



The Kerala Land Reforms Act, 1963

Act 1 of 1964

Keyword(s):
Land Reform

Amendments appended: 25 of 1971, 11 of 1973, 12 of 1973, 13 of 1978, 27 of 1979, 19 of 1981, 16 of 1989, 2 of 1990, 21 of 2006, 6 of 2012, 5 of 2023

DISCLAIMER: This document is being furnished to you for your information by PRS Legislative Research (PRS). The contents of this document have been obtained from sources PRS believes to be reliable. These contents have not been independently verified, and PRS makes no representation or warranty as to the accuracy, completeness or correctness. In some cases the Principal Act and/or Amendment Act may not be available. Principal Acts may or may not include subsequent amendments. For authoritative text, please contact the relevant state department concerned or refer to the latest government publication or the gazette notification. Any person using this material should take their own professional and legal advice before acting on any information contained in this document. PRS or any persons connected with it do not accept any liability arising from the use of this document. PRS or any persons connected with it shall not be in any way responsible for any loss, damage, or distress to any person on account of any action taken or not taken on the basis of this document.

**THE KERALA
LAND REFORMS ACT, 1963**

CONTENTS

Preamble	15
----------	----

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement	15
2. Definitions	15

CHAPTER II

PROVISIONS REGARDING TENANCIES

Exemption

3. Exemptions	37
---------------	----

Deemed Tenants

4. Certain odacharthudars and person claiming under odacharthudars to be deemed tenants	41
4A. Certain mortgagees and lessees of mortgagees to be deemed tenants	42
5. Certain mortgagees with possession to be deemed tenants	44
6. Certain mortgagees who were holding land on verumpattam on or after 1st Chingam, 1111 to be deemed tenants	44
6A. Certain persons who were holding land on or after 1st December, 1930, to be deemed tenants	45
6B. Certain mortgagees in areas to which Malabar Tenancy Act extended to be deemed tenants	46

7.	Certain persons occupying land honestly believing to be tenants, to be deemed tenants	47
7A.	Certain persons occupying land for not less than ten years to be deemed tenants	47
7B.	Certain persons occupying lands under leases granted by incompetent persons to be deemed tenants	48
7C.	Certain persons who have paid amounts for occupation of land shall be deemed to be tenants	49
7D.	Certain persons occupying private forests or unsurveyed lands to be deemed tenants	49
7E.	Certain persons who acquired lands to be deemed tenants	50
8.	Certain persons who were cultivating land on varam arrangement to be deemed tenants	50
9.	Certain persons who surrendered leasehold rights but continued in possession to be deemed tenants	51
9A.	Certain surrender documents to be inadmissible in evidence	51
10.	Certain other persons to be deemed tenants	51
11.	Sambalapattamdar, sambalachittudar etc., in certain areas to be presumed tenants	52
12.	Right to prove real nature of transaction	52

Fixity of Tenure

13.	Right of tenants to fixity of tenure	53
13A.	Restoration of possession of persons dispossessed on or after 1st April, 1964	54
13B.	Restoration of the possession of certain holdings sold for arrears of rent	55
13C.	Cancellation of certain sales for arrears of rent	56
13D.	Cancellation of certain sales for damages	57

14.	Resumption for extension of places of public religious worship	58
15.	Resumption for construction of residential buildings	58
16.	Resumption for personal cultivation from tenant holding more than ceiling area	58
16A.	Resumption by small holder from tenants holding more than the ceiling area	59
17.	Resumption by small holder	60
18.	General conditions and restrictions applicable to resumption under Sections 14, 15, 16 and 17	61
19.	Resumption of agricultural lands interspersed within plantations	62
20.	Tenants from whom land is resumed to be paid compensation for improvements and Solatium	62
21.	Priority for resumption	62
22.	Procedure for resumption	63
23.	Tenant's right to sue for restoration of possession of land	64
24.	Limitation for application for restoration under Se. 23	65
25.	Persons entitled to restoration	65
25A.	Contract rent in the case of certain tenants	66
25B.	Determination of proportionate rent	66
26.	Recovery of arrears of rent	67
27.	Fair rent	68
28.	Exclusion or certain lands from liability to fair rent	69
29.	Preparation of record of rights	69
29A.	Bar of proceedings under Chapter XII of the Code of Criminal Procedure in certain cases	73

29B.	Disputes regarding right to cultivate land	73
30.	Rent payable by an intermediary	74
30A.	Jenmikaram payable where rent payable to kanam tenant is reduced	74
31.	Determination of fair rent by Land Tribunal	74
32.	Bar of suits for eviction, etc., pending application for determination of fair rent	75
33.	Agreement as to fair rent	75
34.	Date from which order determining fair rent, etc., is to take effect	76
35.	Rent payable when Land Tribunal has not determined fair rent	76
36.	Mode of payment of rent	76
37.	Liability for assessment	77
38.	Remission of rent	77
39.	Abatement or reduction of rent	78
40.	Invalidity of claims of dues other than rent payable	79
41.	Arrears of rent to bear interest	79
42.	Priority of claim for arrears of rent	79
43.	Publication of prices of commodities	79
44.	Publications of statistics relating to gross produce of lands	80
45.	Tenant's right to obtain receipt	80
45A.	Rent appropriated for period of stay to be adjusted towards rent for period after 1st May, 1966	80
46.	Application to Land Tribunal when landlord refuses to accept a tender	81
47.	Procedure on application under Section 46	81

48.	Apportionment of rent on severance of interest of landlord or tenant	82
49.	Notice to landlord and intermediary when the interest in the holding of the tenant is acquired	83
50.	Rights of tenant to be heritable and alienable	81
50A.	Extent of tenant's right to use his holding	84
51.	Surrender by tenant	84
51A.	Abandonment by a tenant	85
51B.	Landlord not to enter on surrendered or abandoned land	85
52.	Rights as to timber trees	86
	Purchase of landlord's rights by cultivating tenants	
53.	Cultivating tenant's right to purchase landlord's rights	86
54.	Application for purchase of landlord's rights by cultivating tenants	88
55.	Purchase price	88
56.	Purchase price to be distributed among the landowner and intermediaries	89
57.	Procedure before the Land Tribunal	90
58.	Purchase price payable in instalments or in lump	92
59.	Deposit of purchase price and issue of certificate of purchase	92
60.	Interest on defaulted instalments	93
61.	Cultivating tenant to pay rent pending determination of purchase price	93
62.	Recovery of instalments of purchase price on default	94
63.	Payment of purchase price, amount of encumbrance, maintenance or alimony	94
64.	Payment of purchase price to the landowner or intermediary to be full discharge	97

65.	Special provisions relating to religious, charitable or educational institutions of a public nature	97
66.	Procedure for vesting of rights of religious, charitable or educational institutions in Government and for determination of annuity	98
67.	Payment of annuity	100
68.	Vesting of the rights of religious, charitable, or educational institutions in the Government not to operate as bar to the purchase of landlord's rights by cultivating tenants	101
69.	Government entitled to purchase price in certain cases	101
70.	Institution entitled to rent for certain period	101
71.	Tenant holding under institution to continue as tenant under the Government	102
72.	Vesting of landlord's rights in Government	102
72A.	Compensation to landlords for vesting of their rights in Government	104
72B.	Cultivating tenants right to assignment	106
72BB.	Right of landlord to apply for assignment and compensation	107
72C.	Assignment where application is not made by cultivating tenant	108
72D.	Purchase price	108
72E.	Rent of holdings vested in Government but not assigned to cultivating tenants	109
72EE.	Constitution of village committees	110
72F.	Land Tribunal to issue notices and determine the compensation and purchase price	110
72G.	Apportionment of compensation by the Land Tribunal	114

72H.	Part payment of compensation, discharge of encumbrance, etc., by Land Tribunal	115
72 I.	Determination and payment of balance compensation	116
72J.	Payment of compensation to landowner and intermediary to be full discharge	116
72K.	Issue of certificate of purchase	118
72L.	Purchase price payable in instalments or in lump	119
72M.	Deposit of purchase price	120
72MM.	Assignment by mutual agreement	120
72N.	Special provisions relating to institutions which have opted for annuity instead of purchase price	122
72 O.	Rent paid by cultivating tenant to be adjusted towards purchase price and compensation in certain cases	124
72P.	Applications under Section 54 and proceedings relating thereto to abate on the date notified under Section 72	124
72Q.	Vesting of landlord's right not to affect right to recover arrears of rent	125
72QQ.	Cultivating tenant not liable to pay rent if resumption application is rejected	125
72R.	Special provisions regarding Jenmikaram under the Kanam Tenancy Act, 1955	125
72S.	Liability for assessment after the date of vesting under Section 72	126
73.	Discharge of arrears of rent	127
74.	Prohibition of future tenancies	130
Rights and Liabilities of Kudikidappukars		
75.	Kudikidappukaran to have fixity	130
76.	Rent payable by kudikidappukaran	135

77.	Procedure to enforce shifting of kudikidappu in certain cases	135
78.	Right of kudikidappukaran to be heritable but not alienable except in certain cases	136
79.	Right of kudikidappukaran to maintain, repair etc., homestead or hut	136
79A.	Customary and other rights of kudikidappukaran	137
80.	Register of kudikidappukars	138
80A.	Right of kudikidappukaran to purchase his kudikidappu	139
80B.	Procedure for purchase by kudikidappukaran	144
80C.	Deposit of purchase price and issue of certificate of purchase	147
80D.	Omitted	147
80E.	Payment of purchase price, amount of encumbrance, maintenance or alimony	147
80F.	Payment of purchase price to landowner, etc to be full discharge	149
80G.	Contribution towards purchase price	149

CHAPTER III

**RESTRICTION ON OWNERSHIP AND POSSESSION OF LAND
IN EXCESS OF CEILING AREA AND DISPOSAL OF
EXCESS LANDS**

81.	Exemptions	150
82.	Ceiling area	154
83.	No person to hold land in excess of the ceiling area	156
84.	Certain voluntary transfers to be null and void	156
85.	Surrender of excess land	160
85A.	Certain persons to file statements	168

86.	Vesting of excess lands in Government	169
87.	Excess land obtained by gift, etc., to be surrendered	170
88.	Persons surrendering land entitled to compensation	171
89.	Payment of advance towards compensation	174
90.	Preparation of compensation roll	174
91.	Payment of compensation	176
92.	Payment of compensation and amount of encumbrance	176
93.	Payment of compensation to be full discharge	178
94.	Omitted	178
95.	Application for assignment of land	178
96.	Assignment of lands by Land Board	178
97.	Payment of purchase price	179
98.	Management of surrendered lands till assignment	180
98A.	Interpretation	180

CHAPTER IV

MISCELLANEOUS

99.	Constitution of Land Tribunal	180
99A.	Constitution of appellate authority	181
100.	Constitution of Land Board	181
100A.	Constitution of Taluk Land Boards	182
100B.	Dissolution and reconstitution of Taluk Land Board	184
100C.	Powers of the Taluk Land Board	184
100D.	Constitution of Land Reforms review Board	185
100E.	Powers of the Land Reforms Review Board	185
101.	Powers of the Land Board and the Land Tribunal	186
102.	Appeal to Appellate Authority	187

103.	Revision by High Court	188
104.	Proceedings by or against joint families, etc	190
104A.	Applications relating to holdings situate within the jurisdiction of more than one Land Tribunal	190
105.	Authorised officer empowered to obtain information from persons	190
105A.	Appointment of officers for certain purposes	191
106.	Special provisions relating to leases for commercial or industrial purposes	192
106A.	Special provisions relating to buildings used by kudikidappukars for commercial or industrial purposes	194
106B.	Special provisions for issue of certificate of title	194
107.	Costs	195
108.	Application of the provisions of Section 5 of the Indian Limitation Act	195
108A.	Section 11 of Code of Civil Procedure to apply to proceedings before Land Tribunal	195
109.	Constitution of Agriculturist Rehabilitation Fund and Kudikidappukars Benefit Fund	196
109A.	Solatium to small holders	197
110.	Special provisions for applications of the Act	198
111.	Rent under certain contracts of tenancy not to be affected	199
111A.	Mortgage money not to be returned in certain cases	199
112.	Apportionments of land value in cases of acquisition	199
113.	Prices published under Section 43 to be deemed to be market rates	201
114.	Amendments to certain enactments	201
115.	Appearance before Land Tribunal or Appellate Authority or Land Board or Taluk Land Board	203

116.	Court fees	204
117.	Members of Land Board, Taluk Land Board, Appellate Authority and Land Tribunal to be deemed public servants	204
117A.	Penalty for disturbance of customary, easement, and other rights of kudikidappukars	204
118.	Penalty for failure to furnish return	204
118A.	Penalty for failure to furnish statement under Section 85A	205
119.	Penalty for furnishing false returns or information	205
120.	Penalty for making false declaration	205
120A.	Registering officer not to register in certain cases	206
121.	Penalty for contravention of any lawful order	206
122.	Penalty for cutting trees or for removing machinery, etc	206
122A.	Offences by companies	206
123.	Cognizance of offences	207
123A.	Cognizance of offences under Section 118A	207
124.	Protection of action taken under Act	208
125.	Bar of jurisdiction of civil courts	209
126.	Construction of references to acres and cents	211
127.	Act to override other laws, etc	211
128.	Power to remove difficulties	211
128A.	Delegation of powers by Land Board	211
128B.	Wrong or excess payments recoverable under Revenue Recovery Act	211
129.	Power to make rules	212
130.	Laying of rules and notifications before the Legislative Assembly	213
131.	Limitation	213
132.	Repeal and Savings	213

LAND REFORMS ACT, 1963

(Act 1 of 1964)

An Act to enact a comprehensive legislation relating to Land Reforms in the State of Kerala

Preamble.— WHEREAS it is expedient to enact a comprehensive legislation relating to land reforms in the State of Kerala;

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

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.— (1) This Act may be called the Kerala Land Reforms Act, 1963.

