he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

12. *Powers of Land Board and Collector.*—(1) The Land Board and the Collector shall, for the purpose of exercising any power conferred by or under this Act, have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely :—

- (a) summoning and enforcing the attendance of any person and examining him on oath ;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavit;
- (d) issuing commissions for the examination of witnesses or for local investigation;
- (e) inspecting any property or thing concerning which any decision has to be taken; and
- (f) any other matter which may be prescribed ;

(2) The member of the Land Board or, where the Land Board consists of more than one member, any member of the Land Board, the Collector and any person authorised in that behalf by the Land Board or the Collector may enter upon any land, the possession of which has not vested in the Government under sub-section (1) of section 3, to do any act necessary for carrying out the purposes of this Act, and it shall not be lawful for any person to obstruct such member or the Collector or the person so authorised from entering upon such land or doing any act necessary for carrying out the purposes of this Act.

(3) Any person who contravenes the provisions of subsection (2) shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

13. *Right to use private way .*—(1) Any officer of the Government exercising any power or performing any function under this Act or any rule or order made thereunder shall, in the exercise of such power or the performance of such function, be entitled to use any private way in any land, the possession of which has not vested in the Government under sub-section (1) of section 3, and it shall not be lawful for any person to obstruct such officer from so using such way.

(2) Any member of the public shall be entitled to use any private way in any land, the possession of which has not vested in the Government under sub-section (1) of section 3, for the purpose of entry into or exit from any land, the possession of which has vested in the Government under the said sub-section, and it shall not be lawful for any person to obstruct any member of the public from using such way for such purpose.

(3) If any person contravenes the provisions of subsection (1) or sub-section (2), he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

14. *Bar of jurisdiction of civil courts.*— No civil court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is, by or under this Act, required to be settled, decided or dealt with or to be determined by the Government, the Land Board, the Collector or any other officer.

15. *Indemnity.*—No suit, prosecution or other legal proceedings shall lie against the Government or the Land Board or the Collector or any other officer or person for anything in good faith done or intended to be done under this Act or any rule or order made thereunder.

16. *Cognisance of offences.* — Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Central Act 5 of 1898), all offences punishable under this Act shall be cognisable.

17. *Saving of certain rights.* —(1) For the removal of doubts, it is hereby declared that nothing in this Act shall affect the right of the Kannan Devan Hills Produce Company Limited or any person authorised by it to enter upon any land, the possession of which has vested in the Government under sub-section (!) of section 3, for purposes connected with the transmission, supply or use of electrical energy including maintenance and repair of any electric supply line or any works connected therewith or the maintenance and repair of any telephonic communication lines or posts.

(2) Nothing in this Act shall affect the right of any lessee or any person authorised by him to enter upon any land, the possession of which has vested in the Government under sub-section (1) of section 3, for the purpose of entry into, or exit from, any land, the possession of which has not vested in the Government under the said sub-section.

18. *Power to remove difficulties.*—If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order do anything not inconsistent with such provisions, which appears to them necessary for the purpose of removing the difficulty.

19. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules to carry out the purposes of this Act.

(2) Every rule made under this Art shall be laid as soon as may be after it is made before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following the Legislative Assembly makes any modification in the rule or decides that the rule should not be made the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

20 . *Repeal and saving.* — (1) The Kannan Devan Hills (Resumption of Lands) Ordinance, 1971 (3 of 1971) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act