

*KUTHAKAPATTOM RULES, 1947 (TRAVANCORE)

In exercise of the powers conferred on them by Section 7 of the Government Land Assignment Act, III of 1097. The Government of His Highness the Maharaja are pleased to make the following rules:—

1. These rules supersede all the existing rules on the subject of Kuthakapattom, including the Rules for the grant of the leases of Government lands for cultivation contained in G.O.R.O.C. No. 4848/42/Rev dt. 28/11/1944.
2. The rules shall not be applicable to lands given for cardamom or tea cultivation.
3. Kuthakapattom means and includes.
 - (a) Lease of poramboke land on fixed ground rent for putting up shops in bazaars and markets.
 - (b) Lease of poramboke and other Government lands for temporary occupation with fairs, festivals, marriages, public entertainments etc.
 - (c) Lease of poramboke land not immediately required for public purpose or THARISU or other Government lands available for cultivation.
 - (d) Lease of trees standing on Government lands falling under clause (c) supra.

Note.— (1) Tharisu porambokes which are only vast areas of waste or jungle lands recorded as such in certain taluks may be treated as Tharisu proper for purposes of these rules.

(2) In the case of sites of Government institutions the land shall not be ordinarily leased on Kuthakapattom. The lease in such cases should be confined to the trees standing on their premises.

(3) Lands set apart for communal or public purposes shall not also be ordinarily leased on Kuthakapattom.

Case Law

Kuthakapattom: There is no question of granting a temple in kuthakapattom. *Jaya Roy and Others v. Sukumaran and Others* — 2010 (3) KHC 17.

4. All Government lands or trees standing thereon available for being leased shall, unless otherwise directed by these Rules or specifically ordered by Government, be leased only in public auction.
5. Kuthakapattom leases fall under two classes—
 - (a) Leases without limit of time.
 - (b) Leases for definite periods.
6. Kuthakapattom without limit of time relates to—
 - (i) Leases of trees on poramboke lands which have already been given out without limit of time under the Rules of 1074 or under the subsequent Kuthakapattom Rules.
 - (ii) Lease of trees which may hereafter be given under these rules. The existing trees on poramboke land such as public roads, banks of canals and irrigation tanks, fields, bunds etc. shall be leased on Kuthakapattom without limit of time to the ryots, provided there is clear and indubitable evidence that they have been planted and nurtured by them under the bona fide belief that the land belonged to them and that such lease is not prejudicial to public interest.
 - (iii) Trees on poramboke land for which patta has been granted and which now exists on the ground shall be treated as being held hereafter on Kuthakapattom without limit of time under these rules.

- (iv) Lease of shop sites in bazaars on ground rent.
- (v) Lease of Government lands occupied *bona fide* before the date of the Puduval Rules of 1932 *i.e.* (06/07/1932).

7. (a) Kuthakapattom for definite periods relates and includes—

- (i) Leases of Government lands occupied bonafide between the years 1932 and 1945.
- (ii) Leases of Government lands occupied after 1945.
- (iii) Leases of unoccupied Government lands or trees standing thereon or both.

(b) The lease under (i) above shall invariably be granted to the occupant thereof for a period of 12 years renewable thereafter and the leases under (ii) the (iii) above shall only be by public auction.

(c) All lands bid in favour of Sirkar or the management assumed under the provisions of the Revenue Recovery Act for default in the repayment of Agricultural Loans, Special Punja Loans or industrial loans or the lands acquired for public purposes or the lands applied for certain seasonal cultivation will be governed by the provisions of these Rules.

Notes.— The Government can prescribe the rates for the land and alter or vary the rates fixed for existing leases. The provisions of the Kuthakapattom Rules has no force in this context.

8. (i) In the case of leases of trees or land or both granted without limit of time, the annual Kuthakapattom amount shall be fixed in accordance with the rates in schedules I to III annexed to these rules. The pattom for trees, if any, not enumerated in schedule III shall be fixed on a fair and adequate basis.

(ii) The rates in the case of existing leases of trees or lands or both without limit of time are liable to be revised now in accordance with the schedules I to III annexed to these rules. If the lessee does not accept the revised rates the lease shall be determined and notice issued to him to surrender the leasehold within a specified time. If he does not surrender the lease accordingly he will be considered as a tenant holding over and proceeded [against and evicted under Act, IV of 1091. The authority competent to sanction the lease] under these rules shall sanction the revision of the rates.

(iii) In regard to the existing leases of trees or land or both which have been granted for definite periods, the amount of pattom shall not be interfered with during the currency of the lease, unless agreed to by the lessee.

(iv) The rates of pattom are liable for revision after every 12 years, in regard to all leases without limit of time and leases of land granted for definite periods without auction.