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

(3) The provisions of this Act, except this Section which shall come into force at once, shall come into force on such date as the Government may, by notification in the Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act, and any reference in any such provision to the commencement of this Act, shall be construed as a reference to the coming into force of that provision.

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

¹[(1) “*adult unmarried person*” means an unmarried person who has attained eighteen years of age;]

¹[(1A) “*agricultural labourer*” means a person whose principal means of livelihood is the income he gets as wages, in connection with the agricultural operations he performs;

(2) "*agricultural year*" means the year commencing with the 1st April in any year and ending with 31st March of the year next succeeding, except in the case of kole nilams in which case it shall be year commencing with the 15th June in any year and ending with the 14th June of the year next succeeding:

Provided that the District Collector may, with respect to any crop, area or category of land within his district, by notification in the Gazette, specify the year between such other date as he may deem fit as an agricultural year;

¹[(2A) "*Appellate authority*" means an Appellate authority constituted under Section 99A;]

(3) "*ceiling area*" means the extent of land specified in Section 82 as the ceiling area;

(4) "*Cochin*" means the area comprising—

- (i) the portion of the State of Kerala which before the first day of July, 1949, formed the State of Cochin, excluding the enclaves absorbed in the Malabar district under the Provinces and States (Absorption of Enclaves) Order, 1950; and
- (ii) the enclaves which formed part of the Malabar district absorbed in the State of Travancore-Cochin under the said Order;

(5) "*commercial site*" means any land ²[not being a kudiyiruppu or kudikidappu or karaima] which is used principally for the purpose of any trade, commerce, industry, manufacture or business;

(6) "*court*" means, where a particular court is not specifically mentioned, the court having jurisdiction under the Code of Civil Procedure, 1908, to entertain a suit for the possession of the holding or part thereof to which any legal proceeding under this Act relates;

1. Inserted by Act 35 of 1969

2. Substituted by Act 35 of 1969

(7) "*cultivate*" with its grammatical variations means cultivate either solely by one's own labour or with the help of the members of his family or hired labourers or both, or personally direct or supervise cultivation by such members or hired labourers or both provided that such members or hired labourers have not agreed to pay or to take any fixed proportion of the produce of the land they cultivate as compensation for being allowed to cultivate it ¹[and in the case of a member of the Armed Forces or a seaman "*cultivation*" includes cultivation on his behalf by any other person.]

Explanation.— For the purpose of this clause, "*members of family*" shall mean:

- (i) in the case of lands held by a joint family, members of such family, and
- (ii) in any other case, wife or husband, as the case may be, and the lineal descendants;

(8) "*cultivating tenant*" means a tenant who is in actual possession of, and is entitled to cultivate, the land comprised in his holding;

(9) "*customary dues*" means anything, other than rent, michavaram or renewal fees:

- (i) payable in cash or in kind by a tenant to his landlord; or
- (ii) allowed to be taken by the landlord from the holding, periodically or on the happening of any event or on the occasion of any festival, and includes onakazhcha, utsavakoppu, perunnalkazhcha and aradiantharam;

(10) "*double-crop nilam*" means nilam on which more than one crop of paddy is ordinarily raised in an agricultural year;

(11) "*dry land*" means land which is not nilam, garden, palliyal land or plantation;

1. Inserted by Act 35 of 1969

(12) "eviction" means the recovery of possession of land from a tenant or the recovery of a kudikidappu from the occupation of the kudikidappukaran;

(13) "fair rent" means the rent payable by a cultivating tenant under Section 27 or Section 33;

(14) "family" means husband, wife and their unmarried minor children or such of them as exist;

(15) "garden" means land used principally for growing coconut trees, arecanut trees or pepper vines, or any two or more of the same;

(16) "gross produce" in the case of a nilam, means the normal produce of that nilam less the cost of harvesting and, in the case of a garden or dry land, means the normal produce of that garden or dry land:

¹[x x x]

²{(17) "holding" means a parcel or parcels of land held under a single transaction by a tenant from a landlord and shall include any portion of a holding as above defined which the landlord and the tenant have agreed or are bound to treat as a separate holding.

Explanation I.— Where by act of parties or by operation of law, the interest of the tenant in his holding has been severed before the commencement of the Kerala Land Reforms (Amendment) Act, 1969, splitting up the holding into two or more parts, or where a portion of the holding has been sub-leased, before the commencement of this Act, each such part or, as the case may be, each of the portions retained by the tenant and sub-leased, shall be deemed to be separate holding.

Explanation II.— Any land in respect of which a person is deemed to be a tenant under Section 4, Section 4A, Section 5, Section 6, Section 6A, Section 6B, Section 7, Section 7A, Section 7B, Section 7C, Section

1. Omitted by Act 35 of 1969

2. Substituted by Act 35 of 1969

7D, Section 8, Section 9 or Section 10 or presumed to be a tenant under Section 11 shall be a holding for the purposes of this Act;

(18) the term "improvement" means any work or product of a work which adds to the value of the holding, and includes:—

- (a) the erection of dwelling houses, buildings appurtenant thereto and farm buildings;
- (b) the construction of tanks, wells, channels, dams and other works for the storage or supply of water for agricultural or domestic purposes;
- (c) the preparation of land for irrigation;
- (d) the conversion of single crop into double-crop land;
- (e) the drainage, reclamation from rivers or other waters or protection from floods or from erosion or other damage by water, of land used for agricultural purposes, or of waste-land which is cultivable;
- (f) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes;
- (g) the renewal or reconstruction of any of the foregoing works or alterations therein or additions thereto; and
- (h) the planting or protection and maintenance of fruit trees, timber trees and other useful trees and plants;

(19) "intermediary" means any person who, not being a land-owner, has an interest in the land and is entitled, by reason of such interest, to possession thereof, but has transferred such possession to any other person.

Explanation.— Where such a person has transferred possession only of a portion of the land which he is so entitled to possess, he shall be deemed to be an intermediary in respect of that portion;}

(20) "joint family" means a Hindu undivided family, a Marumakkathayam tarwad or tavazhi, an Aliasanthana kutumba or kavaru or a Nambudiri Illam;

¹[(21) "*kaipad system of cultivation*" means the system of cultivation, by whatever name called, under which paddy is cultivated on land which is saline either throughout the year or during any part of the year, by raising small mounds of earth and sowing seeds or planting seedlings thereon, whether the mounds are demolished after such sowing or planting or not;

(22) "*kanam*" means:—

- (a) The transfer for consideration, in money or in kind or in both, by a person of an interest in specific immovable property to another person, and described in the document evidencing the transaction as *kanam* or *kanapattam*, the incidents of which transfer include:
- (i) a right in the transferee to hold the said property liable for the consideration paid by him or due to him;
 - (ii) the liability of the transferor to pay to the transferee interest on such consideration unless otherwise agreed to by the parties; and
 - (iii) payment of *michavaram* or customary dues, or renewal on the expiry of any specified period; or
- (b) the transfer for consideration in money or in kind or in both by a person of an interest in specific immovable property to another person for the latter's enjoyment, whether described in the document evidencing the transaction as *otti*, *karipanayam*, *panayam*, *pattapanayam*, *nerpanayam* or by any other name and which has the incidents specified in sub-clauses (a) (i) and (a) (ii) and also one or more of the following incidents:
- (A) renewal on the expiry of any specified period;
 - (B) payment of *michavaram*;

(C) payment of customary dues;

¹[x x x]

Explanation.— For the purposes of this clause, where there has been no stipulation in the document evidencing the transaction for renewal on the expiry of any specified period, but there has been a renewal or payment of renewal fees, it shall be deemed that there has been a provision for such renewal in the document;

(23) ²["*kanam-kuzhikanam*" means a transfer by a landlord to another person of garden lands or of other lands or of both—

- (i) with all or any of the trees, if any, standing thereon at the time of the transfer; or
- (ii) without such trees,

for the purpose of planting trees or pepper vines or both thereon and for the enjoyment of the trees transferred, if any, the incidents of which transfer include:—

- (a) a right in the transferee to hold the said lands liable for the consideration paid by him or due to him, which consideration is called '*kanartham*'; and
- (b) the liability of the transferor to pay to the transferee interest on the *kanartham* unless otherwise agreed to by the parties;

³[x x x]

⁴[(23A) "*karaima*" means a transfer of lands situate in the Kozhikode District or in the Ponnani taluk of the Malappuram District, in consideration of ground rent, principally for the purpose of erecting a homestead, and described as *karaima* in the document, if any, evidencing the transfer:

1. Omitted by Act 16 of 1976
 2. Substituted by Act 35 of 1969
 3. Omitted by Act 35 of 1969
 4. Inserted by Act 35 of 1969

Explanation.— For the purpose of this clause, so much of the land appurtenant to the land under the Karaima belonging to the landlord or any person claiming through him and in the possession and beneficial enjoyment of the Karaima holder or his legal representative or any other person claiming through him as on the 24th day of January, 1989 shall, subject to a maximum of three cents in Corporation area, five cents in Municipal area and ten cents in Panchayat area, inclusive of the land under the Karaima, be deemed to be karaima:

Provided that where the extent of the land appurtenant in the possession and beneficial enjoyment is in excess of the extent specified above as on the 24th day of January, 1989, such land shall also be deemed to be Karaima;

¹[(23B) "*Karinilam*" means:—

- (a) lands generally known as karinilam and situate in the District of Kottayam, Alleppey or Ernakulam; and
- (b) lands, by whatever name known:-
 - (i) reclaimed from swampy areas called "kari" with black and loose peaty soil, the sub-soil of which consists of partially decomposed organic matter; and
 - (ii) in which paddy is cultivated,
 and situate in any part of the State;]

(24) "*kole nilam*" means land in the bed of any kayal, or lake or any water-logged land in areas adjoining or lying within vicinity of any kayal, lake or river, on which paddy is cultivated by raising bunds on one or more sides and draining the water away by mechanical or other means, and includes—

- (i) kole or punjakole nilam in the Districts of Palghat and Trichur; and
- (ii) water-logged land in the taluks of Hosdurg and Kasaragod commonly known as "Avi" land, on which

1. Inserted by Act 35 of 1969

paddy is cultivated by raising bunds on one or more sides and draining the water away by bailing;

¹[(25) "*kudikidappukaran*" means a person who has neither a homestead nor any land exceeding in extent three cents in any city or major municipality or five cents in any other municipality or ten cents in any panchayat area or township, in possession either as owner or as tenant, on which he could erect a homestead; and—

- (a) who has been permitted with or without an obligation to pay rent by a person in lawful possession of any land to have the use and occupation of a portion of such land for the purpose of erecting a homestead; or
- (b) who has been permitted by a person in lawful possession of any land to occupy, with or without an obligation to pay rent, a hut belonging to such person and situate in the said land, and "*kudikidappu*" means the land and the homestead or the hut so permitted to be erected or occupied together with the easements attached thereto:

²[x x x]

Explanation I.— In calculating the total extent of the land of a kudikidappukaran for the purpose of this clause, three cents in a city or major municipality, shall be deemed to be equivalent to five cents in any other municipality, and three cents in a city or major municipality or five cents in any other municipality shall be deemed to be equivalent to ten cents in a panchayat area or township.

