

## \*THE KERALA LAND UTILISATION ORDER, 1967

**S. R. O. No. 176/67.**— In exercise of the powers conferred by sub-section (1) and clause (b) of sub-section (2) of Section 3 of the Essential Commodities Act, 1955 (Central Act 10 of 1955), read with the notification of the Government of India in the Ministry of Food and Agriculture No. S. R. O. 3950 dated the 9th December, 1957 and with the prior approval of the Central Government, the Government of Kerala hereby make the following Order, namely:—

**1. Short title, extent and commencement.**— (1) This Order may be called the Kerala Land Utilisation Order, 1967.

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

(3) It shall come into force at once.

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

(a) "Collector" means the Collector of the district concerned and includes a Revenue Divisional Officer of the division concerned;

[(b) "Food Crops" includes paddy, fish, sugarcane, vegetables, tapioca, yam, tea, coffee, cardamom, pepper, groundnut, cocoa and banana plantain;]

(c) "Form" means a form appended to this Order;

(d) "holder of land" means a person holding any land whether as owner, tenant or otherwise.

### Case Law

**Removal of clay from paddy fields:** Any permission to remove clay from any paddy field should not be dealt with casually. Competent authority should always bear in mind the possibility of the said land being reclaimed immediately after the licensing period and render it suitable for paddy cultivation. Court issuing directions to be followed for removal of clay from paddy fields — Strict compliance of the direction to be ensured by the authorities. *Kairali Swayam Sahaya Sangam v. State of Kerala and Others* — 2009 (2) KHC 312.

**Factors to be considered while disposing an application:** It is not only the status of the land in relation to which permission has been sought for, but also the status of the neighbouring properties that is relevant. Possible detrimental effect of conversion of one property forming part of a larger cluster lands and the attendant ecological factors are to be taken note of by the competent authority. *Jayakrishnan v. District Collector and Others* — 2008 (4) KHC 514.

**Land lying without any agricultural operation for more than 20 years:** Application claiming exemption. Procedure to be followed. Authorities shall first consider whether the land is paddy land or wet land. If it is found that it is paddy land, then the plea for conversion shall be dealt with in accordance with Act 28 of 2008. If it is found that it is not paddy land or wet land, the application shall be dealt with under the provisions of the Land Utilisation Order. Conservation of Paddy Land and Wetland Act, 2008 (Kerala). Ext. P1 application was filed before the second respondent under the Land Utilisation Act. Apparently, Ext. P1 application along with the decision of the Keezhmadu Grama Panchayat were forwarded to the 3rd respondent who forwarded the same to the 4th respondent. According to the petitioners, the 4th respondent had reported that the property cannot be used for agricultural purposes. But even thereafter, the 2nd respondent has not taken a decision on the application presumably on the basis of Ext. P5 circular which had referred to a proposal for a bill imposing restrictions on conversion

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1. Substituted by S. R. O. No. 240/86, published in K. G. Ext. 146 dt. 12/02/1986. Prior to substitution it read as:

"(b) "Food Crops" includes paddy, sugarcane, vegetables tapioca, yam, tea, coffee, cardamom, pepper, groundnut, cocoa and banana plantain."

of land. It is in these circumstances, the petitioners have approached this Court seeking a direction to the RDO to pass an order on Ext. P1 application ignoring Ext. P5 circular. After hearing counsel on both sides, the writ petitions are disposed of directing the second respondent to pass orders on the application, in accordance with the provisions of Act 28 of 2008. This will require an enquiry whether lands are paddy lands or wet land. If the lands are paddy land or wet land, the second respondent shall consider the application in accordance with Act 28 of 2008. If the lands are not paddy lands or wet lands, the second respondent shall consider the application under the provisions of the Land Utilisation Act. If the competent authority finds that the application is to be considered under the Kerala Land Utilisation Order, then the competent authority is bound to conduct an effective enquiry into the details given by the applicant. The provisions of the Land Utilisation Order, which is a subordinate legislation, under the Essential Commodities Act is meant to be implemented with seriousness. It should not be dealt with casually. *Jayakrishnan v. District Collector and Others — 2008 (4) KHC 514.*

**Object:** The paramount object sought to be achieved by the order is to ensure agricultural operations and cultivations as are made compulsory by Land Utilisation Order and are carried out to ensure availability of essential commodities. *Reliance Industries Ltd. and Others v. The Commissioner of Land Revenue and Others — 2007 (2) KHC 346 : ILR 2007 (2) Ker. 193 : 2007 (2) KLT 850.*

**Whether permission under Land Utilisation Order is necessary for construction:** No permission under the Land Utilisation Order is necessary for any activity of construction or use of any land in the residential use zone or any other zone in the town planning scheme. Town Planning Act, 1108. *Reliance Industries Ltd. and Others v. The Commissioner of Land Revenue and Others — 2007 (2) KHC 346.*

**Locus standi:** Does not confer any particular right on any particular person. *Annakutty Varkey v. State of Kerala and Others — 1976 KLT SN 107.*

