

THE KANAM TENANCY ACT, 1955
(XXIV of 1955)

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ACT XXIV OF 1955.

THE KANAM TENANCY ACT, 1955.

An Act to confer full proprietary rights on kanam tenants in the Cochin area subject only to the payment of jenmikaram and to provide for the settlement, collection and payment of jenmikaram and for matters incidental thereto.

Preamble.—WHEREAS it is expedient to confer full proprietary rights on kanam tenants in the Cochin area subject only to the payment of jenmikaram and to provide for the settlement, collection and payment of jenmikaram and for matters incidental thereto;

Be it enacted in the Sixth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Kanam Tenancy Act, 1955.

(2) It extends to the whole of Cochin and also to the enclaves which formed part of the Malabar District and which have been absorbed in the State of Travancore-Cochin under the Provinces and States (Absorption of Enclaves) Order, 1950.

(3) It shall come into force on such date as the Government may by notification in the Gazette, appoint.

CHAPTER I.

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

(1) "Fractional fee" means the fee fixed as claimable in substitution of the renewal fees in annual instalments at the rate of seven per cent of the aggregate value or amount of one year's michavaram or of the renewal fees payable under the Cochin Tenancy Act, XV of 1113, whichever is less, or in annual instalments proportionately lower in percentage when renewal on the expiry of any longer period is provided for by the Kanam;

(2) "Holding" means a parcel or parcels of land held under a single engagement by a tenant as a kanam from a jenmi and shall include any portion of a holding as above defined which the jenmi and kanam-tenant have agreed to treat as a separate holding;

(3) "Jenmi" means a person immediately under whom a kanam-tenant holds;

(4) "Kanam" means a demise with the following incidents:—

(i) an initial lump sum consideration in money or in kind or both given or deemed to be given by the kanam-tenant to the jenmi which is mentioned as such in the demise and bears a specified interest;

(ii) the payment of michavaram, if any, by the kanam-tenant to the jenmi;

(iii) the right of the tenant to occupy the property demised for 12 years or for any other longer period which is specified;

(iv) in respect of a demise created prior to the commencement of this Act the liability to pay a renewal fee on renewal of the demise.

Explanation I.—Kanam executed on or after the coming into force of the Cochin Tenancy Act, II of 1090 shall not, by reason only of the omission to specify therein any of the particulars mentioned in clauses (a) to (e) of sub-section (1) of Section 27 of the said Act, be deemed to be a demise other than kanam.

Explanation II.—A transaction whenever entered into called "panayam" in the document evidencing it may create a kanam within the meaning of this clause.

Explanation III.—(i) A transaction called "panayam" or "panayola karanam" or "panayadharam" or "pattapanayam" or by any name which with other suffixes or prefixes contains the word "panayam" in the document evidencing it, and possessing the incidents mentioned in sub-clauses (i) and (ii) of this clause shall, until the contrary is proved, be presumed to be a kanam within the meaning of this clause if it is a renewal of a previous document or if in respect of it a counter-part has been executed by the panayam tenant or there is a provision for renewal or for the payment of puravaka dues:

Provided that nothing in this Explanation shall apply to a document expressly described as Karippanayam, Kaivasa panayam Kozhuverukkapanayam or Nadappupanayam.

(ii) A provision in any document of the kind referred to in clause (i) of this explanation providing for surrender of the holding on demand to the jenmi shall not, by itself, give rise to any presumption contrary to that provided for in that clause;

(5) "Kanam amount" means the amount specified in sub-clause (i) of Clause (4) of this section in respect of a kanam;

(6) "Michavaram" means the balance of money or produce or both payable periodically under the contract of tenancy to the jenmi after deducting from the pattom the interest due on the kanam amount and puramkadam, if any;

(7) "Pattam" means the jenmi's share as fixed by the contract of tenancy of the produce of the holding whether in money or in kind or both, but does not include renewal fee;

(8) "Pay" with its grammatical variations, includes "deliver";

(9) "Puravaka dues" means whatever is payable in money or in kind or both by the terms of a demise other than pattom or michavaram and renewal fee;

(10) "Puramkadam" means a further sum of consideration received by the jenmi subsequently to the kanam amount from a kanam tenant in respect of the holding;

(11) "Renewal fee" means fee or fees payable by a kanam-tenant to his jenmi under the contract of tenancy for the renewal of the legal relationship under which the kanam-tenant has been holding any land;

(12) "Kanam-tenant" means a person who holds land on Kanam tenure;

(13) "Jenmikaram" in respect of a holding or any land comprised in a holding means the amount payable in respect of that holding or land under the provisions of this Act by the Kanam-tenant to the jenmi every year in lieu of all claims of the jenmi in respect of the holding, or land and shall be the sum total of the michavaram and the fractional fee.