Explanation II.— For the purposes of this clause:—

- (a) "*hut*" means any dwelling house constructed by a person other than the person permitted to occupy it:-
 - (i) at a cost, at the time of construction, not exceeding seven hundred and fifty rupees; or
 - (ii) which could have at the time of construction, yielded a monthly rent not exceeding five rupees,

1. Substituted by Act 35 of 1969

2. Omitted by Act 17 of 1972

and includes any such dwelling house constructed by the kudikidappukaran in accordance with the provisions of Section 79; and

- (b) "homestead" means, unless the context otherwise requires, any dwelling house erected by the person permitted to have the use and occupation of any land for the purpose of such erection, and includes any such dwelling house reconstructed by the kudikidappukaran in accordance with the provisions of Section 79.

¹[**Explanation IIA.**— Notwithstanding any judgement, decree or order of any court, a person, who on the 16th day of August, 1968 was in occupation of any land and the dwelling house thereon (whether constructed by him or by any of his predecessors-in-interest or belonging to any other person) and continued to be in such occupation till the 1st day of January, 1970, shall be deemed to be a kudikidappukaran;

Provided that no such person shall be deemed to be a kudikidappukaran:—

- (a) in cases where the dwelling house has not been constructed by such person or by any of his predecessors-in-interest, if-
- (i) such dwelling house was constructed at a cost, at the time of construction, exceeding seven hundred and fifty rupees; or
- (ii) such dwelling house could have, at the time of construction, yielded a monthly rent exceeding five rupees; or
- (b) if he has a building or is in possession of any land exceeding in extent three cents in any city or major municipality or five cents in any other municipality or ten cents in any panchayat area or township, either as owner or as tenant, on which he could erect a building;]

1. Inserted by Act 17 of 1972

Explanation III.— Where any kudikidappukaran secures any mortgage with possession of the land in which the kudikidappu is situate, his kudikidappu right shall revive on the redemption of the mortgage, provided that he has at the time of redemption no other homestead or any land exceeding three cents in any city or major municipality or five cents in any other municipality or ten cents in any panchayat area or township, in possession either as owner or as tenant, on which he could erect a homestead.

Explanation IV.— Where a mortgagee with possession erects for his residence a homestead, or resides in a hut already in existence, on the land to which the mortgage relates, he shall, notwithstanding the redemption of the mortgage, be deemed to be a kudikidappukaran in respect of such homestead or hut, provided that at the time of the redemption:

- (a) he has no other kudikidappu or residential building belonging to him, or any land exceeding three cents in any city or major municipality or five cents in any other municipality or ten cents in any panchayat area or township, in possession either as owner or as tenant, on which he could erect a homestead; and
- (b) his annual income does not exceed two thousand rupees.

Explanation V.— Where a kudikidappukaran transfers his right in the kudikidappu to another person, such person shall be deemed to be a kudikidappukaran if—

- (a) he has no other homestead or any land in possession, either as owner or as tenant, on which he could erect a homestead; and
- (b) his annual income does not exceed two thousand rupees.

Explanation VI.— For the purpose of this clause, a person occupying any hut belonging to the owner of a plantation and situate in the plantation shall not be deemed to be a kudikidappukaran if such person was permitted to occupy that hut in connection with his employment in the plantation, unless—

- (a) he was, immediately before the commencement of this Act, entitled to the rights of a kudikidappukaran or the holder of a protected ulkudi or kudikidappu under any law then in force; or
- (b) he would have been entitled to the rights of a kudikidappukaran if the area in which that hut is situate had not been converted into a plantation subsequent to his occupation of that hut.

¹[**Explanation VII.**— For the removal of doubts it is hereby declared that a person occupying a homestead or hut situate on a land held or owned by the Government of Kerala or the Government of any other State in India or the Government of India shall not be deemed to be a kudikidappukaran.]

(26) "*kudiyiruppu*" means a holding or part of a holding consisting of the site of any residential building, the site or sites of other buildings appurtenant thereto, such other lands as are necessary for the convenient enjoyment of such residential building and easements attached thereto, but does not include a kudikidappu;

(27) "*Kuttanad area*" means the area covered by the villages specified in Schedule 1;

²[(27A) "*Kuzhichuvaipum kudiyirippum*" means a transfer by a landlord to another person of garden lands or of other lands or of both situate in Malabar, reserving the right to enjoy the fruit-bearing trees standing thereon at the time of the transfer, for the purpose of making improvements thereon, and described as such in the contract of tenancy;]

³[(28) "*Kuzhikanam*" means a transfer by a landlord to another person of garden lands or of other lands or of both with all or any of the trees, if any, standing thereon at the time of the transfer, or without such trees, for the purpose of planting trees or pepper vines or both thereon, and for the enjoyment of the trees transferred, if any;]

1. Inserted by Act 25 of 1971

2. Inserted by Act 35 of 1969

3. Substituted by Act 35 of 1969

(29) "*landlord*" means a person under whom a tenant holds and includes a landowner;

(30) "*landowner*" means the owner of the land comprised in a holding and includes:—

- (i) a landholder holding Sree Pandaravaka lands on pattam, otti, jenmam, kudijenmam, danam or any other tenure; and
- (ii) a landholder holding Sreepadam lands on Sreepadam pattam or other favorable tenure;

(31) "*Land Board*" means the Land Board constituted under Section 100;

(32) "*Land Tribunal*" means a Land Tribunal constituted under Section 99;

(33) "*licensee*" means any person who is in occupation of any nilam belonging to another and who, under any local custom or usage or under an agreement, cultivates that nilam with paddy for a remuneration and with the risk of cultivation, but does not include a person who cultivates the nilam of another merely as an agent or servant:

¹[(33A) "*local authority*" means a municipal corporation or a municipal council or a township committee or a panchayat or a cantonment board;

(33B) "*major municipality*" means any of the municipalities of Cannanore, Tellichery, Trichur, Palghat, Alleppey, Quilon and Kottayam and includes—

- (a) any of the municipalities of Ernakulam, Fort Cochin and Mattancherry as they existed immediately before the constitution of the Corporation of Cochin;
- (b) the municipality of Calicut as it existed immediately before the constitution of the Corporation of Calicut;
- (c) the Cannanore cantonment.]

1. Inserted by Act 35 of 1969

Explanation.— Where any area has been included in a city or a municipality after the 1st day of April, 1960, such area shall not be deemed, except for the purposes of Section 76, to be an area within the limits of a city or municipality, as the case may be,

¹[but shall be deemed:—

- (i) where such area was within the limits of a local authority immediately before such inclusion, to continue within the limits of that local authority; and
- (ii) where such area was not within the limits of a local authority immediately before such inclusion, to be within the limits of a panchayat;]

(34) “*Malabar*” means the Malabar district referred to in Sub-section (2) of Section 5 of the States Reorganisation Act, 1956;

(35) “*Member of the Armed Forces*” means a person in the service of the Air Force, Army or Navy of the Union of India;

²[(36) “*michavaram*” means the money or produce or both specified as michavaram in the document evidencing the transfer by a person of an interest in specific immovable property to another person, and includes the balance of money or produce or both payable periodically under the document evidencing such transfer after deducting from the money or produce or both due to the transferor, the interest due on the amount advanced to the transferor, but does not include customary dues;

(36A) “*minor*” means a person who has not attained the age of eighteen years;]

(37) “*net income*” means income derived from any property after deducting therefrom the cultivation expenses or charges for maintaining fruit trees, timber trees or other useful trees and plants, and taxes and cesses due to the Government or any local authority;

1. Substituted by Act 25 of 1971

2. Substituted by Act 35 of 1969

(38) “*nilam*” means land adapted for the cultivation of paddy;

¹[(38A) “*normal produce*” in respect of any land means the produce which would be raised on that land if the rainfall and the seasons were of a normal character:

Provided that the normal produce in respect of any nilam irrigated with water for the first time after the commencement of the tenancy in respect of that nilam from an irrigation work constructed, repaired or maintained wholly at the cost of the Government or a local authority or a co-operative society or by the tenant shall be determined as if the nilam had not been so irrigated:

Provided further that in determining the normal produce in the case of any double-crop nilam, account shall be taken as though only a single paddy crop which shall be the principal crop has been raised on the land if it had been converted from single-crop into double-crop nilam at the tenant's expense and as though two paddy crops have been raised on the land in other cases.

Explanation.— In ascertaining the normal produce in areas where the Malabar Tenancy Act, 1929, or the Madras Cultivating Tenants (Payment of Fair Rent) Act, 1956, was applicable, the yield of the second crop shall be deemed to be half of that of the principal crop which shall be deemed to be the first crop;]

(39) “*odacharthu*” means an agreement for cutting bamboos in Malabar:

¹[(39A) “*ottikuzhikanam*” means a transfer for consideration by a person to another of any land other than nilam for the enjoyment of that land and for the purpose of making improvements thereon, but shall not include a mortgage within the meaning of the Transfer of Property Act, 1882;]

(40) “*owner*” means a person entitled to the absolute proprietorship of land and includes—

- (a) a trustee in respect thereof;

1. Inserted by Act 35 of 1969

(b) a pattadar of ryotwari land;

¹[(c) a kanam tenant as defined in the Kanam Tenancy Act, 1955, but does not include a jenmi as defined in that Act;]

(41) "*palliyal land*" means land which used ordinarily for raising seedlings of paddy and includes land so used and known as pallimanayal, myal, potta, njal, njattadi or banabettu;

(42) "*pay*" with its grammatical variations includes deliver;

(43) "*person*" shall include a company, family, joint family association or other body of individuals, whether incorporated or not, and any institution capable of holding property;

(44) "*plantation*" means any land used by a person principally for the cultivation of tea, coffee, cocoa, rubber, cardamom or cinnamon (hereinafter in this clause referred to as plantation crops) and includes:-

(a) land used by the said person for any purpose ancillary to the cultivation of plantation crops or for the preparation of the same for the market;

(b) ²[x x x]

(c) agricultural lands interspersed within the boundaries of the area cultivated by the said person with plantation crops, not exceeding such extent as may be determined by the Land Board ³[or the Taluk Land Board] as necessary for the protection and efficient management of such cultivation.

Explanation.¹— Lands used for the construction of office buildings, godowns, factories, quarters for workmen, hospitals, Schools and play grounds shall be deemed to be lands used for the purpose of sub-clause (a);

1. Substituted by Act 35 of 1969

2. Omitted by Act 35 of 1969

3. Inserted by Act 27 of 1979

¹[(45) "*possession*" in relation to land includes occupation of land by a person deemed to be a tenant under Section 4, Section 4A, Section 5, Section 6, Section 6A, Section 6B, Section 7, Section 7A, Section 7B, Section 7C, Section 7D, Section 8, Section 9 or Section 10, or presumed to be tenant under Section 11;]

(46) "*prescribed*" means prescribed by rules made under this Act;

¹[(47) "*private forest*" means a forest which is not owned by the Government, but does not include—]

(i) areas which are waste and are not enclaves within wooded areas;

(ii) areas which are gardens or nilams;

(iii) areas which are planted with tea, coffee, cocoa, rubber, cardamom or cinnamon; and

(iv) other areas which are cultivated with pepper, arecanut, coconut, cashew or other fruit-bearing trees or are cultivated with any other agricultural crop;

(48) (i) "*punam or kumari cultivation*" means fugitive or intermittent cultivation of paddy on dry lands in Malabar;

(ii) "*punam or kumari cultivator*" means a person who has raised crops by punam or kumari cultivation in any year between 1953 and 1959 and, where there are successive cultivators in respect of the same land, the cultivator who raised crops last by such cultivation during the said period;

(49) "*rent*" means whatever is lawfully payable in money or in kind or in both by a person permitted to have the use and occupation of any land to the person so permitting, and includes michavaram, but does not include customary dues;

(50) "*resumption*" means the recovery of possession of land from a tenant;

1. Substituted by Act 35 of 1969

(51) "seaman" means every person (including a master, pilot or apprentice) employed or engaged as a member of the crew of a ship or a sailing vessel to which the Merchant Shipping Act, 1958 (Central Act 44 of 1958), applies;

(52) "small holder" means a landlord who does not have interest in land exceeding eight standard acres or ¹[ten acres] in extent, whichever is less, as owner, intermediary, or cultivating tenant, or in two or more of the above capacities, so however that the extent of non-resumable land in his possession as owner, or as cultivating tenant or partly as owner and partly as cultivating tenant, does not exceed

- (i) ¹[two and a half standard acres]; or
 - (ii) four acres in extent,
- whichever is greater.