**Whether provisions of the KLUO are valid after the enactment of the Paddy Land Act:** Except in the case of paddy land and wetland, the provisions contained in the KLUO still survives in respect of the other food crops. Restriction imposed under KLUO in respect of other food crops and conversion of such land will be continued to be governed by the provisions contained in the KLU. *Praveen K. v. Land Revenue Commissioner, Thiruvananthapuram and Others — 2010 (2) KHC 499 : 2010 (2) KLT 617 (DB).*

**Order issued under the Kerala Land Utilisation Order allowing conversion:** Impact of provisions of Paddy Land Act, 2008. Held, orders issued under the Kerala Land Utilisation Order cannot be taken as inoperative or is nullified by the provisions of the Paddy Land Act. *Kaipadath Property Development Company (Pvt.) Ltd. v. State of Kerala and Others — 2011 (1) KHC 291.*

**Application filed under Land Utilisation Order:** Whether to be considered. Once the Paddy Land Act has come into force, all pending applications for conversion have to be dealt under the Paddy Land Act. Mere pendency of the application is of no consequence. *Praveen K. v. Land Revenue Commissioner, Thiruvananthapuram and Others — 2010 (2) KHC 499 : 2010 (2) KLT 617 (DB).*

**Application under Land Utilisation Order:** If an application is made under the Kerala Land Utilisation Order, the same is not liable to be dismissed before an enquiry is held by the concerned authority under the Act and a finding is entered that the land in respect of which the application is made is a paddy land or a wetland. If the land is not found to be paddy land or wetland, application has to be considered as per the provisions of the KLU. *Praveen K. v. Land Revenue Commissioner, Thiruvananthapuram and Others — 2010 (2) KHC 499 : 2010 (2) KLT 617 (DB).*

**3. Power to require holder of land to grow specified crops.—** (1) Notwithstanding anything contained in any law, order, custom or practice for the time being in force, if the State or Government are satisfied that it is necessary or expedient to increase the production of food crops in any area, they may, by order published in the Gazette, direct that every holder of land in that area shall grow, over such portion of his land and within such period as may be specified in the order, such food crop or food crops as may be so specified, in addition, to any crop he may have grown over such land.

(2) Every order made under sub-clause (1) shall also be published by beat of tom tom in the village or villages in which such area is situated, and copies thereof shall be affixed on the notice boards in the concerned Taluk Offices, Collectorate, Panchayat Offices and Village Offices.]

**4. Notice to cultivative land.**— Notwithstanding anything contained in any law, order, custom or practice for the time being in force, the Collector may, by notice in writing, call upon the holder of any occupied waste or arable land (Whether appurtenant to a building or not) situated within the Collector's jurisdiction, which is not under cultivation and which, in the opinion of the Collector, is likely to be left fallow during the current cultivation season, to cultivate it with paddy or other food crops, either personally or through any other person, within such period as may be specified in the notice.

(2) The notice shall be served by delivering or tendering to the holder of the land a copy of such notice and if the holder of the land is not readily traceable or refuses to accept the notice, service shall be effected by affixing a copy of the notice on the outer door of his house and another copy on a conspicuous part of the land to which it relates.

(3) If, within ten days from the date of service of the notice or within such further period as the Collector may grant in this behalf, the holder of the land shows to the satisfaction of the Collector that the land is being cultivated or is not capable of being cultivated, the Collector shall cancel the notice.

(4) Every notice under sub-clause (1) shall be in Form A and every order of cancellation under sub-clause (3) shall be in Form B.

**5. Sale of right to cultivate land.**— (1) Where—

(a) a direction under sub-clause (1) of Clause 3 has been made; or

(b) a notice under sub-clause (1) of clause 4 has been served on any holder of land and such notice has not been cancelled under sub-clause (3) of that clause, the holder of the land shall comply with the direction or notice, as the case may be, within the time allowed, and on his failure to do so, the Collector may, without prejudice to any other action that may be taken against the holder of the land in respect of the contravention, by order direct and arrange for the sale by public auction or otherwise, of his right to cultivate the land in question for a specified period which shall ordinarily be three years.

(2) Every order made under sub-clause (1) shall be in Form C.

(3) Out of the amount realised by sale as provided in sub-clause (1), the revenue due on the land and other dues and to the Government, if any, shall first be adjusted and the balance made over to the holder of the land by way of compensation.

**Note.**— Twenty-five per cent of the bid amount shall be collected immediately after the sale and balance within ten days. The sale will be confirmed only after the realisation of the entire amount. Failure to remit the balance amount within the said period of ten days will entail forfeiture of the initial deposit.

(4) Every successful bidder, on confirmation of the sale mentioned in this clause, shall be given a certificate of sale in Form D, incorporating the conditions of such sale.

**6. Land cultivated with any food crop not to be cultivated with any other food crop.**— (1) No holder of any land, which has been under cultivation with any food crop for a continuous period of three years immediately before the commencement of this Order, shall convert or attempt to convert or utilise or attempt to utilise such land for the cultivation of any other food crop or for any other purpose except under and in accordance with the terms of a written permission given by the Collector.

<sup>3</sup>[**Explanation.**— For the purpose of this sub-clause and sub-clause (2), removal of tree-growth, whether partial or total, on any land cultivated with cardamom shall be deemed to be an attempt to convert or utilise such land for a purpose other than cultivation of cardamom.]