Explanation.—Payment of or the liability to pay jenmikaram is equivalent to paying or the liability to pay the michavaram, renewal fees and puravaka dues;

(14) "Prescribed" means prescribed by Rules made under this Act.

CHAPTER II

OF THE RIGHTS AND LIABILITIES OF JENMIES AND KANAM-TENANTS

3. *Kanam-tenant owner of land subject only to payment of jenmikaram.*—(1) From and after the commencement of this Act, the jenmi shall not have any right, claim or interest in any land in a holding except the right to receive the jenmikaram thereon and the kanam-tenant shall be deemed to be the owner of the land subject only to the payment of the jenmikaram.

Explanation (1).—Notwithstanding any usage or contract to the contrary, no kanam-tenant has the right to relinquish his holding or any portion thereof and no jenmi has the right to evict a kanam-tenant from his holding or any portion thereof.

Explanation (2).—Notwithstanding any usage or contract to the contrary, every kanam-tenant has the right to make any use of the land in his holding to change its character either by converting wet land into garden land or by converting garden land into cultivable wet land, or in any other manner, to cut down and appropriate any trees standing thereon, to alter the course of cultivation in respect thereof and, in short, to do or suffer anything to be done on the land without reference to, or interference from the jenmi.

Explanation (3).—Notwithstanding any usage or contract to the contrary, every kanam-tenant has the right to make any improvement in respect of his holding without reference to, or interference from, the jenmi, and no kanam-tenant shall thereby become liable to pay any higher jenmikaram on account of any increase of production or any change in the nature of the crop raised in consequence of such improvement.

(2) The jenmi's right as well as the kanam-tenant's right is heritable as well as transferable by sale, gift or otherwise.

(3) The jenmi's right to the jenmikaram shall be deemed to be immovable property.

4. *Jenmikaram how fixed on land being divided.*—If any land comprised in a holding is divided for any reason, the jenmikaram on each portion of the land shall be fixed in the proportion of the Government tax that will be fixed on such portion of land and the jenmikaram so fixed shall be the jenmikaram due thereon.

5. *Jenmikaram first charge on land.*—The jenmikaram of a holding together with the interest, if any, due thereon, when it becomes an arrear, shall be claimable by the jenmi and shall, subject to the priority of the rights of the Government, for arrears of tax be a first charge on the holding.

6. *Kanam-tenant's liability on jenmi's right being transferred.*—No kanam-tenant shall, when without his consent, the jenmi's right in any land comprised in a holding is transferred by sale, gift or otherwise, be liable to the transferee for the jenmikaram which became due after the transfer and was paid to the jenmi whose right was so transferred, unless the transferor or transferee has, before the payment, given notice of the transfer to the kanam-tenant by registered post.

7. *Kanam-tenant's liability on holding being transferred.*—When any land comprised in a holding or a holding is divided or is transferred by sale, gift or otherwise by the kanam-tenant without the consent of the jenmi, the kanam-tenant shall continue liable for the jenmikaram accruing due after such division or transfer, unless and until notice by registered post of the division or transfer is given to the jenmi by any sharer or by the transferor or transferee, as the case may be, and until the transfer of registry is effected in the Land Revenue records in accordance with the division or transfer.

Explanation.—This provision does not affect any liability of any sharer or transferee as between such person and other sharers or the transferor, as the case may be, to pay the jenmikaram.

8 *Kanam tenant's liability on jenmi's right in land being divided.*—No division of the jenmi's right in any land comprised in a holding shall be binding on the kanam-tenant thereof, unless it is made with the consent of the kanam-tenant or notice thereof is given to the kanam-tenant by registered post informing him of the prescribed particulars of the division, and the jenmikaram which may become due subsequent to such division made without such consent may, until the receipt of the notice be paid to the jenmi entitled thereto before such division.