Explanation.— For the purpose of this clause, a person who was in possession of, or had interest in land exceeding the limits specified in this clause immediately before the 18th December, 1957, but such extent of land was reduced to the said limits or below by partition or transfer effected after the date mentioned above, shall not be deemed to be a small holder nor shall such partition or transfer entitle the allottee or transferee to exercise the rights of a small holder in respect of the land allotted or transferred to him;

(53) "Sreepadam lands" means the lands registered in the revenue records as sreepadam vaka and known as sreepadam lands, but does not include sreepadam thanathu lands;

(54) "Sree Pandaravaka lands" means the lands owned by the Sree Padmanabhaswamy;

(55) "standard acre" means in relation to any class of land specified in Schedule II situate in the district or taluk mentioned therein, the extent of land specified against it in that Schedule;

(56) "State" means the State of Kerala;

1. Substituted by Act 35 of 1969

¹[(56A) "Taluk Land Board" means a Taluk Land Board constituted under Section 100A;]

(57) "tenant" means any person who has paid or has agreed to pay rent or other consideration for his being allowed to possess and enjoy any land by a person entitled to lease that land, and includes

¹[(a) the heir, assignee or legal representative of, or any person deriving rights through, any such person who has paid or has agreed to pay rent or other consideration;]

¹[(aa) an intermediary,]

(b) a kanamdar,

(c) a kanam-kuzhikanamdar,

(d) a kuzhikanamdar,

¹[(dd) an ottikuzhikanamdar,]

(e) mulgenidar,

(f) a verumpattamdar of any description (including a customary verumpattamdar),

(g) the holder of a chalgeni lease,

(h) the holder of a kudiyruppu,

¹[(hh) a person holding lands under a kuzhichuvaipum kudiyruppu,

(hhh) the holder of a karaima,]

(i) the holder of a vaidageni lease, and

²[(j) a person who is deemed to be a tenant under Section 4, Section 4A, Section 5, Section 6, Section 6A, Section 6B, Section 7, Section 7A, Section 7B, Section 7C, Section 7D, ³[Section 7E], Section 8, Section 9 or Section 10, or presumed to be a tenant under Section 11.]

1. Inserted by Act 17 of 1972

2. Substituted by Act 35 of 1969

3. Inserted by Act 35 of 1969

4. Inserted by KLR (Second Amendment) Bill, 2004

Explanation.— For the purposes of this clause:—

- (i) holder of a chalgeni lease means a lessee or sub-lessee of specific immovable property situate in the taluk of Hosdurg or Kasaragod in the district of Cannanore, who has contracted either expressly or impliedly to hold the same under a lease, whether for a specified period or not;
- (ii) "mulgeni" means a tenancy in perpetuity at a fixed invariable rent created in favour of a person called mulgenidar;
- (iii) "vaidageni" lease means a lease for a term of years;

(58) "*timber trees*" means trees, the yield or income from which has not to be taken into account for the determination of fair rent;

(59) "*to hold land*" means to be in possession of land as owner or as tenant or partly as owner and partly as tenant; ¹[or, in respect of any land owned by the Government, to be in occupation either as lessee or otherwise;]

(60) "*varam*" means an arrangement for the cultivation of nilam with paddy and sharing the produce, made between the owner or other person in lawful possession of the nilam and the person who undertakes cultivation under such arrangement, and includes the arrangements known as pathivaram, pankuvaram and pankupattam; and "*varamdar*" means the person who undertakes cultivation under a varam arrangement;

(61) "*vechupakuthy*" means a transaction where under a landowner permits another person to be in joint possession with him of any land with the following stipulations:-

- (i) the vechupakuthidar shall improve the land within a specified period;
- (ii) at the end of the period so specified-
 - (a) the land shall be partitioned between the landowner and the vechupakuthidar in a specified proportion; and

1. Inserted by Act 17 of 1972

(b) upon such partition all the rights of either party over the portion of the land set apart for the other shall stand transferred to and vest in the other ¹[x x x]

(iii) ¹[x x x]

(62) (i) "*verumpattamdar*" means a lessee or sub-lessee of immovable property, whether called verumpattamdar, or venpattamdar, who has expressly or impliedly contracted to hold the same under a lease with or without security for rent, and includes a tharikuthukaran in the Palghat district, but does not include a Kanamdar, Kanam-Kuzhikanamdar, or Kuzhikanamdar;

(ii) "*customary verumpattamdar*" means any verumpattamdar of immovable property situate in any area to which the Malabar Tenancy Act, 1929, extended, who, before the commencement of the Malabar Tenancy (Amendment) Act, 1951, was entitled by the custom of the locality in which the land was situated, to possession of the said land for a definite period of years, and for whose continuance thereon, after the termination of that period, for a further period, a renewal fee had to be paid to the landlord as an incident of the tenure;

²[(62A) "*village officer*" means the person appointed as a village officer in respect of a village and includes an additional village officer, a village assistant and an additional village assistant;]

³[(63) "*wakf*" means the permanent dedication by a person professing Islam of any movable or immovable property for any purpose recognised by the Muslim Law or any other law in force as pious, religious, or charitable, and includes a wakf by user, but does not include a wakf such as is described in Section 3 of the Musalman Wakf Validating Act, 1913, under which any benefit is for the time being claimable for himself by the person by whom the wakf was created or by any member of his family or descendants.]

1. Omitted by Act 35 of 1969

2. Inserted by Act 17 of 1972

3. Inserted by Act 35 of 1969

COMMENTS

Surrender of excess land - Taluk Land Board cannot insist that they should get the full extent to be surrendered overlooking the stand that certain extent of land had been treated and taken over as vested land. [See Thankamma Jacob v. State of Kerala 2003 (2) KLT 374]

Claiming Kudikidappu right in respect of part of a building is not entertainable.

[See Raveendran Achary v. Gouri Ponnamma 2002 (3) KLT SN 18]

Legal heirs of a deceased kudikidappukaran who is in possession of the land is entitled to claim kudikidappu.

[Lakshmy Amma v. Narayanan Potti 2003 (1) KLT SN 18]

It may not be possible to hold that one of the legal representatives cannot maintain an application to purchase kudikidappu in his capacity as the legal representative of the deceased kudikidappukaran and that non-joinder of the other legal heirs cannot vitiate the claim at all.

[Lakshmy Amma v. Narayanan Potti 2003 (1) KLT SN 18]

Claim of kudikidappu is not restricted to persons who came into possession of the property prior to 1-1-1970 and persons who came into possession of the property subsequent to 1-1-1970 are also entitled to claim kudikidappu right.

[Vidhyadharan v. Sivadas 2001 (2) KLT 605 & Maniyan v. Ramachandran 1999 (3) KLT 86]

It cannot be said that merely because annual rent value of the building under the assessment is fixed at a particular rate the building would not fetch a higher rent

[Ibrahim Haji v. Damodaran Nair 1999 (1) KLT SN 32]

Once the claimant is a co-owner of whatever extent of land, he must be treated as a person who has no land on which he could erect a homestead, has preposterous legal implications.

[Kochukunju Nair v. Koshy Alexander 1999 (2) KLT 168]

Cont....

Once the person in possession of the land has permitted the kudikidappukaran to occupy the kudikidappu, he acquires all the rights conferred by the Act as kudikidappukaran.

[Kunjan Vasu v. Madhavan Achari 2002 (1) KLT 260]

CHAPTER II

PROVISIONS REGARDING TENANCIES

EXEMPTIONS

3. *Exemptions.*— (1) Nothing in this Chapter shall apply to:—

- (i) leases of lands or of buildings or of both belonging to or vested in the Government of Kerala or the Government of any other State in India or the Government of India or a local authority ¹[or the Cochin Port Trust] or a corporation owned or controlled by the Government of Kerala or the Government of any other State in India or the Government of India:

²[Provided that in the case of a sub-lease of Kandukrishi lands or a mortgage of such lands falling under Section 4A, granted or created by a tenant holding such lands under the Government, the provisions of Sections 13 to 26 shall, so long as the lease granted by the Government subsists, apply to the tenant or mortgagee holding under the sub-lease or mortgage, as the case may be, as they apply to a tenant holding lands other than Government lands.]

Explanation 1.— “Lands belonging to or vested in the Government of Kerala” shall, for the purposes of this clause, have the same meaning as Government lands under Sub-section (1) of Section 2 of the Kerala Government Land Assignment Act, 1960, [but leases subsisting at the commencement of this Act of lands escheated to the Government shall not be deemed to be leases of lands belonging to or vested in the Government of Kerala if the lessees or their predecessors-in-interest were in possession of the lands at the time of escheat as tenants under leases whether current or time-expired.

1. Inserted by Act 35 of 1969

2. Substituted by Act 35 of 1969

[Explanation IA.— Lands, the right, title and interest in respect of which have vested in the Government under Sub-section (9) of Section 66 or Section 72, shall not be deemed to be lands belonging to or vested in the Government of Kerala for the purposes of this clause.

Explanation IB.— For the purposes of this clause, lands held under leases whether current or time - expired at the time when such lands came to belong to or vested in a local authority shall not be deemed to be lands belonging to or vested in a local authority if the lessee or his successor-in-interest was continuing in possession of such lands at the commencement of this Act,]

Explanation II.— For the purposes of this clause, kandukrishi lands means lands covered by the Kandukrishi Proclamation 1124, and includes kandukrishi pattam and kandukrishi thanathu lands, but shall not include lands assigned on registry under the Kandukrishi Land Assignment Rules, 1958; or

(ii) leases only of buildings, including a house, shop or warehouse and the site thereof, with the land, if any, appurtenant thereto.

Explanation.— Permission given to a kudikidappukaran to occupy a hut shall not be deemed to be a lease of building for the purposes of this clause; or

(iii) leases of land or of buildings or of both specifically granted for industrial or commercial purposes; or

(iv) tenancies of land or of buildings or of both created by the Administrator-General or the Official Trustee or an Official Receiver or Officer appointed by a court under the provisions of any law, or by the court of wards, or by any person holding under or deriving title from any of the officers or the court aforesaid:

[Provided that the provisions of this clause shall not apply to:

- (a) a tenancy created in favour of a person who was a tenant under a lease whether current or time-expired on the date on which the land or building or both came under the control of any of the said officers or the court of wards; or
- (b) a tenancy renewed in favour of any such person; or
- (e) a tenancy created not less than thirty years before the commencement of the Kerala Lands Reforms (Amendment) Act, 1969 (whether subsequently renewed or not), by an officer appointed by a court under the provisions of any law, if such officer was, before the commencement of the legal proceedings in which he was so appointed, entitled to lease the land to which the tenancy relates:

Provided further that the provisions of this clause shall not apply or shall cease to apply to:

- (a) tenancy created by the court of wards, where the landlord on whose behalf the tenancy was created has not terminated or does not terminate the tenancy by registered notice within a period of six months from the date on which the property was released from superintendence of the court of wards; or
- (b) any tenancy created by an officer appointed by a court under the provisions of any law, where the person declared or found by the court to be entitled to possess the land or any person acting on his behalf has not instituted or does not institute legal proceedings to put him in possession of such land within a period of five years from the date on which such declaration or finding became final; or]
- (v) tenancies in respect of land or of buildings or of both created by mortgagees in possession or by person deriving title from such mortgagees:

¹[Provided that nothing in this clause shall apply to such tenancies:

- (i) created before the commencement of this Act in Malabar; or
- (ii) created before the 3rd day of March, 1943, in any area to which the Cochin Verumpattamdars Act, VIII. of 1118, extended; or
- (iii) created before the commencement of this Act, where the lessee is entitled to fixity of tenure under Section 4A; or
- (iv) where the mortgagee or his successor-in interest has acquired or acquires equity of redemption; or]
- (v) tenancies in respect of land or of buildings or of both created by persons having only life interest or other limited interest in the land or in the buildings or in both:

¹[Provided that this clause shall not apply to a tenancy created by any person who was governed by the Madras Aliyasanthana Act, 1949:]

Provided further that the provisions of this Chapter other than Sections 53 to 72S shall apply to tenancies falling under clauses (v) and (vi) so long as the mortgage or, as the case may be, the life interest or other limited interest subsists].

