

*THE KERALA LAND RELINQUISHMENT ACT, 1958

(Act 38 of 1958)

Amended by Acts 8 of 1963, 1 of 1964, 13 of 1966 and 8 of 1968

An Act to make provision for the relinquishment of lands in the State of Kerala [x x x] in favour of Government

Preamble.— WHEREAS it is necessary to make provision for the relinquishment of lands in the State of Kerala [x x x] in favour of Government.

BE it enacted in the Ninth Year of the Republic of India as follows:—

1. Short title, extent and commencement.— (1) This Act may be called the Kerala Land Relinquishment Act, 1958.

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

(3) It shall come into force at once.

* Received the assent of the Governor on 06/08/1958, published in K. G. Ext. No. 96 dt. 08/08/1958 (w.e.f. 08/08/1958).

Statement of objects and reasons Act 38 of 1958

At present there is no legislation in the State providing for the relinquishment of lands in favour of Government, though there are certain non-statutory provisions in the Madras Boarders Standing orders and the Cochin Land Revenue manual for this purpose. It is considered that there should be a law to provide for the relinquishment of lands in favour of Government.

The Bill is intended for this purpose. (*Published in K. G. Ext. No. 44 dt. 24/03/1958.*)

Act 8 of 1963

Under the Kerala Land Relinquishment Act, 1958, a land can be relinquished in favour of the Government only if it is in the possession of the registered holder. Lands in the possession of a tenant cannot be relinquished under the Act. Instances have come to the notice of the Government where lands required for construction of roads or for schemes under the local Development Programme or the N.E.S. Blocks are in possession of tenants, and the registered holder and the tenants are willing to relinquish such lands. Such relinquishment cannot now be accepted and therefore the lands have to be acquired under the Land Acquisition Act. It is, therefore, considered necessary to amend the Kerala Land Relinquishment Act so as to enable the relinquishment of land under a lease jointly by the registered holder and the tenant.

The Bill is intended for the above purpose. (*Published in K. G. Ext. No. 143 dt. 10/10/1962.*)

13 of 1966

Under Section 4 of the Kerala Land Relinquishment Act, 1958, the District Collector is the authority competent to accept or reject applications for relinquishment of land in favour of the Government. It is considered that implementation of developmental programmes could be accelerated if the power to accept or reject such applications is vested in the Revenue Divisional Officers.

2. Under sub-section (7) of the said Section 4, the authority to which an appeal may be preferred against the orders of the District Collector is the Board of Revenue. Since it is proposed to authorise the Revenue Divisional Officers to accept or reject applications for relinquishment of land under the Act, it is considered that the District Collectors should be made appellate authorities instead of the Board of Revenue and the Board of Revenue should be empowered to revise the orders passed by the Collectors in appeal.

3. Clause (d) of Section 2 of the Act provides that the expressions "cultivating tenant" and "intermediary" shall have the meanings respectively assigned to them in the Kerala Agrarian Relations Act, 1960. Since the Kerala Agrarian Relations Act, 1960, has been repealed and replaced by the Kerala Land Reforms Act, 1963, it is considered desirable to modify the reference to the Kerala Agrarian Relations Act, 1960, in that clause as reference to the Kerala Land Reforms Act, 1963.

4. The present enactment is intended for the above purposes.

5. The Committee constituted under the proviso to sub-section (2) of Section 3 of the Kerala State Legislature (Delegation of Powers) Act, 1965 (12 of 1965), has approved the enactment of this measure as a President's Act. (*Published in K. G. Ext. No. 95 dt. 05/12/1966.*)

1. The words "by registered holders" omitted by Act 8 of 1963.

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

- (a) “registered holder” in relation to any land means a person whose name is registered in the Revenue records as the proprietor of the land;
- ²[(b) “relinquishment” means, in the case of any land in the possession of a registered holder, the unconditional surrender by the registered holder of all his rights over the land, and, in the case of any land in the possession of a cultivating tenant, the unconditional surrender jointly by the registered holder, the cultivating tenant and the intermediaries, if any, of all their rights over the land;]
- (c) “prescribed” means prescribed by rules made under this Act,
- ³[(d) the expressions “cultivating tenant” and intermediary shall have the meanings respectively assigned to them in ⁴[the Kerala Land Reforms Act, 1963 (Act 1 of 1964)] ⁵[as amended by the Kerala Land Reforms (Amendment) Act, 1969].]

3. Relinquishment of land.— ⁶[(1)] A registered holder may relinquish in favour of the Government the whole or any portion of any land entered in his name in the revenue records, provided that such land or portion or land is in his possession and free of encumbrances.

³[(2) Where any land is in the possession of a cultivating tenant, the registered holder, the cultivating tenant and the intermediaries, if any, of such land may jointly relinquish the same or any portion thereof in favour of the Government, provided that such land or portion of land is free of encumbrances].

Case Law

Surrender of land : Absence of acceptance formal order, whether, invalidates surrender:

Held, act of relinquishment is a voluntary act of the registered holder which is unilateral and takes effect from the date of the application. Procedure contemplated thereon is to ensure that no further claims are raised on the land by a third party on one count or another. It cannot be gainsaid that if no order is passed, the land reverts back to the registered holder who had relinquished his rights. *Natarajan R. v. Village Officer, Kanayannur Taluk and Others* — 2013 (2) KHC 26 : 2013 (1) KLT 846 : 2013 (1) KLJ 782 : ILR 2013 (1) Ker. 1005 (DB).