9. *Renewals not obligatory.*—Notwithstanding any usage or contract to the contrary, it shall not be obligatory on the jenmi to renew, or on the kanam-tenant to accept the renewal of a contract of kanam.

10. *Revision of jenmikaram.*—Notwithstanding any usage or contract to the contrary, the jenmikaram of any land shall not be liable to alteration or revision at any time.

CHAPTER III

PART A—CREATION OF KANAMS.

11. *Creation of kanams.*—No kanam can be created after this Act comes into force except by a registered instrument.

12. *Particulars which kanam instrument should contain.*—No instrument by which a kanam is created or its counterpart shall be registered unless it contains—

(1) (a) the name, if any, and description and extent of the holding;

(b) the Government revenue and local taxes, if any, payable in respect of the holding;

(c) the kanam amount and puramkadam, if any;

(d) the rate or the amount of interest payable in respect of the kanam amount and puramkadam, if any; and

(e) the michavaram, fractional fee and the jenmikaram payable in respect of the holding.

(2) (a) If the jenmikaram or any portion thereof is payable in kind it shall be specified according to the standard measure or para prescribed by the Government or which may be agreed upon between the parties.

(b) If any local para or measure is used by the parties the difference between it and the Government standard para shall be specified.

13. *Appeal from the order of the Registrar.*—An order of the Registrar refusing registration on the ground of the absence of any of the particulars specified in Section 12 shall be subject to appeal in accordance with the provisions of the Indian Registration Act, 1908.

14. *Stamp and registration charges for kanam instruments.*—The stamp and registration charges for a kanam instrument and for its counterpart shall be borne by the kanam-tenant and the jenmi respectively.

PART B—JENMIKARAM AND ITS RECOVERY.

15. *When summary suit will not lie.*—No summary suit or claim for enforcing payment of any jenmikaram shall be entertained by the Courts under this Act unless either the jenmikaram or michavaram and the renewal fees with reference to which the jenmikaram has to be ascertained, are specified in the kanam document or its counterpart duly registered or in a decree of a Civil Court obtained in a regular suit between the jenmi and the kanam-tenant.

16. *Jenmikaram alone payable to jenmi with interest if in arrears.*—(1) Subject to the provisions of this Act, every jenmi shall be entitled to receive and every kanam-tenant shall be bound to pay in respect of all land in the latter's holding the jenmikaram due thereon, and notwithstanding any contract or usage to the contrary the jenmi shall not be entitled to receive from the kanam-tenant and the kanam-tenant shall not be bound to pay to the jenmi anything else in respect of the land.

(2) The jenmikaram shall be payable in such instalments and on such dates, as the Government may, by rules made under this Act, determine, or, in the absence of such rules, at or before the close of each Financial year.

(3) The jenmikaram or any instalment of jenmikaram payable on any date, if it is not paid on or before that date, shall become an arrear on the first day after that date.

(4) An arrear of jenmikaram shall bear simple interest at the rate of six per cent. per annum.

(5) Notwithstanding any usage or contract to the contrary the kanam-tenant, shall be liable to pay all Government and local taxes in respect of the land comprised in his holding whether existing at the time of the demise or imposed afterwards.

(6) Where according to the terms of contract of kanam, renewal fees are payable on the expiry of a specified period and one or more such periods have expired at the commencement of this Act, and no renewal fees have been paid, the aggregate amount of the renewal fees payable under the contract of kanam in respect of such period or periods shall, subject to the provisions of sub-section (8), be payable by the kanam-tenant to the

jenmi within a period of three years from the commencement of this Act or with interest at six per cent. per annum thereafter within a further period of three years.

(7) Where according to the terms of any contract of kanam, renewal fees are payable on the expiry of a specified period and part only of such period has expired at the commencement of this Act, an amount which bears to the amount of renewal fees the same proportion as the expired part of the period bears to the whole period specified in the contract, shall subject to the provisions of sub-section (8), be payable by the kanam-tenant to the jenmi without interest within three years from the commencement of this Act or with interest at six per cent. per annum from the commencement of this Act or with interest at six per cent. per annum. This amount shall be payable in addition to the amount, if any, payable under sub-section (6).