Explanation.-- For the Purpose of clause (vi), a sthani or trustee or owner of any temple, mosque, church, or other place of public religious worship or of any other public religious or charitable institution or endowment shall not be deemed to be a person having only life interest or other limited interest in ownership; or

(vii) Leases of private forests:

¹[Provided that nothing in clauses (i) to (vii) shall apply in the cases of persons who were entitled to fixity of tenure immediately before the 21st January, 1961, under any law then in force or persons claiming under such persons; or]

1. Substituted by Act 35 of 1969

(viii) tenancies in respect of plantations exceeding thirty acres in extent:

Provided that the provisions of this Chapter, other than Sections 53 to ¹[72S] shall apply to tenancies in respect of agricultural lands which are treated as plantations under sub-clause (c) of clause (44) of Section 2; or

¹[x x x]

- (x) tenancies in respect of sites, tanks and premises of any temple, mosque or church ²[(including sites belonging to a temple, mosque or church on which religious ceremonies are conducted)] and sites of office buildings and other buildings attached to such temple, mosque or church, created by the owner, trustee or manager of such temple, mosque or church;

Provided that nothing in this clause shall affect the right to which a tenant was entitled immediately before the commencement of this Act under the contract of tenancy or under any law then in force; or

- (xi) lands transferred for felling trees; or
- (xii) any transaction relating only to the usufruct of trees or to the tapping of coconut or other palm trees or to the tapping of rubber trees.

¹[x x x]

Deemed Tenants

4. Certain odacharthudars and person claiming under odacharthudars to be deemed tenants.— Notwithstanding anything to the contrary contained in any law or in any contract, custom or usage, or in any judgement, decree or order of court:

- (i) an odacharthudar; or
- (ii) a person claiming under an odacharthudar, ²[shall if he or his predecessor-in-interest was actually cultivating on

1. Omitted by Act 35 of 1969

2. Substituted by Act 35 of 1969

the 11th day of April, 1957, the land or any portion of the land to which the odacharthu relates and he was cultivating such land or portion at the commencement of this Act, be deemed to be a tenant in respect of such land or portion, as the case may be.]

[4A. Certain mortgagees and lessees of mortgagees to be deemed tenants.— (1) Notwithstanding anything to the contrary contained in any law or in any contract, custom or usage, or in any judgement, decree or order of court, a mortgagee with possession of land, other than land principally planted with rubber, coffee, tea or cardamom, or the lessee of a mortgagee of such land shall be deemed to be tenant if—

- (a) the mortgagee or lessee was holding the land comprised in the mortgage for a continuous period of not less than fifty years immediately preceding the commencement of the Kerala Land Reforms (Amendment) Act, 1969; or
- (b) the mortgagee or lessee has constructed a building for his own residence in the land comprised in the mortgage and he was occupying such building for such purpose for a continuous period of not less than twenty years immediately preceding such commencement:

Provided that a mortgagee or lessee falling under this clause shall not be deemed to be a tenant if he, or, where he is a member of a family, such family was holding any other land exceeding two acres in extent on the date of publication of the Kerala Land Reforms (Amendment) Bill, 1968, in the Gazette; or

- (c) the land comprised in the mortgage was waste land at the time of mortgage or land to which the Madras Preservation of Private Forests Act, 1949, would have applied if that Act had been in force at the time of mortgage, and:

1. Substituted by Act 35 of 1969

- (i) the mortgagee or lessee was holding such land for a continuous period of not less than thirty years immediately preceding the commencement of the Kerala Land Reforms (Amendment) Act, 1969; and
- (ii) the mortgagee or lessee has effected substantial improvements on such land before such commencement.

Explanation I.— For the purposes of this Sub-section, in computing the period of continuous possession or occupation by a lessee, the period during which the mortgagee was in possession or occupation, as the case may be, shall also be taken into account.

Explanation II.— In computing the period of fifty years referred to in clause (a) or the period of thirty years referred to in clause (c), the period during which the predecessor-in-interest or predecessors-in-interest of the mortgagee or lessee was or were holding the property shall also be taken into account.

Explanation III.— For the purposes of clause (b),:

- (i) "mortgagee" or "lessee" shall include a predecessor-in-interest of the mortgagee or lessee, as the case may be;
- (ii) "building" includes a hut.

Explanation IV.— In computing the period of twenty years referred to in clause (b), occupation of the building by any member of the family of the mortgagee or lessee for residential purpose shall be deemed to be occupation by the mortgagee or lessee, as the case may be, for such purpose.

Explanation V.— In calculating the extent of land held by a family for the purposes of clause (b), all the lands held individually by the members of the family or jointly by some or all of the members of such family shall be deemed to be held by the family.

Explanation VI.— For the purposes of sub-clause (ii) of clause (c):

- (i) improvements made by the mortgagee shall be deemed to be improvements made by the lessee;

- (ii) "mortgagee" or "lessee" shall include a predecessor-in-interest of the mortgagee or lessee, as the case may be.

Explanation VII.— For the purposes of clause (c) :

- (i) improvements shall be deemed to be substantial improvements if the value thereof on the date of commencement of the Kerala Land Reforms (Amendment) Act, 1969. is not less than twenty five per cent of the market value of the land on that date;
- (ii) a land shall be deemed to be waste land notwithstanding the existence of scattered trees thereon.

(2) Nothing contained in Sub-section (1) shall apply to a lessee if the lease was granted on or after the commencement of this Act.

5. Certain mortgagees with possession to be deemed tenants.— (1) Notwithstanding anything to the contrary contained in any law or in any contract, custom or usage, or in any judgement, decree or order of court, a mortgagee with possession of immovable property situate in Cochin shall be deemed to be a tenant, if :

- (a) the property comprised in the mortgage consists of agricultural land other than land planted with rubber, coffee, tea or cashew; and
- (b) the interest on the mortgage amount is less than forty per cent of the total rent fixed in the mortgage document.

(2) ¹[x x x]

6. Certain mortgagees who were holding land on verumpattam on or after 1st Chingam, 1111 to be deemed tenants.— (1) Notwithstanding anything to the contrary contained in any law or in any contract, custom or usage, or in any judgment, decree or order of court, a mortgagee with possession of immovable property situate in Cochin shall be deemed to be a tenant, if:

- (a) the property comprised in the mortgage consists of agricultural land;

- (b) he or his predecessor-in-interest was holding the property comprised in the mortgage as verumpattamdar on or after the first day of Chingam, 1111; and
- (c) the verumpattam was terminated after the first day of Chingam, 1111 and before the commencement of this Act, but he or his predecessor-in-interest continued in possession of the property without interruption, as mortgagee with possession from the date of such termination till commencement of this Act.

1[6A. Certain persons who were holding land on or after 1st December, 1930, to be deemed tenants.— Notwithstanding anything to the contrary contained in any law, or in any contract, custom or usage, or in any judgement, decree or order of court, a person in possession of immovable property in any area in the State to which the Malabar Tenancy Act, 1929, extended, whether as mortgagee or otherwise, shall be deemed to be a tenant if:

- (a) the property in his possession consists of agricultural land;
- (b) he or any of his predecessors-in-interest was holding the property as a tenant on or after the 1st day of December 1930: and
- (c) the tenancy was terminated after the 1st day of December, 1930 and before the commencement of this Act, but his predecessors-in-interest or himself continued in possession of the property, without interruption, whether as a mortgagee with possession or otherwise, from the date of such termination till the commencement of this Act.

Explanation I.— For the purposes of clause (b), “tenant” means a tenant as defined in the Malabar Tenancy Act, 1929, as in force on the 1st day of November, 1956.

Explanation II.— An interruption for a period not exceeding an agricultural year immediately following the termination of the tenancy shall not be deemed to be an interruption for the purposes of clause (c).

6B. Certain mortgagees in areas to which Malabar Tenancy Act extended to be deemed tenants.— Notwithstanding anything to the contrary contained in any law, or in any contract, custom or usage, or in any judgment, decree or order of court, a mortgagee with possession of immovable property at the commencement of the Kerala Land Reforms (Amendment) Act, 1969, in any area in the State to which the Malabar Tenancy Act, 1929, extended, shall be deemed to be a tenant, if:

- (a) he was holding such property in consideration of payment of customary dues, or any amount specified as michavaram in the document evidencing the transaction; or
- (b) there is a provision in such document for renewal on the expiry of a specified period.]

6C. Certain lessees who have made substantial improvements, etc., to be deemed tenants.— Notwithstanding anything contained in Section 74, or in any contract, or in any judgment, decree or order of any court or other authority, any person in occupation at the commencement of the Kerala Land Reforms (Amendment) Act, 1969, of the land of another person on the basis of a lease deed executed after the 1st day of April, 1964, shall be deemed to be a tenant if:

- (a) he (including any member of his family) did not own or hold land in excess of four acres in extent on the date of execution of the lease deed; and
- (b) he or any member of his family has made substantial improvements on the land.

Explanation.— For the purposes of this Section, improvements shall be deemed to be substantial improvements if the value of such improvements is more than fifty per cent of the value of the land on the date of execution of the lease deed.]

1. Substituted by the KLR (Amendment) Act 1979

7. Certain persons occupying land honestly believing to be tenants, to be deemed tenants.— Notwithstanding anything to the contrary contained in Section 52 or any other provision of the Transfer of Property Act, 1882, or in any other law, or in any contract, custom or usage, or in any judgement, decree or order of court, any person in occupation at the commencement of the Kerala Land Reforms (Amendment) Act, 1969, of the land of another situate in Malabar shall be deemed to be a tenant if he or his predecessor-in-interest was continuously in occupation of such land honestly believing himself to be a tenant for not less than two years within a period of twelve years immediately preceding the 11th day of April, 1967.

Explanation.— Notwithstanding anything contained in the Indian Evidence Act 1872, where a person has been continuously in occupation of any such land for two years within the said period of twelve years, it shall be presumed until the contrary is provided that he has been in such occupation honestly believing himself to be a tenant.]

COMMENTS

The presumption can be rebutted not merely by direct evidence but also by other circumstances established in the case.

[Abdulla v. Narayani 2001 (1) KLT 296]

In order to set up a case under Section 7 of the Act, it is necessary that the continued occupation is the property believing to be tenant shall be established.

[See Kuhiraman Nambiar v. Kerala Varma Raja 2000 (1) KLT SN 43]

7A. Certain persons occupying land for not less than ten years to be deemed tenants.— Notwithstanding anything to the contrary contained in Section 52 or any other provision of the Transfer of property Act, 1882, or in any other law, or in any contract, custom or usage, or in any judgment, decree or order of court, a person shall be deemed to be a tenant in respect of the land of another in his occupation if :

1. Substituted by Act 35 of 1969

2. 7A to 7D inserted by Act 35 of 1969

- (a) he or his predecessor-in-interest occupied such land believing it to be the property of the Government;
- (b) subsequent to such occupation such land has become the property of such other person as a consequence of any judgement, decree or order of any civil court; and
- (c) such land has been in the continuous occupation of such person for a period of not less than ten years preceding the commencement of the Kerala Land Reforms (Amendment) Act, 1969,

Explanation I.— In computing the period of occupation of a person for the purposes of clause (c), the period during which the predecessor-in-interest or predecessors -in- interest of such person was or were in occupation shall also be taken into account.

