

*THE KERALA LAND ASSIGNMENT (REGULARISATION OF OCCUPATIONS OF FOREST LANDS PRIOR TO 1-1-1977) SPECIAL RULES, 1993

S. R. O. No. 433/93.— In exercise of the powers conferred by Section 7 of the Kerala Government Land Assignment Act, 1960 (30 of 1960), the Government of Kerala hereby make the following rules for assignment, settlement and regularisation of Forest Lands under occupation prior to 1st January, 1977, namely:—

1. Short title, extent and commencement.— (1) These rules may be called the Kerala Land Assignment (Regularisation of Occupations of Forest Lands prior to 1-1-1977) Special Rules, 1993.

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

(3) They shall come into force at once.

Case Law

Assignment of forest land to encroachers: Fixation of cut of date namely 1-1-1977 under Rules. Is not arbitrary. *Nature Lovers Movement v. State of Kerala* — 2000 KHC 847 : ILR 2000 (1) Ker. 677 : AIR 2000 Ker. 131.

Validity: Rules are legal and valid. *Nature Lovers Movement v. State of Kerala* — 2000 KHC 847 : ILR 2000 (1) Ker. 677 : AIR 2000 Ker. 131.

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

- (a) "Alienation" includes sale, gift, bequest under a will, mortgage, hypothecation or lease.
- (b) "Assignee" means a person to whom land is assigned under these rules by regularisation of occupation of land as defined in clause (g) and includes his heirs or successor-in-interest.
- (c) "Assignment" means Regularisation of occupation of forest lands by way of transfer of land on registry.
- (d) "Family" includes a person, his wife or her husband, their children living with or dependent on them and also the parents who are dependent on such person.
- (e) "Joint verification" means the verification of Forest lands conducted by the Revenue and Forest Departments to establish the eligibility for regularisation of the occupation of the said lands prior to 1-1-1977.
- (f) "Land" means the Forest land subjected to joint verification as defined in sub-clause (e) and Cardamom Hill Reserve land which are converted for non-cardamom cultivation prior to 1-1-1977 in Idukki District which have been transferred from Forest Department to Revenue Department and covered in the Resurvey Records and list of lands recommended to Government of India for concurrence under Section 2 of the Forest (Conservation) Act, 1980 (Central Act 69 of 1980) but does not include lands in wild life Sanctuaries.
- (g) "Regularisation of occupation" means regularisation of occupation prior to 1-1-1977 of forest land and lands in Cardamom Hill Reserve of Idukki District.
- (h) "Tahsildar" means the Tahsildar in charge of a Taluk and includes a Special Tahsildar appointed exclusively for land assignment under these Rules.
- (i) "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 religion from Scheduled Castes and Scheduled Tribes.

1[(j) predecessor-in-interest for the purpose of these rules means the persons whose names are noted in the records mentioned in Rules 2(f) above and successor-in-interest means those who have obtained possession of the land by virtue of a stamped instrument.]

3. Purpose for which lands may be assigned.— The lands under these rules may be assigned on registry for purpose of personal cultivation or for house sites or for shop sites as the case may be.

4. Maximum limit to be assigned to a family.— The extent of land that may be assigned to a family under these Rules shall not exceed four acres. The land in possession of a family in excess of four acres shall be resumed by Government and the said family shall not be eligible for any compensation for improvements effected on such land.

5. Assignee to be in possession of the land.— The land sought for assignment under these rules should have been under occupation prior to 1-1-1977 by the assignee or his predecessor/successor-in-interest:

Provided that the lands which were under possession and enjoyment of Scheduled Tribes prior to 1-1-1977 and subsequently passed on to a person other than a Scheduled Tribe shall not be assigned to such person even if the occupation by such person is prior to 1-1-1977.

6. List of assignable lands and applications.— (1) The joint verification reports or the records of resurvey of the land conducted under the Kerala Survey and Boundaries Act, 1961 (Act 37 of 1961) containing the details of lands found eligible for assignment under these Rules shall be published in the concerned Village Offices and Taluk Offices inviting applications for assignment within the period specified therein.