(8) For the purpose of this Section the renewal fees shall be deemed to be one year's michavaram or the renewal fee payable under the Cochin Tenancy Act, XV of 1113, whichever is less.

17. *Jenmikaram payable in money.*—Where the jenmikaram or any portion of it consists of paddy or other commodity the kanam-tenant shall be entitled to pay in money the value of such paddy or other commodity at the commutation rates fixed under the provisions of Section 49.

18. *Contents of receipt for jenmikaram.*—Every kanam-tenant paying any jenmikaram shall be entitled to a receipt specifying—

- (a) the date of payment,
- (b) the amount paid,
- (c) the period for which it is paid,
- (d) the holding in respect of which it is paid, and
- (e) such other particulars as may be necessary to elucidate the transaction.

PART C—SUMMARY RECOVERY AND DEPOSIT OF JENMIKARAM.

19. *Jenmi may apply to Tahsildar to recover jenmikaram under Revenue Recovery processes.*—(1) It shall be competent to the jenmi of any holding, without prejudice to any other right of action that he may have, to make an application to the Tahsildar of the Taluk in which the holding is situated to recover the arrears of any jenmikaram in respect of that holding:

Provided that the arrears are not more than one year old on the date of the application.

(2) The application shall be in such form and shall contain such particulars as may be prescribed by the Government

and shall be signed and verified by the jenmi in the manner prescribed by the Code of Civil Procedure, 1908 for the signing and verification of plaints.

(3) The applicant shall from time to time pay to the Tahsildar such fees as may be prescribed by the Government for the several processes that may be necessary for realising the arrears. The applicant shall be entitled to a refund of any portion of such fees that may remain unexpended at the termination of the proceedings.

(4) If the Tahsildar is satisfied that the application has been duly presented, that the arrears are due from the kanam-tenant that the applicant is entitled to recover them and that they are not more than one year old on the date of the application, he shall proceed to recover the amount of the arrears and interest and the fees paid under sub-section (3) by the applicant as if they were an arrear of public revenue to the Government and the provisions of the Travancore-Cochin Revenue Recovery Act, 1951 (Act VII of 1951) shall apply to all the proceedings.

(5) (a) The amount that is recovered shall be paid by the Tahsildar to the applicant on taking a receipt from him in a form as near as may be to that contemplated by Section 18.

(b) A copy of the receipt with the attestation of the Tahsildar shall be given free of cost to the kanam-tenant if he applies for it.

Explanation.—Nothing in this Section shall be deemed to bar the right of Civil suit which any aggrieved party may have in law.

20. *Jenmikaram may be deposited by kanam-tenant.*—

(a) When a jenmi refuses to accept jenmikaram tendered by the kanam-tenant, or

(b) When the kanam-tenant in any case is doubtful as to the person entitled to receive the jenmikaram,

the kanam-tenant may make an application to the Court of the District Munsiff having jurisdiction over the place where the holding or any part of it is situated for permission to deposit in such Court the entire amount of the jenmikaram due in respect of the holding till then, together with the interest due thereon under this Act.

21. *Contents of the application.*—The application shall specify, as far as possible,

(a) the name of the jenmi and his description when known and, in case of doubt, the name and description of all the rival claimants,

(b) the local name, description and extent of the holding,

(c) the particulars of the tenure on which the holding is held by the kanam-tenant,

- (d) the entire amount of the jenmikaram and the interest due thereon up-to-date and the value, at the commutation rates, of such portion of it as is in kind,
- (e) the circumstances under which the application is made, and shall be verified in the manner prescribed by the Code of Civil Procedure, 1908 for the verification of plants.

22. *Jenmikaram due up-to-date of application to be paid into Court.*—The amount of jenmikaram specified in clause (d) of Section 21 shall be paid into Court at the time of the application, the price of paddy or other commodities payable as jenmikaram and the interest, if any, due thereon being commuted into money.

23. *Procedure on deposit of jenmikaram.*—(1) When such application as is aforesaid is made the Court shall grant the permission applied for and accept the deposit unless it appears on an examination of the applicant that the application has been made without justifying grounds or unless he has failed to pay the fee, if any, chargeable for the issue of the notice hereinafter referred to.