Explanation II:- For the purposes of this Section, a person shall be deemed to be in continuous occupation notwithstanding any order of court for delivery of possession to another person or any court record of dispossession

7B. Certain persons occupying lands under leases granted by incompetent persons to be deemed tenants.— (1) Notwithstanding anything to the contrary contained in any law, or in any contract, custom or usage, or in any judgment, decree or order of court, any person in occupation of the land of another at the commencement of the Kerala Land Reforms (Amendment) Act, 1969, on the basis of a registered deed purporting to be a lease deed, shall be deemed to be a tenant if he or his predecessor-in-interest was in occupation of such land on the 11th of April, 1957, on the basis of that deed, notwithstanding the fact that the lease was granted by a person who had no right over the land or who was not competent to lease the land.

(2) Notwithstanding anything to the contrary contained in any law or in any contract, custom or usage, or in any judgement, decree or order of court, any person who on the 11th day of April, 1957, was in occupation of the land of another and continued to be in occupation of such land till the commencement of the Kerala Land Reforms

(Amendment) Act, 1969, shall be deemed to be a tenant if the court has delivered a judgment or passed an order before the date of publication of the Kerala Lands Reforms (Amendment) Bill, 1968, in the Gazette that the occupation by such person was on the basis of an oral permission or an unregistered deed purporting to be a lease deed granted by a person who had no right over the land or who was not competent to lease the land.

¹[(3) Notwithstanding anything to the contrary contained in this Act or in any other law or in any contract, custom or usage or in any judgment, decree or order of any court, any person in occupation of land on the basis of an oral permission or a deed purporting to be lease deed, granted by a person governed by the Madras Aliasanthana Act, 1949 shall be deemed to be a tenant, if he or his predecessor-in-interest was in occupation of such land at the commencement of the Kerala Land Reforms (Amendment) Act, 1969.]

7C. Certain persons who have paid amounts for occupation of land shall be deemed to be tenants.— Notwithstanding anything to the contrary contained in any law, or in any contract, custom or usage, or in any judgement, decree or order of court, any person who is in occupation of the land of another at the commencement of the Kerala Land Reforms (Amendment) Act, 1969, shall be deemed to be a tenant if he or his predecessor-in-interest has paid within a period of ten years immediately preceding such commencement any amount in consideration of such occupation or for the use and occupation of such land and has obtained a receipt for such payment from any person entitled to lease that land or his authorised agent or a receiver appointed by a court describing the payment as modavaram or nashtavaram or modanashtavaram or a receipt described as M.R. receipt.

7D. Certain persons occupying private forests or unsurveyed lands to be deemed tenants.— Notwithstanding anything to the contrary contained in Section 52 or any other provision of the Transfer of Property Act, 1882, or any other law, or in any contract, custom or usage,

1. Added by the KLR (Amendment) Act 1989

or in any judgement, decree or order of court, any person in occupation at the commencement of the Kerala Land Reforms (Amendment) Act, 1969, of the land of another situate in Malabar, to which the provisions of the Madras Preservation of Private Forests Act, 1949 (XXVII of 1949), were applicable on the 11th day of April, 1955 or which was unsurveyed on that date, shall be deemed to be a tenant if he or his predecessor-in-interest was continuously in occupation of such land for not less than two years within a period of twelve years immediately preceding the 11th day of April, 1967.]

1[7E. Certain persons who acquired lands to be deemed tenants.—

Notwithstanding anything to the contrary contained in Section 74 or Section 84 or in any other provision of this Act, or in any other law for the time being in force or in any contract, custom or usage, or in any judgement, decree or order of any court, tribunal or other authority, a person who at the commencement of the Kerala Land Reforms (Second Amendment) Act, 2004, is in possession of any land, not exceeding four hectares in extent, acquired by him or his predecessor-in-interest by way of purchase or otherwise on payment of consideration from any person holding land in excess of the ceiling area, during the period between the date of the commencement of the Kerala Land Reforms Act, 1963 (1 of 1964), and the date of commencement of the Kerala Land Reforms (Second Amendment) Act, 2004, shall be deemed to be a tenant.]

8. Certain persons who were cultivating land on varam arrangement to be deemed tenants.—

Notwithstanding anything to the contrary contained in any law, or in any contract, custom or usage, or in any judgement, decree or order of court, any person who, by virtue of the provisions of Section 6 of the Kerala Stay of Eviction Proceedings Act, 1957, was entitled to cultivating any nilam after the 11th day of April, 1957, and was cultivating the nilam at the commencement of this Act, shall be deemed to be a tenant, notwithstanding the expiry of the term fixed under the varam arrangement.

1. Inserted by the KLR (Second Amendment) Bill, 2004

9. Certain persons who surrendered leasehold rights but continued in possession to be deemed tenants.— Notwithstanding anything to the contrary contained in any law, or in any contract, custom or usage, or in any judgement, decree or order of court, where, on or after the 11th day of April, 1957, a tenant holding lands less in extent than the ceiling area, had executed a deed surrendering his leasehold right to the landlord, but had not actually transferred possession of the land to the landlord before the commencement of this Act, such deed shall be deemed to be invalid and such person shall be deemed to be a tenant.

1[9A. Certain surrender documents to be inadmissible in evidence.—

Where any tenant has executed before the 19th day of May, 1967, a deed surrendering or purporting to surrender to his landlord his leasehold rights in any land situate in the Taluk of Hosdurg or Kasargode in the Cannanore District, such deed if unregistered shall, notwithstanding anything contained in the Indian Evidence Act, 1872, be inadmissible in evidence in any dispute regarding possession of such land between such tenant or any person claiming under or through him and such landlord or any person claiming under or through him.

10. Certain other persons to be deemed tenants.— Notwithstanding anything to the contrary contained in any law, or in any contract, custom or usage, or in any judgment, decree, or order of court, the following classes of persons shall be deemed to be a tenants—

- (i) a punam or kumri cultivator;
- (ii) a licensee, ²[x x x]
- (iii) a varamdar;
- (iv) a vechupakuthidar; and
- (v) a person holding land situated in any part of the Taluk of Hosdurg or Kasargode to which the Malabar Tenancy Act, 1929, did not extend, under a transaction described

1. Inserted by Act 35 of 1969

2. Omitted by Act 35 of 1969

in the document evidencing it as bhogya, otti, nattotti, arwar, illidarwar or krithasartha illidarwar, but not being a usufructuary mortgage as defined in the Transfer of Property Act, 1882.

¹[11. *Sambalapattamdar, sambalachittudar etc., in certain areas to be presumed tenants.*— Where in a document a person is described as a sambalapattamdar, sambalachittudar or coolipattamdar, in respect of any nilam situate in the Palghat or Trichur District or in the Kuttanad area, or as a gaimakarardar or the holder of a gobrachittu or fazilichittu in respect of any land situate in the taluk of Hosdurg or Kasargode in the Cannanore District, he shall be presumed to be tenant for all purposes of this Act :

Provided that such presumption shall be rebutted if it is proved that the sambalapattamdar, sambalachittudar, coolipattamdar or gaimakarardar or the holder of a gobrachittu or fazilichittu has not undertaken any risk of cultivation.]

12. Right to prove real nature of transaction.— ¹[(1) Notwithstanding anything in the Indian Evidence Act, 1872, or in any other law for the time being in force, or in any judgment, decree or order of court, any person interested in any land may prove that a transaction purporting to be a mortgage, otti, akaripanayam, panayam, nerpanayam or licence of that land is in substance a transaction by way of kanam, kanam-kuzhikanam, Kuzhikanam verumpattam or other lease, under which the transferee is entitled to fixity of tenure in accordance with the provisions of Section 13 and to the other rights of a tenant under this Act.

(2) Where under Sub-section (1) the Land Tribunal holds that the transferee is entitled to fixity to tenure in accordance with the provisions of Section 13, it shall be lawful for the Land Tribunal to pass an order containing directions regarding the application of the sum, if any, advanced to the landlord and making other suitable alterations in the terms recorded in the instruments executed by the parties.]

1. Substituted by Act 35 of 1969.

(3) Notwithstanding anything in the Indian Evidence Act, 1872, or in any other law for the time being in force, a person described as an agent or servant in a document evidencing the contract for the cultivation of any nilam, may prove that he is a licensee.

COMMENTS

Section 12 does not permit this court to supersede the findings made by the court to the effect that the earlier lease came to an end with the executive of the transaction which purports to be a mortgage.

[Narayanaru Thrivikranaru v. Madhavan Potti 2000 (2) KLT 33]

Fixity of Tenure

13. Right of tenants to fixity of tenure.— (1) Notwithstanding anything to the contrary contained in any law, custom, usage or contract or in any decree or order of court, every tenant, shall have fixity of tenure in respect of his holding, and no land from the holding shall be resumed except as provided in Sections 14 to 22.

(2) Nothing in Sub-section (1) shall confer fixity of tenure on a tenant holding under a landlord—

- (i) who is a member of the Armed Forces or is seaman, if the tenancy was created by such landlord within a period of three months before he became a member of the Armed Forces or a seaman, or while he was serving as such member or seaman; or
- (ii) who is the legal representative of the landlord referred to in clause (i):

Provided that no such landlord shall resume any land from his tenant, if he is already in possession of an extent of land not less than the ceiling area; and, where he is in possession of an extent of land less than the ceiling area, the extent of land that may be resumed shall not, together with land in his possession, exceed the ceiling area:

¹[Provided further that a tenant holding under any such landlord shall have fixity of tenure in respect of his holding if the landlord does not claim resumption of the land comprised in the holding within six months from the commencement of the Kerala Land Reforms (Amendment) Act, 1969;

Provided also that where any such landlord is prevented by sufficient cause from not claiming resumption within the said period of six months and he claims resumption at any time before the date notified under Section 72, the right of such tenant to fixity of tenure in respect of the holding or part thereof to which the claim for resumption relates shall cease from the date of the application claiming resumption;

Provided also that such tenant shall have fixity of tenure in respect of his holding or part thereof from the date of the final rejection of such application in full or in part, as the case may be:]

Provided also that the provisions of this Sub-section shall not apply to tenants who were entitled to fixity of tenure immediately before the 21st January, 1961, under any law then in force.

²[(3) Notwithstanding anything to the contrary contained in any law, or in any contract, but subject to the provisions of Sub-sections (2), the landlord referred to in clause (i) or clause (ii) of Sub-section (2) shall be entitled to apply for the resumption from his tenant of the whole or part of his holding within six months from the commencement of the Kerala Land Reforms (Amendment) Act, 1969 or if such landlord is prevented by sufficient cause from applying for resumption within such period, at any time before the date notified under Section 72.]

¹[13A. *Restoration of possession of persons dispossessed on or after 1st April, 1964.*— (1) Notwithstanding anything to the contrary contained in any law, or in any contract, custom or usage, or in any judgement, decree or order of court, where any person has been dispossessed of the land in his occupation on or after the 1st day of April,

1. Substituted by Act 35 of 1969

2. Inserted by Act 35 of 1969

1964, such person shall, if he would have been a tenant under this Act as amended by the Kerala Land Reforms (Amendment) Act, 1969, at the time of such dispossession, be entitled subject to the provisions of this Section to restoration of possession of the land:

Provided that nothing in this Sub-section shall:

(a) apply in any case where the said land has been sold to a bonafide purchaser for consideration before the date of publication of the Kerala Land Reforms (Amendment) Bill 1968, in the Gazette; or

(b) entitle any person to restoration of possession of any land which has been resumed under the provisions of this Act.

(2) Any person entitled to restoration of possession under Sub-section (1) may, within a period of six months from the commencement of the Kerala Land Reforms (Amendment) Act, 1969, apply to the Land Tribunal for the restoration of possession of the land.

(3) The Land Tribunal may, after such inquiry as it deems fit; pass an order allowing the application for restoration and directing the applicant to deposit the compensation, if any, received by the applicant under any decree or order of court towards value of improvements or otherwise and the value of improvements, if any, effected on the land after the dispossession as may be determined by the Land Tribunal, within such period as may be specified in the order.

(4) On the deposit of the compensation and value of improvements as required in the order under Sub-section (3), the Land Tribunal shall restore the applicant to possession of the land, if need be by removing any person who refuses to vacate the same.]