(v) When occupied lands or trees are leased to the occupants themselves without eviction, arrears of pattom at the prescribed rates shall be recovered for the whole period of occupation subject to a maximum of 10 years or for a longer period in appropriate cases if specially directed by Government.

(vi) In the case of leases of land with trees, allowance shall be made for the area covered by the trees for which pattom has been realised according to the scale given in schedule IV.

9. A Kuthakapattom account shall be maintained in each pakuthy in Form A appended to these Rules. This account shall be maintained in 2 parts—part I for leases granted for definite periods and part II for leases without limit of time.

Similarly, a Kuthakapattom Register shall be maintained in the Taluk Office in 2 parts in Form B appended. Separate pages being allotted to each pakuthy.

10. Action for lease of Government lands shall be taken by Tahsildar.

- (i) on receipt of applications;
- (ii) on receipt of reports from proverthicars with sketch and mahazar under Rule 11 in regard to Government lands which can be leased out;
- (iii) on receipt of reports from proverthicars in cases taken up under the Land Conservancy Act in which the encroachments have been evicted and the lands made available for being leased out; and
- (iv) on all time expired leases.

11. All the applications and reports referred to in Rules 10 and 12 shall be filed in the Taluk Office in a Register in Form C appended. The applications received under Rule 10(i) shall be forwarded by the Tahsildar to the proverthicar. If the application relates to poramboke land the proverthicar shall inspect it and prepare a clear sketch and mahazar showing the survey number, nature, extent and boundaries thereof, as also the number and description of trees if any, standing thereon, and send them up to the Tahsildar together with a report as to whether the land could be leased out or not. If there is occupation, he should also prepare an A form statement as per the rules issued under the Land Conservancy Act and forward the same to the Tahsildar. The application in regard to Tharisu, Tharisu poramboke or other Government lands, not required for public purpose shall also be dealt with in the same manner as prescribed above.

12. It shall also be the duty of the proverthicar of each pakuthy to inspect the Government lands in the pakuthy and to send to the Tahsildar every month a report with a statement showing the extent of lands available for being leased, the area already leased and the area remaining to be leased out, together with sketches and mahazars furnishing particulars of survey number, nature and extent of lands. The number and description of trees standing on the lands at the time of inspection shall also be noted in the mahazar.

13. The Tahsildar or the revenue supervisor shall on receipt of the sketch and mahazar under Rules 11 and 12 inspect the land personally.

- (a) if the land involved is poramboke, the Tahsildar shall examine whether it is necessary in the public interests to retain the whole or any portion of it as poramboke. If the whole or any portion of it is required for public purpose he shall record his opinion and strike of the case or exclude the portion to be retained as poramboke, as the case may be. The occupant, if any, shall also be evicted under the Land Conservancy Act.
- (b) If, on inspection the Tahsildar finds that the whole or any portion of the poramboke land is available for being leased out, he shall take action for the lease of the land the trees if any, standing thereon.

Note.— Poramboke lands shall be given on lease only in rare and exceptional cases, ie. if their temporary occupation is not prejudicial to public Government interests.

- (c) If the land involved is Tharisu or Tharisu Poramboke or other Government land available for being leased out and is over 10 acres in extent. The Tahsildar after inspecting the land, and recording his opinion as to its availability for being leased and the amount of pattom to be fixed for the land and the trees, if any, send up a report to the Division Peishkar and obtain sanction for leasing the land in auction. The Pattom for the land and the trees shall be fixed with due regard to the productive capacity of the soil and the importance of the locality, but shall not fall below the rates fixed in the schedules annexed to these rules.

Note.— In regard to blocks of lands over 5 acres in extent, the Tahsildar shall get the land sub-divided and surveyed as provided for in Rule 13 and 14 and a key map prepared showing the extent of each of the sub-divisions. The sub-divisions which have been registered or leased upto date shall be clearly indicated therein. With the help of the key map thus prepared the land available for being leased out, or applied for being leased shall be examined. The key map should be submitted to the Division Peishkar along with the Tahsildar's report.

14. Blocks of lands exceeding 5 acres in extent available for being leased shall ordinarily be cut into smaller blocks of 5 acres, more or less, with measurements of the outer boundaries and such other measurements required for preparing a sketch and arriving at the area therefor. Separate sketches should be incorporated with each Kuthakapattom case. The Proverthicar shall also mark the sub-divisions concerned in the key-map referred to above.

15. In minor circuits, which have already been split up into small blocks by the Survey Department, further sub-divisions may become necessary. In such cases, the portions applied for, or the portions cut into small blocks available for being leased out shall be demarcated as further sub-divisions and marked in the key-map with measurements of the new sides forming the new sub-divisions.