(2) The applicant shall be entitled to a receipt from the Court accepting the deposit, and the deposit shall be deemed to be a payment made by the kanam-tenant to the jenini in respect of the jenmikaram or arrear due.

24. *Further procedure on deposit.*—(1) The Court accepting the deposit shall give notice of the same to every person who is reasonably believed to claim or to be entitled to the deposit, and may, after hearing such of them as may appear in Court, pay the amount thereof or remit the same, less the money order commission to any person appearing to the Court to be entitled to the same or may, if it thinks fit, retain the deposit pending the decision of a competent Civil Court as to the person so entitled.

(2) Nothing in this section shall affect the right of any party to institute a regular suit in a competent Civil Court to contest the payment, remittance or order made under sub-section (1) or to recover the amount from the party, if any, to whom it has been paid or remitted under sub-section (1) but, so far as the kanam-tenant is concerned, the receipt granted under sub-section (2) of Section 23 shall be deemed a full acquittance in respect of the amount covered by the receipt and shall have the same force and effect as receipt granted by the person rightfully entitled to receive the amount.

25. *Application under Part C to be exempt from Court fees.*—Every application made under this Part shall be exempt from payment of Court fees.

PART D—SUMMARY JURISDICTION OF COURTS

26. *Summary jurisdiction of Courts.*—Claims of jenmi for recovery of arrears of jenmikaram shall, when the amount or value of such claim does not exceed Rs. 100, be taken cognizance of and disposed of summarily by the Courts hereinafter mentioned.

(1) District Munsiffs shall have jurisdiction in respect of all such claims where the amount or value of the claim does not exceed Rs. 30.

(2) District Judges shall have similar jurisdiction where the amount or value of the claim exceeds Rs. 30 but does not exceed Rs. 100.

27. *Procedure for trial of non-appealable cases to be followed in summary suits under this Act.*—Except as otherwise provided by this Act, the procedure prescribed by the law for the time being in force for the trial of non-appealable cases shall be the procedure to be followed by the District Munsiffs and District Judges in all suits and proceedings summarily cognizable by them under this Act.

28. *Where cause of action arises.*—The cause of action for recovery of such claims shall be deemed to have arisen at the place where the holding, in respect of which the claim accrued, is situated, and the suit shall, subject to the provisions of Section 26, Clauses (1) and (2) be preferred to the Court within the local limits of whose territorial jurisdiction the cause of action shall have arisen as aforesaid.

29. *Plaint when exempt from Court fees.*—The plaint in such suit shall be exempt from payment of Court fees, if the claim be for recovery of arrears which accrued due within 12 months next preceding its institution; if otherwise, the regular court fee which would have been levied, had the claim been instituted as a regular suit in a competent Court, shall be levied on the plaint.

30. *Agent of jenmi.*—Any agent of a jenmi empowered in this behalf by a written authority under the hand of the jenmi shall, for the purposes of a summary suit or application under this Act, be deemed to be a recognised agent of the jenmi within the meaning of the Code of Civil Procedure, 1908 notwithstanding that the jenmi may reside within the local limits of the jurisdiction of the Court in which the suit is to be instituted or is pending or in which the application is made.

31. *Power of Court to decide question of title to immovable property or status.*—If, in the decision of a suit cognizable summarily by a District Munsiff or a District Judge under Section 26, it becomes necessary to decide incidentally any matter in dispute between the parties to the suit, concerning title to immovable property or the status of either of them or of those under whom they claim, which, if it had been

the immediate subject matter of the claim, would not be cognizable by the District Munsiff or the District Judge under the procedure applicable to non-appealable cases, it shall be competent to the District Munsiff or the District Judge, as the case may be, to decide such question of title to immovable property or status, so far as it may be necessary to do for the determination of the summary suit; but such decision shall not be conclusive evidence of such title or status in any other action between the same parties or their representatives.

32. *Procedure when kanam-tenant admits the money due but pleads title of third person.*—(1) When a kanam-tenant-defendant admits that money is due from him on account of jenmikaram, but pleads that it is due not to the plaintiff but to a third person, the Court shall, except for special reasons to be recorded in writing, refuse to take cognizance of the plea, unless the defendant pays into Court the amount so admitted to be due.