¹[13B. *Restoration of the possession of certain holdings sold for arrears of rent.*— (1) Notwithstanding anything to the contrary contained in any law, or in any judgement, decree or order of court, where any holding has been sold in execution of any decree for arrears of rent, and the tenant has been dispossessed of the holding

1. Inserted by Act 35 of 1969

after the 1st day of April, 1964, and before the commencement of the Kerala Land Reforms (Amendment) Act, 1969, such sale shall stand set aside and such tenant shall be entitled to restoration of possession of the holding, subject to the provisions of this Section :

Provided that nothing in this Sub-section shall apply in any case where the holding has been sold to a bonafide purchaser for consideration after the date of such dispossession and before the date of publication of the Kerala Land Reforms (Amendment) Bill, 1968, in the Gazette.

(2) Any person entitled to restoration of possession of his holding under Sub-section (1) may, within a period of six months from the commencement of the Kerala Land Reforms (Amendment) Act, 1969, deposit the purchase money together with interest at the rate of six per cent per annum in the court and apply to the court for setting aside the sale and for restoration of possession of his holding.

(3) The court shall, if satisfied after such summary enquiry as the court deems fit, set aside the sale and restore the applicant to possession of his holding.

(4) The court may also order the applicant to deposit in court such amount as may be specified by the court towards costs of the decree-holder or the auction purchaser and the value of improvements, if any, effected on the holding after the sale.

Explanation.— For the purposes of this Section, the term "holding" includes a part of a holding.

13C. Cancellation of certain sales for arrears of rent.— (1) Notwithstanding anything to the contrary contained in any law, or in any judgement, decree or order of court, where any holding has been sold in execution of any decree for arrears of rent accrued due before the 1st day of May, 1968, or any portion of such arrears, but the tenant has not been dispossessed, such tenant may, within six months from the commencement of the Kerala Land Reforms (Amendment) Act, 1969, deposit in court an amount equal to the amount which he

is liable to pay under Section 73 and apply to the court for setting aside the sale.

Explanation.— Where a tenant has been dispossessed by a receiver appointed by a court, such dispossession shall not be deemed to be dispossession for the purposes of this Sub-section.

(2) The court shall, if satisfied after such summary enquiry as the court deems fit, set aside the sale and may also order the applicant to deposit the costs, if any, payable to the decree holder.

(3) Where the amount deposited under Sub-section (1) is not found sufficient, the court shall not pass an order under subSection (2) unless the deficit amount is deposited in court within such period as the court may direct.

13D. Cancellation of certain sales for damages.— (1) Notwithstanding anything to the contrary contained in any law, or in any judgement, decree or order of court, where any holding has been sold after the 1st day of April, 1964, and before the commencement of the Kerala Land Reforms (Amendment) Act 1969, for recovery of damages for committing waste on the holding, but the tenant has not been dispossessed, such tenant may, within six months from such commencement, deposit in court an amount equal to the purchase money together with interest at the rate of six per cent per annum and apply to the court for setting aside the sale.

(2) The court shall, if satisfied after such summary enquiry as the court deems fit, set aside the sale and may also order the applicant to deposit the costs, if any, payable to the decree-holder.

(3) Where the amount deposited under Sub-section (1) is not found sufficient, the court shall not pass an order under Sub-section (2) unless the deficit amount is deposited in court within such period as the court may direct.

(4) Where the holding has been sold to a purchaser other than the decree-holder, such person shall be entitled to an order from the court for repayment of his purchase money, with or without interest as the court may direct, against any person to whom it has been paid.

14. Resumption for extension of places of public religious worship.—

A trustee or owner of a place of public religious worship may resume from a tenant the whole or any portion of his holding when the same is needed for the purpose of extending the place of public religious worship and the Collector of the district certifies that the same is so needed.

15. Resumption for construction of residential buildings.— A landlord (other than a sthani or the trustee or owner of a place of public religious worship) who is not in possession of ¹[any land other than nilam, or is in possession of less than two acres in extent of such land] and who needs the holding for the purpose of constructing a building *bona fide* for his own residence or for that of any member of his family may resume from his tenant:

- (i) an extent of land not exceeding 20 cents, where resumption is sought on behalf of one person; and
- (ii) an extent of land not exceeding 50 cents, where resumption is sought on behalf of two or more persons :

¹[Provided that, by such resumption, the total extent of land other than nilam in the possession of the landlord shall not be raised above two acres and the total extent of land in the possession of the tenant shall not be reduced below fifty cents]

²[x x x]

Explanation.— For purposes of this Section and Section 16, “member of his family” shall mean—

- (i) in the case of a landlord who has granted a lease on behalf of a joint family, member of such family; and
- (ii) in any other case, wife or husband, as the case may be, or a lineal descendant of the landlord.

16. Resumption for personal cultivation from tenant holding more than ceiling area.— A landlord (other than a sthani or the trustee or

1. Substituted by Act 35 of 1969

2. Omitted by Act 35 of 1969

owner of a place of public religious worship) who requires the holding *bona fide* for cultivation by himself, or any member of his family, may resume from his tenant, who is in possession of land exceeding the ceiling area, the whole or a portion of the holding, subject to the condition that, by such resumption, the total extent of land in the possession of the landlord is not raised above the ceiling area and the total extent of land in the possession of the cultivating tenant is not reduced below the ceiling area.

Explanation I.— In this Section, references to the ceiling area in relation to the landlord or the tenant shall, where such landlord or tenant is a member of a family, be construed as references to the ceiling area in relation to that family.

¹[**Explanation II.**— The provisions of Section 82 shall, so far as may be, apply to the calculation of the ceiling area for the purposes of this Section and Section 16A, provided that if no date has been notified under Section 83, the date of the application for resumption shall be deemed to be the date notified under Section 83.]

[16A. Resumption by small holder from tenants holding more than the ceiling area.— (1) Notwithstanding anything contained in the Section 17 or Section 18, a small holder (other than a sthaneer or the trustee or owner of a place of public religious worship) may resume from his tenant, who is in possession of land exceeding the ceiling area, the whole or a portion of the holding, subject to the condition that by such resumption the total extent of land in the possession of the cultivating tenant is not reduced below the ceiling area and the total extent of land in the possession of the small holder is not raised above five acres:

Provided that no small holder shall be entitled to resume under this Section any land in the possession of a tenant who is a member of a Scheduled Caste or a Scheduled Tribe.

Explanation I.— In this Section, reference to the ceiling area in relation to the tenant shall, where such tenant is a member of a fam-

1. Inserted by Act 35 of 1969

ily, be construed as reference to the ceiling area in relation to that family.

Explanation II.— For the purposes of this Section and Section 18 :

- (a) "Scheduled Castes" means the Scheduled Castes in relation to the State as specified in the Constitution (Scheduled Castes) Order, 1950;
- (b) "Scheduled Tribes" means the Scheduled Tribes in relation to the State as specified in the Constitution (Scheduled Tribes) Order, 1950;

(2) An application under Sub-section (1) shall be made within a period of six months from the commencement of the Kerala Land Reforms (Amendment) Act, 1969.

(3) Where more small holders than one apply for resumption of land from the same tenant and the extent of land in the possession of the tenant in excess of the ceiling area is less than the aggregate of the extent of land applied to be resumed by the small holders, the holders, the Land Tribunal shall allow resumption by all the small holders equitably having regard to all circumstances.]

17. Resumption by small holder.— Without prejudice to the right of resumption under Section 16, a small holder (other than a sthani or the trustee or owner of a place of public religious worship) may resume from his tenant a portion of the holding not exceeding one half.

Provided that, by such resumption, the total extent of land in the possession of the small holder shall not be raised above ¹[two and a half standard acres of five acres] in extent, whichever is greater :

Provided further that ²[x x x] no land shall be resumed under this Section from a tenant who was entitled to fixity of tenure in respect of his holding immediately before the 21st January, 1961, under any law then in force.

1. Substituted by Act 35 of 1969

2. Omitted by Act 35 of 1969

18. General conditions and restrictions applicable to resumption under Sections 14, 15, 16 and 17.— Resumption of land under Sections 14, 15, 16 and 17 shall also be subject to the following conditions and restrictions, namely.—

(1) in respect of tenancies subsisting at the commencement of this Act, no application for resumption shall be made after a period of one year from such commencement ;

¹[Provided that where the landlord is—

- (i) a minor; or
- (ii) a person of unsound mind; or
- (iii) a member of the Armed Forces or a seaman and the tenant is entitled to fixity of tenure; or
- (iv) a legal representative of such member or seaman, and such member or seaman was the landlord of the land in respect of which resumption is claimed,

the application for resumption may be made within six months from the commencement of the Kerala Land Reforms (Amendment) Act, 1969:

Provided further that in the case of a landlord referred to in clause (iii) or clause (iv) of the foregoing proviso, the application for resumption may be made after expiry of the said period of six months and before the date notified under Section 72, if such landlord was prevented by sufficient cause from making the application within the said period of six months;

(2) the right of resumption in respect of a holding shall be exercised only once, and the order of the Land Tribunal allowing resumption shall be given effect only at the end of an agricultural year;

(3) no kudiyiruppu shall be resumed;

¹[(4) no land in the possession of tenant who is a member of a Scheduled Caste or Scheduled Tribe shall be resumed.]

1. Inserted by Act 35 of 1969

¹[19. *Resumption of agricultural lands interspersed within plantations.*— A landlord may resume from a tenant any holding or part of a holding comprising agricultural lands of the description specified in sub-clause (c) of clause (44) of Section 2, if such holding or part is in the opinion of the Land Board, ²[or the Taluk Land Board, as the case may be], absolutely necessary for the purposes of the plantation.

Provided that the order of the Land Tribunal allowing resumption shall be given effect to only after the expiry of the period, if any, fixed under the contract of tenancy and only at the end of an agricultural year.]

20. Tenants from whom land is resumed to be paid compensation for improvements and Solatium.— ¹[(1) A tenant from whom land is resumed under the provisions of this Act shall be entitled to —

- (i) compensation for the improvements belonging to him; or
- (ii) a solatium of an amount equal to the value of the gross produce from the land resumed for a period of two years;

whichever is greater:

Provided that where the land resumed is comprised in a plantation, the tenant shall be entitled to the aggregate of the compensation referred to in clause (i) and the solatium referred to in clause (ii).]

(2) The compensation payable under clause (i) of Sub-section (1) shall be determined in accordance with the provisions of the Kerala Compensation for Tenants Improvements Act, 1958.

21. Priority for resumption.— Where in respect of any holding there are more landlords than one, the landlords mentioned below and in their order of priority shall be entitled to resumption:—

- (a) small holder;
- (b) any person, other than a small holder, entitled fixity of tenure in respect of the holding immediately before the 21st January, 1961, under any law then in force;

1. Substituted by Act 35 of 1969

2. Inserted by the KLR (Amendment) Act, 1979

(c) kanamdar not falling under item (a) or item (b):

(d) landowner, not being a small-holder;

Provided that where there are more landlords than one falling under the same category, the landlord nearer the cultivating tenant shall have preferential right over the landlord more remote.

22. Procedure for resumption.— (1) A landlord desiring to resume any land shall apply to the Land Tribunal within whose jurisdiction the land is situated for an order of resumption. The application shall be in such form and shall contain such particulars as may be prescribed.

¹[*Explanation.*— For the purposes of this sub Section, "landlord" shall include a landlord referred to in the clause (i) or clause (ii) of Sub-section (2) of Section 13.]

(2) The Land Tribunal shall duly enquire into the application and pass appropriate orders thereon. Where the order allows resumption, it shall specify the extent and location of the land allowed to be resumed, the rent payable in respect of the portion, if any, that would be left after resumption and such other particulars as may be prescribed and directing the landlord to make, within such time and in such manner as may be prescribed, payments to extinguish the rights of the cultivating tenant and the intermediaries, if any, who would be affected by such resumption.

(3) Land Tribunal may, for sufficient reasons extend the time prescribed under Sub-section (2) for making payments by the land lord.

¹[(4) The cultivating tenants shall be entitled to opt for the location of the portion of the holding which may be allowed to be resumed: and where the tenant has not so opted, the location of the portion to be resumed shall be decided by the Land Tribunal having regard to the nature, fertility and other conditions of the portion of the land which may be allowed to be resumed and the portion left with the cultivating tenant.]