Surrender of land : Absence of formal order of acceptance : Assignment of land:

Relinquishment by a registered holder, operates unconditionally, as against him on an application being made under the Act. Subsequent assignee cannot claim any right over the land, citing absence of formal order accepting predecessor's relinquishment. *Natarajan R. v. Village Officer, Kanayannur Taluk and Others* — 2013 (2) KHC 26 : 2013 (1) KLT 846 : 2013 (1) KLJ 782 : ILR 2013 (1) Ker. 1005 (DB).

Surrender of land : Limitation for acceptance: Act does not provide any outer limit within which time an order of acceptance needs to be passed. It does not provide for any consequence in the event of an order being not passed under S.4. Hence, absence of an order under S.4 does not lead to restoration of the land to the registered holder who voluntarily relinquished it. *Natarajan R. v. Village Officer, Kanayannur Taluk and Others* — 2013 (2) KHC 26 : 2013 (1) KLT 846 : 2013 (1) KLJ 782 : ILR 2013 (1) Ker. 1005 (DB).

4. Procedure to be followed when lands are relinquished.— ⁷[(1) Where a registered holder or, a registered holder, cultivating tenant and intermediaries, if any, jointly intends or relinquish any land under Section 3, such registered holder or, as the case may be, such registered holder, cultivating tenant and intermediaries, if any jointly may submit an application in the prescribed form to ⁸[the Revenue Divisional Officer of the Division in which the land is situate].]

2. Substituted by Act 8 of 1963. Prior to substitution it read as under:

“(b) “relinquishment” means unconditional surrender of all the rights of a registered holder over the land”.

3. Inserted by Act 8 of 1963.

4. Substituted for the words and figures “the Kerala Agrarian Relations Act, 1960 (Act 4 of 1961)” by Act 13 of 1966.

5. Inserted by the Kerala Land Reforms Act, 1963 (Act 1 of 1964).

6. Renumbered by Act 8 of 1963.

7. Substituted by Act 8 of 1963. Prior to substitution it read as under:

“Any registered holder who intends to relinquish any land may submit an application in the prescribed form to the Collector of the district in which the land is situate”.

8. Substituted for the words, “the Collector of the district” by Act 13 of 1966.

(2) On receipt of the application mentioned in sub-section (1) the ⁹[Revenue Divisional Officer] shall, if satisfied, after such enquiry as he thinks necessary, that ¹⁰[the registered holder or as the case may be, the registered holder, the cultivating tenant and the intermediaries, if any, of the land jointly is or are competent to relinquish and has or have valid title in the land] issue a notice in the prescribed form to all such persons as he may consider interested in the land, calling upon them before a date specified in the notice to show cause why the relinquishment may not be accepted.

(3) The ⁹[Revenue Divisional Officer] shall, also affix a copy of the notice referred to in sub-section (2) on the notice board of his office and shall cause it to be published in such manner as may be prescribed in the village where the land is situate.

(4) Any person interested in the land may, before the date specified in the notice, file an objection before the ⁹[Revenue Divisional Officer] showing cause why the relinquishment should not be accepted.

(5) When the period for filing objections is over, all objections received shall be enquired into by the ¹¹[Revenue Divisional Officer] and he may pass orders either accepting or rejecting the application for relinquishment.

¹²[(6) The ¹³[Revenue Divisional Officer] may at any stage of the proceedings reject the application on any of the following grounds, namely:—

- (i) that the registered holder, or as the case may be, the registered holder, cultivating tenant and the intermediaries, if any, jointly, is not, or are not, competent to relinquish the land;
- (ii) that the title of the registered holder, the tenant or the intermediaries, if any, is defective;
- (iii) that there are arrears of land revenue due on the land;
- (iv) that the land is not accessible except through land not belonging to the Government;
- (v) such other grounds as may be prescribed].

¹⁴[x x x x]

¹⁴[x x x x]

9. Substituted for the word "Collector" by Act 13 of 1966.

10. Substituted for the words "the registered holder is competent to relinquish and has valid title in the land" by Act 8 of 1963.

11. Substituted for the word "Collector" by Act 8 of 1963.

12. Substituted by Act 8 of 1963. Prior to substitution it read as under:

"(6) The Collector may at any stage of the proceeding reject the application of the registered holder on any of the following grounds namely:—

- (i) that the registered holder is not competent to relinquish the land;
- (ii) that the title of the registered holder is defective;
- (iii) that there are arrears of land revenue due on the land;
- (iv) that the land is not accessible except through land not belonging to the Government;
- (v) such other grounds as may be prescribed".

13. Substituted for the word "Collector" by Act 8 of 1963.

14. Omitted by Act 13 of 1966. Prior to omission it read as under:

"(7) Any person aggrieved by the decision of the Collector may appeal within such time as may be prescribed to the Board of Revenue and the decision of the Board of Revenue on such appeal shall be final.

(8) When orders accepting the relinquishment are passed by the Collector or, in cases where there has been an appeal from the orders of the Collector—

- (i) rejecting the application, such appeal has been allowed by the Board of Revenue;

OR

(ii) accepting the application, such appeal has been rejected by the Board of Revenue, all title and interest of the registered holder or, as the case may be, of the registered holder, the cultivating tenant and the intermediaries if any, in the land shall vest in the Government free of all encumbrances and the land shall be at the disposal of the Government."