(2) When such payment is made, the Court shall forthwith cause, notice of the payment to be served on the third person.

(3) Unless the third person within three months of the notice institutes a regular suit against the plaintiff and therein obtains an order restraining payment of the money, it shall be paid over to the plaintiff on his application.

(4) Nothing in this section shall affect the right of any person to recover from the plaintiff the money paid to him under sub-section (3) of this section.

33. *Decision of Munsiffs and District Judges to be final.*—The decision of District Munsiffs and District Judges passed in summary suits under this part shall be final, but shall be subject to revision by the High Court in the manner provided for by Section 115 of the Code of Civil Procedure, 1908:

Provided that, no judgment, decree or order, in supersession of the decision or order of the subordinate Court, shall be passed by the High Court without giving the parties an opportunity of stating their case either in person or by pleader.

CHAPTER IV

COLLECTION AND PAYMENT OF JENMIKARAM BY GOVERNMENT.

34. *Power of Government to assume collection of Jenmikaram.*—It shall be lawful for the Government to assume the collection of jenmikaram for payment over to the jenmi concerned.

Explanation.—The assumption of the collection may be made in respect of all the kanam lands in the areas to which this Act extends together or of such lands in any local area or in such other convenient groups therein as may be determined by the Government.

35. *Settlement of Jenmikaram and Register of Jenmikarams.*—(1) For carrying out the purposes of Section 34, the Government shall as soon as may be, cause a Register of jenmikarams, to be prepared, after settling the jenmikarams, showing in respect of each kanam land the Survey Number and such other particulars of description as may be prescribed the names of the jenmi and the kanam-tenant, the jenmikaram, the date and nature of the document, if any, on the basis of which the jenmikaram was fixed and such other particulars as may be prescribed.

(2) The Register may be prepared for the whole of the areas to which this Act extends or for each village or other local area or for such groups of lands therein as may be determined by the Government.

Explanation.—The 'Register of Jenmikarams' shall for the purpose of this Act means the Register in respect of the whole of the area to which this Act extends or in respect of the village or other local area or the group concerned.

36. *Jenmikaram Settlement Officer.*—The Government may appoint any person or persons that they may deem fit for the settlement of the jenmikarams and the preparation of the Register of jenmikarams and such person or persons (referred to hereinafter as the Jenmikaram Settlement Officers) may, for such settlement and such preparation, make such enquiry and investigation and follow such procedure as may be prescribed.

37. *Preliminary Notification for Settlement of Jenmikaram.*

(1) Not less than one month before the work of the settlement of Jenmikarams and the preparation of the Register of Jenmikarams is proposed to be begun, the Government shall publish in the Gazette, and in such other manner, if any, as may be prescribed, a notification giving notice of the appointment of the Jenmikaram Settlement Officer for the village, local area or group concerned and calling upon the jenmies and kanam-tenants and all persons interested to supply all necessary information and render all assistance in the matter.

(2) The Jenmikaram Settlement Officer shall have power to summon any person whose evidence may appear to him to be necessary in any enquiry or investigation in connection with the settlement of jenmikaram and the preparation of the Register of Jenmikarams and also to require the production of any document relating to the matter under enquiry or investigation which may be in the possession or under the control of such person as if such officer were an authority specified in Section 2 of the Travancore-Cochin Revenue Enquiries and Summons Act, 1950.

38. *Final Notification notifying completion of Register of Jenmikarams.*—When the preparation of the Register of Jenmikarams has been completed in the prescribed manner and such Register has received the approval of the Government, the Government shall publish in the Gazette, and in such other manner, if any, as may be prescribed, a notification notifying that, with effect from a specified date thereafter, which shall not be earlier than two months from the date of the notification, they have under Section 34 assumed the collection of jenmikarams in respect of the whole of the area to which this Act extends or the village or other local area or the group of lands, therein as the case may be.

39. *Jenmikarams to be paid to Government and recoverable as arrears of Land Revenue.*—(1) The jenmikaram in respect of the lands covered by the Register of Jenmikarams referred to in Section 38 and accruing due from and after the date specified in the notification published under that Section shall be paid to the Government in such manner and at such times as may be prescribed and may in default of such payment be recovered under the provisions of the Travancore-Cochin Revenue Recovery Act, 1951 (Act VII of 1951) in the same manner as arrears of land revenue.