(2) Application for assignment shall be made in Form No.2 before the Tahsildar within seven days of the publication of the list.

(3) Each application shall bear court-fee stamp of the value of Rupees two.

Note.— Applicants belonging to Scheduled Castes/Scheduled Tribes shall be exempt from affixing court fee stamp on their applications.

7. Enquiry into claims and objections.— (1) Immediately after the receipt of the applications for assignment, the Tahsildar shall publish in the Village Office and Taluk Office a notice in Form No. 3 under his signature inviting claims or objections in writing from the interested persons to the regularisation of occupation by assignment on registry of the land.

(2) Claims or objections if any shall be preferred within seven days from the date of publication of the notice.

(3) In case where claims or objections have been preferred the Tahsildar shall duly enquire into them and pass orders thereon within fifteen days of receipt of such claims or objections, recording the reasons in writing for rejection or admission of the claim or objection as the case may be:

Provided that the Government may if they consider it necessary so to do in public interest vary or reduce or dispense with the time limits stipulated under sub-rule (2) and (3).

(4) The fact of the disposal of the claims or objections together with reasons for "such disposal shall be communicated to the person who preferred the claim or objection.

(5) If no claims or objections are preferred the Tahsildar shall straight away assign the land to the applicant.

8. Procedure for assignment.— After the disposal of the claims and objections in the manner specified in Rule 7, the Tahsildar shall prepare a list of eligible applicants and order of assignments shall be issued in Form No. 4.

9. Land value to be paid by the assignee and grant of Patta.— (1) The assignee shall remit in lump the land value at the prescribed rate within a period of one month from the date of order of assignment:

Provided that the Tahsildar may if he deems fit, allow payment of land value in equal annual instalments not exceeding three. In such cases, the assignee shall execute an agreement as provided in Form No. 5.

(2) No land value shall be recovered:—

- (a) from an assignee belonging to a Scheduled Caste or Scheduled Tribe;
- (b) from an assignee whose wife or husband, as the case may be, is a member of a Scheduled Caste or Scheduled Tribe;
- (c) where the assignment is made in favour of both the husband and wife jointly, if one of them is a member of a Scheduled Caste or Scheduled Tribe.

(3) The Tahsildar shall issue patta in Form No. 6.

^{1A}[9എ. ഒഴിപ്പിക്കലിനും കാലതാമസം മാപ്പാക്കുന്നതിനും ഉള്ള പ്രത്യേക വ്യവസ്ഥകൾ.— ഈ ചട്ടങ്ങളുടെ മറ്റേതൊരു വ്യവസ്ഥകളിലും എന്തുതന്നെ അടങ്ങിയിരുന്നാലും, 9-ാം ചട്ടം (1)-ാം ഉപചട്ടത്തിൽ വ്യവസ്ഥ ചെയ്ത പോലുള്ള ഭൂമി വിലയും മറ്റു ചാർജ്ജുകളും മൊത്തത്തിൽ പതിച്ചുകിട്ടിയ ആൾ പതിച്ചു നൽകൽ ഉത്തരവിന്റെ തീയതി മുതൽ നിർണ്ണയിക്കപ്പെട്ട കാലാവധിയായ ഒരു മാസത്തിനകം ഒടുക്കുന്നില്ലെങ്കിൽ നേരത്തെ പുറപ്പെടുവിച്ച പതിച്ചു നൽകൽ ഉത്തരവ് റദ്ദാക്കപ്പെടുന്നതും അങ്ങനെയുള്ള റദ്ദാക്കലിന്മേൽ, കുടിയേറ്റക്കാർ ഒഴിപ്പിക്കപ്പെടുന്നതും ഭൂമി തിരിച്ചെടുക്കുന്നതുമാണ്. ഒരു മാസത്തിനകം മുഴുവൻ തുകയും ഒടുക്കിയാൽ മാത്രമേ ഭൂമിക്കുള്ള പട്ടയം നൽകുകയുള്ളൂ. ലഭിക്കേണ്ടതായ പതിച്ചു നൽകൽ കുടിശ്ശികയിന്മേൽ പ്രതിവർഷം ആറ് ശതമാനം പലിശ ഈടാക്കുന്നതാണ്.