(2) *Jenmikaram to be paid in money only.*—No such jenmikaram shall be payable or be allowed to be paid in kind. Jenmikarams due in kind shall be paid at the commutation rates fixed under the provisions of Section 49.

40. *Jenmikaram to be paid to Jenmi deducting cost of collection.*—The jenmikarams collected by the Government shall be paid to the jenmi concerned deducting therefrom a fee, towards the charges incidental to collection and payment, of such amount as may be prescribed from time to time.

Explanation 1. If interest on jenmikaram is collected such interest also shall be paid over to the jenmi deducting the fee in respect of such interest also.

Explanation 2. If any costs are recovered on account of any processes taken for the recovery of any jenmikaram such costs shall not be paid over to the jenmi.

Explanation 3. The Government shall be liable to pay only the jenmikaram and interest actually collected by them.

41. *Jenmikaram to be paid only to Government.*—Notwithstanding anything contained in the foregoing provisions of this Act no payment of any such jenmikaram as is referred to in Section 39, sub-section (1), made otherwise than in accordance with the provisions of that sub-section, shall be deemed to be a valid discharge of the liability to pay such jenmikarams; and in respect of such jenmikarams it shall not be lawful for any jenmi to institute any suit under the provisions of Chapter III or for the jenmi or the kanam-tenant to make any application under the provisions of the same Chapter.

42. *Jenmikarams must be collected according to the Register of jenmikarams.*—No collection or payment of jenmikaram shall be stayed by the Government merely on the ground that any party has any objection to the entries in the Register of Jenmikarams or to the collection or payment in accordance with such entries:

Provided that any party aggrieved shall have the right to institute a suit in a civil court of competent jurisdiction to establish the right which he claims and the Government shall abide by the final result of such suit and shall make such corrections in the Register of Jenmikarams, as may be necessary.

43. *Subsequent changes regarding jenmikaram, etc., may be recorded.*—Any changes in respect of the particulars entered in the Register of Jenmikarams, arising by reason of any circumstances, such as the transfer of the right to receive jenmikaram and the like, occurring after the publication of the notification under Section 38 may be caused to be recorded in such manner as may be prescribed, and such record shall be deemed, if so prescribed, as a part of the Register of Jenmikarams.

44. *When suits against Government will lie and when not.*
 (1) No suit or other proceedings shall lie against the Government or their officers for doing, or failing to do, anything in connection with the settlement of jenmikarams or the preparation of the Register of Jenmikarams or for having collected or paid any jenmikaram in accordance with the Register of Jenmikarams.

(2) Nothing in sub-section (1) shall be deemed to prohibit any person aggrieved by any collection or payment from instituting any suit against any other person in a civil court of competent jurisdiction for establishing the right which he claims or for following any money in the hands of any person to whom it was paid or for recovering any money from any person who was bound to pay it; or to prohibit any suit against the Government for the recovery of any moneys realised by them on account of any dues already collected by them.

45. *Power to make Rules.*—(1) The Government shall have power to make Rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the power aforesaid, the Government may make Rules not inconsistent with the provisions of this Act—

(a) to provide for the Registers or other records or accounts to be kept for facilitating the collection and payment of jenmikarams and to determine

which of these registers or records or accounts shall be deemed a part of the Register of Jenmikarams;

- (b) to provide for the transfer of the right of the jenmi or the liability of the kanam-tenant by sale, gift, partition, or otherwise being recognised and recorded and procedure to be followed in recognising and recording such transfers;
- (c) to provide for the grant of documents to the jenmi and the kanam-tenant evidencing the amount of the jenmikaram and the manner and time of the payment of the same;
- (d) to provide for the grant of receipts or vouchers for the payment made by the kanam-tenant, or the receipt by the jenmi of any jenmikaram;
- (e) for giving notice to the jenmies or the kanam-tenants or both when coercive steps are taken against kanam lands for the recovery of the jenmikaram or the Government tax and for determining the amount of the cost recoverable for the same and the party from whom it may be recovered;
- (f) to make provision for any incidental matters that may arise in the settlement of the jenmikaram or the preparation of the Register of Jenmikarams pursuant to the provisions of this Act; and
- (g) for any matter that has to be prescribed under the provisions of this Act.