എന്നാൽ കുടിയേറ്റക്കാരെ ഒഴിപ്പിക്കപ്പെട്ടില്ലെങ്കിൽ, അർഹമായ കേസുകളിൽ റവന്യൂ ഡിവിഷണൽ, ഓഫീസർക്ക്, പതിച്ചു കിട്ടിയ ആളിൽ നിന്നും ലഭിക്കേണ്ടതായ ഭൂമി വിലയും മറ്റ് ചാർജ്ജുകളും ഒടുക്കുന്നതിൽ പതിച്ചു നൽകൽ ഉത്തരവിന്റെ തീയതി മുതൽ ഒരു വർഷം വരെയുള്ള കാലയളവിലെ കാലതാമസം മാപ്പാക്കാവുന്നതാണ്. അങ്ങനെയുള്ള കേസുകളിൽ, റവന്യൂ ഡിവിഷണൽ ഓഫീസറുടെ ഉത്തരവിന്റെ തീയതി മുതൽ പതിനഞ്ചുദിവസത്തിനകം പതിച്ചുകിട്ടിയ ആൾ കൊടുക്കേണ്ടതായ മുഴുവൻ തുകയും ഒന്നിച്ചു ഒടുക്കേണ്ടതാണ്. അപ്രകാരം അനുവദിച്ച സമയത്തിനുള്ളിൽ കുടിയേറ്റക്കാരന് തുകയടയ്ക്കുവാൻ കഴിയാതെ വന്നാൽ അയാളെ ഔപചാരിക നടപടികൾ കൂടാതെ ഒഴിപ്പിക്കുന്നതാണ്:

എന്നിരുന്നാൽത്തന്നെയും ജില്ലാ ക്ലർക്കും ലാന്റ് റവന്യൂ കമ്മീഷണർക്കും, അർഹമായ കേസുകളിൽ, പതിച്ചു കിട്ടിയ ആളിൽ നിന്നും ലഭിക്കേണ്ടതായ ഭൂമി വിലയും മറ്റ് ചാർജ്ജുകളും ഒടുക്കുന്നതിൽ പതിച്ചു നൽകൽ ഉത്തരവിന്റെ തീയതി മുതൽ യഥാക്രമം മൂന്നുവർഷവും അഞ്ചുവർഷവും വരെയുള്ള കാലയളവിലെ കാലതാമസം മാപ്പാക്കാവുന്നതാണ്. കാലതാമസം അഞ്ചുവർഷം കവിയാുന്ന എല്ലാ കേസുകളിലും കാലതാമസം മാപ്പാക്കുന്നതിന് സർക്കാരിന്റെ അനുവാദം വാങ്ങിയിരിക്കേണ്ടതാണ്.]

10. Survey and Demarcation charges.— No survey and demarcation charges shall be realised from the assignees.

11. Arrears of rent etc., due on land.— Arrears of lease rents, pattam or premium, if any, under the Rules for Lease of Government Lands for Cardamom Cultivation, 1961 shall be waived.

12. Land value.— Land value shall be realised from the assignees at the following rates:—

- (a) Not exceeding 50 cents Nil
- (b) above 50 cents but not exceeding two acres At the rate of Rs. 1000 (Rupees One thousand) per acre.
- (c) Exceeding two acres At the rate of Rs. 2000 (Rupees two thousand) per acre.

13. Trees.— The trees as defined in the Kerala Preservation of Trees Act, 1986 (Act 35 of 1986) as described in the Patta issued to the assignee shall be accounted for and preserved by the Forest Department. The assignee shall afford all facilities to the officers of Government in the matter of inspecting the land periodically for checking the trees and for removing them if necessary.

1A. Inserted by Notification G.O. (P). No. 340/2004/Revenue dt. 18/11/2004, published as SRO. No. 1225/2004 in K.G. Ext. No. 1197 dt. 27/05/2005. (Since English translation of the amendment Rules are not published, we are incorporating the amendment Rules that are published in Malayalam.)