46. *What land can be sold for jenmikaram.*—No jenmikaram shall be recoverable under the provisions of this chapter by the sale of any land except the land on which the jenmikaram is a charge.

CHAPTER V

MISCELLANEOUS.

47. *Power of High Court to make Rules.*—The High Court may, from time to time, make rules consistent with this Act for regulating the practice and procedure of Courts acting under this Act. The rules so made shall be published in the Gazette.

48. *Apportionment of compensation-money on land acquisition.*—When the jenmi and the kanam-tenant cannot agree as to the apportionment as between them of the compensation

money awarded or awardable on the acquisition of any land or portion of land comprised in any holding, under any law providing for the compulsory acquisition of land for public purpose, the portion due to each shall be determined in accordance with the following rules:—

- (a) so much of the compensation-money, as is due to any buildings shall belong entirely to the kanam-tenant;
- (b) the balance left after deducting the portion of compensation-money referred to in rule (a) shall belong to the jenmi and the kanam-tenant in the proportion of the jenmikaram charged or chargeable on the land or portion of land and the average annual net produce of the land or portion of land, as the case may be:

Provided that if the capitalised value of the jenmikaram is smaller than such share of the jenmi the capitalised value alone shall belong to the jenmi and all the rest shall belong to the kanam-tenant.

Explanation 1.—The capitalised value of any jenmikaram means an amount equal to sixteen and two-third times the amount of the jenmikaram.

Explanation 2.—‘Net produce’ means the surplus remaining after deducting from the gross produce of any land a portion equivalent in value to the cost of cultivation and the Government tax and cesses, if any, and the jenmikaram chargeable on such land and includes the value of such surplus.

Explanation 3.—‘Average annual net produce’ means the net produce ascertained as derivable on an average for one year, by calculation of the net produce for each year during a period of ten years immediately preceding the date of such ascertainment.

Explanation 4.—When a portion alone of land is acquired the portion of jenmikaram chargeable on that land shall be ascertained as if the land had been divided and the jenmikaram of the portion of land acquired shall cease to be payable to the jenmi or to the Government.

49. *Government to fix commutation rates on advice of committees.*—(1) Subject to the provisions of this Act, the Government may from time to time fix the rates for the commutation into money of paddy or other commodities for the purposes of this Act and notify the same in the Gazette, and the rates so fixed shall be the rates for commutation for the purposes of this Act.

Explanation 1.—The rates may be uniform for the whole of the area to which this Act extends or for all purposes or may vary.

Explanation 2.—The power to fix rates includes the power to revise rates already fixed.

(2) In fixing the rates, the Government shall be guided by such rules as may be made by the Government after previous publication.

(3) Such rules shall, *inter alia*, provide for the appointment of a Committee to advise the Government as to the rates to be fixed under this Section. The Committee shall consist of five members, two to represent the jenmi's interests, two to represent the kanam-tenant's interests and one, an official, to be the Chairman, and shall follow such procedure as may be prescribed.

Explanation.—The Committee may be a single Committee for the whole of the area to which this Act extends or there may be different committees for different places.

50. *Limitation period for jenmikaram.*— Notwithstanding anything contained in the first Schedule annexed to the Limitation Act, 1908, no suit for any arrear of jenmikaram or the interest due thereon shall be entertained by any Civil Court unless instituted within six years from the date of the jenmikaram becoming an arrear.

51. *Repeal.*—(1) The enactments specified in column (2) of the Schedule hereto annexed are hereby repealed to the extent specified in column (3) thereof.

(2) The suits, appeals, revisions, reviews and proceedings in execution stayed under the provisions of the enactments so repealed shall be disposed of in accordance with the provisions of this Act and the costs in respect of the said suits, appeals, revisions, reviews, and proceedings in execution shall be in the discretion of the Court.

SCHEDULE

(See SECTION 51)

Serial No. (1)	Act or Proclamation (2)	Extent of repeal. (3)
1	The Cochin Tenancy Act, XV of 1113	.. Chapters III, IV, V and VI.
2	Proclamation X of 1119 (Cochin) dated 29th January 1944	.. The whole.
3	Proclamation VI of 1124 (Cochin) dated 12th January, 1949	Sections 3 and 6.