1. Added by Act 35 of 1969

2. Substituted by Act 35 of 1969

(5) Where the application is for resumption under Section 16 from a tenant who is in possession of land exceeding the ceiling area and there are other landlords under whom the tenant holds, the Land Tribunal shall give notice of the application to all other landlords so far as known to it, specifying a date within which they may apply for resumption or any land from such tenant. The Land Tribunal shall consider all applications from landlords for resumption from such tenant received within the specified time together, and, where the extent of land in the possession of the tenant in excess of the ceiling area is less than the aggregate of the extent of land applied to be resumed by the landlords, the Land Tribunal shall allow resumption by all the landlords equitably having regard to all circumstances.

(6) Where any land is resumed after making the payments as directed by the Land Tribunal, all the rights of the cultivating tenant and the intermediaries, if any, holding between the landlord resuming the land and the cultivating tenant in respect of the land, shall stand extinguished.

¹[(7) Where a landlord deposits the amounts in accordance with the directions of the Land Tribunal, the Land Tribunal shall put the landlord in possession of the land allowed to be resumed, if need be by removing any person who refuses to vacate the same.]

(8) Where a landlord fails to deposit the amounts in the accordance with the directions of the Land Tribunal, the order of resumption shall be treated as cancelled and the landlord shall have no further right for resumption.

23. Tenant's right to sue for restoration of possession of land.—(1) In any case in which any land has been resumed on the ground specified in Section 14 or Section 15 or Section 16 or ²[x x x] Section 19, if, within three years of such resumption, the person who resumed the land fails without reasonable excuse to use the land for the purpose for which it was resumed, the cultivating tenant shall, subject to the provisions of Section 24, be entitled to apply to the Land Tribunal for

the restoration to him of the possession of the land or a portion of the land which was resumed and to hold it with all the rights and subject to all the liabilities of a cultivating tenant:

Provided that a cultivating tenant shall not be entitled to restoration under this Sub-section if he is in possession of land equal to or exceeding the ceiling area, nor shall a cultivating tenant be entitled to restoration of an extent of land which together with the extent of land in his possession will exceed the ceiling area.

(2) The provisions of Section 22, shall, *mutatis mutandis*, be applicable to the form and procedure in regard to the application for restoration and the manner of execution of the orders of restoration.

24. Limitation for application for restoration under Section 23.— An application for restoration under Section 23 shall be made within one year from the expiry of three years after the resumption.

25. Persons entitled to restoration.—(1) Where restoration of any land resumed is ordered under Section 23, the cultivating tenant shall hold the land directly under the landlord from whom restoration has been ordered and the rights of the intermediaries extinguished under Sub-section (6) of Section 22 shall not revive.

(2) Before such restoration, the cultivating tenant shall pay to the person who resumed the land—

- (i) the amount paid by such person to the cultivating tenant and to the intermediary, if any, towards the value of the improvements effected by them and existing at the time of restoration ;
- (ii) the value of the improvements, if any effected bonafide by such person between the date of resumption and the date of the application, and
- (iii) any amount other than solatium received by the cultivating tenant from such person on account of the resumption.

1. Substituted by Act 35 of 1969

2. Omitted by Act 35 of 1969

(3) The rent payable by the cultivating tenant after the restoration of the holding shall be the fair rent.

¹[25A. *Contract rent in the case of certain tenants.*— (1) Where a person who is a tenant for the purposes of this Act, as amended by Kerala Land Reforms (Amendment) Act, 1969, was before the commencement of the said Amendment Act, not under an obligation to pay rent, the contract rent for the purposes of this Act shall be deemed to be,—

- (a) where there has been a stipulation in the document for the periodical payment of any amount by such person, such amount;
- (b) in the case of a varamdar, the average of the share of the landlord in the paddy produce for the three years immediately preceding the commencement of this Act or where the varamdar was not cultivating the land continuously for the said period of three years, the share of the landlord for the year in which the varamdar cultivated the land last immediately before such commencement;
- (c) in any other case, four rupees per acre.

(2) In the case of a cultivating tenant referred to in the Sub-section (3) of Section 25, the contract rent for the purposes of this Act shall be the contract rent or the proportionate contract rent in respect of the holding or part thereof which is resumed under this Act, at the time of resumption.

25B. Determination of proportionate rent.— Where by an act of parties or by operation of law, the interest of the tenant in his holding has been served, splitting up the holding into two or more parts, or where a portion of the holding has been sub-leased, and there is dispute as to the contract rent payable in respect of any such part or, as the case may be, the portion retained by the tenant or the portion

1. Inserted by Act 35 of 1969

sub-leased, the Land Tribunal may, on application by any person interested, determine the contract rent payable in respect of each such part or portion, as the case may be, on the basis of the normal produce from each such part or portion.]

¹[26. *Recovery of arrears of rent.*— (1) A landlord or any person claiming under him may apply to the Land Tribunal in such form as may be prescribed for recovery of arrears of rent due to him from his tenant.

(2) The Land Tribunal shall, after such enquiry as may be prescribed, determine the amount payable to the landlord and the person liable to pay the same:

Provided that where the amount claimed in the application does not exceed five hundred rupees, the Land Tribunal shall follow the procedure prescribed for the trial of small cause suits.

²[(3) The person liable to pay the amount determined under Sub-section (2) shall deposit the same with the Land Tribunal which determined the amount within a period of six months from the date of such determination.

(3A) In the event of the failure to deposit the amount referred to in Sub-section (3) within the time specified in that Sub-section, such amount shall, on a written requisition from the Land Tribunal to the District Collector, be recovered under the provisions of the Kerala Revenue Recovery Act, 1968, together with interest at the rate of six per cent per annum from the date determination of the amount under Sub-section (2).]

(4) Notwithstanding anything contained in any law for the time being in force, no court or other authority or officer other than the Land Tribunal shall have jurisdiction to entertain any claim for arrears of rent.

1. Substituted by Act 35 of 1969

2. Substituted by the KLR (Amendment) Act 1979

COMMENTS

Exemption from the operation to entire provisions of Sec. 26 in the case of leases for commercial purposes falling within the ambit of clause (iii) of Sub-section (1) of Section 3.

[Joseph v. Gulam Gasool 2003(1) KLT 328]

27. Fair rent.— (1) The fair rent in respect of a holding shall be the rent payable by the cultivating tenant to his landlord.

(2) The fair rent shall be,—

- (a) in the case of nilams, 50 per cent of the contract rent, or 75 per cent of the fair rent determined under any law in force immediately before the 21st January, 1961, or the rent calculated at the rates specified in schedule III applicable to the class of lands comprised in the holding, whichever is less;
- (b) in the case of other lands, 75 per cent of the contract rent, or 75 per cent of the fair rent determined under any law in force immediately before the 21st January, 1961, or the rent calculated at the rates specified in schedule III applicable to the class of lands comprised in the holding, whichever is less:

Provided that the tenant may, by notice sent to the landlord by registered post, opt to pay—

- (i) in the case of any nilam, 50 per cent of the contract rent, or 75 per cent of the fair rent determined under any law in force immediately before the 21st January, 1961, or the rent calculated at the rates specified in schedule III applicable to the class of lands comprised in the holding;
- (ii) in the case of other lands, 75 per cent of the contract rent, or the fair rent determined under any law in force immediately before the 21st January, 1961, or the rent calculated at the rates specified in sched-

uled III applicable to the class of lands comprised in the holding;

and where the tenant has so opted, such rent shall be deemed to be the fair rent for all purposes of this Act with effect from the beginning of the agricultural year in which such notice was sent to the landlord.

Explanation I.— Where in the case of a holding consisting of nilam and lands other than nilam, the rent for the nilam and the other lands is not separately specified in the contract of tenancy, the contract rent for the purposes of this Sub-section in respect of the nilam and the other lands shall be determined on the basis of the normal produce from the nilam and the normal produce from the lands other than nilam.

Explanation II.— Where in respect of a holding there is a stipulation in the contract of tenancy for the payment of interest by the transferor to the transferee, or for the payment by the transferee of land tax due to the Government or any tax or cess due to a local authority, the contract rent of that holding shall, for the purposes of this Section, be calculated after deducting such interest, tax and cess.

Explanation III.— For the purposes of this Section “nilam” includes a nilam converted into garden by the tenant’s labour.]

28. Exclusion or certain lands from liability to fair rent.— Notwithstanding anything contained in Section 27, where any land included in a holding is set apart for communal purposes, and is used for such purposes, the extent of the land so set apart shall not be taken into account when determining the fair rent of the holding in accordance with that Section.

[29. Preparation of record of rights.— (1) Any person interested in any land may at any time within ten years from the commencement of this Act or such further period as the Government, may, from time to time, by notification in the Gazette, specify in this behalf, apply to

1. Inserted by the KLR (Amendment) Act, 1979

2. Substituted by Act 35 of 1969

Tahsildar of the taluk in which that land is situate for the preparation of a record of rights in respect of that land;

Provided that no such application shall lie in cases where the land is situate in an area notified by the Government under Section 3 of the Kerala Record of Rights Act, 1968.

(2) On receipt of an application under Sub-section (1) for the preparation of the record of rights in respect of any land, the Tahsildar shall prepare the record of rights in respect of that land in such manner as may be prescribed.

(3) The record of rights shall contain -

- (a) the description and extent of the land;
- (b) the name and address of the owner;
- (c) the names and address of the intermediaries, if any, in respect of the land and the nature of the interest of each of such intermediaries;
- (d) the names and address of the cultivating tenants and kudikidappukars, if any, in respect of the land and the nature of the interest of each of them;
- (e) the names and address of other persons, if any, having interest in the land and the nature of the interest of each such person; and
- (f) such other particulars as may be prescribed.

(4) Any person aggrieved by any entry in the record of rights prepared by the Tahsildar under Sub-section (2) may, within such period as may be prescribed, appeal to the Revenue Divisional Officer having jurisdiction over the area in which the land is situate.

(5) An appeal under Sub-section (4) shall be in such form and shall contain such particulars as may be prescribed.

(6) On receipt of an appeal under Sub-section (4), the Revenue Divisional Officer shall, after giving an opportunity to all persons in-

terested in the land to which the record of rights relates, dispose of the appeal in such manner as may be prescribed.

(7) The Tahsildar and the Revenue Divisional Officer shall, for the purposes of the proceeding under this Section, have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavit;
- (d) issuing commissions for the examination of witnesses or for local investigation; and
- (e) any other matter which may be prescribed.

(8) The record of rights prepared under this Section shall be admissible in evidence before any court or tribunal and every entry in any record of rights which has become final shall until the contrary is provided be presumed to be correct.

(9) Where an application for the preparation of a record of rights in respect of a land is admitted, no application under Section 31 for determination of the fair rent in respect of that land shall be disposed of till the record of rights prepared under this Section.

(10) Where the proceeding for the preparation of a record of rights are pending before the Tahsildar or an appeal under this Section is pending before the Revenue Divisional Officer at the time when the area in which the land to which the record of rights relates is situate in notified by the Government under Section 3 of the Kerala Record of Rights Act, 1968, the Tahsildar or the Revenue Divisional Officer as the case may be, shall transfer such proceeding or appeal to the prescribed officer under the said Act for the preparation of the record of rights in accordance with the provisions of that Act.]

[29A. Bar of proceedings under Chapter XII of the Code of Criminal Procedure in certain cases.— (1) Where a person claiming to be a tenant applies for the preparation of a record of rights or for the determination of the fair rent or for the purchase of the right, title and interest of the landowner and the intermediaries, if any, in respect of the land cultivated by him, then, notwithstanding anything contained in any other law, no Magistrate shall have jurisdiction under Chapter XII of the Code of Criminal Procedure, 1898, in respect of a dispute between that person and any other person claiming to be in possession of that land relating to that land, pending disposal of the application.

(2) Where, in respect of any land, proceedings under Chapter XII of the Code of Criminal Procedure, 1898, were initiated while proceedings for the determination of the fair rent in respect of that land were pending and the possession of the land was handed over to the landlord in the proceedings under the said chapter XII, and a suit to declare the right to possession of such land was pending in any civil court of competent jurisdiction on the date of publication of the Kerala Land Reforms (Amendment) Bill, 1968, in the Gazette, then notwithstanding anything contained in Chapter XII of the Code of Criminal Procedure, 1898, or order of any court or any record regarding possession, the person who applied for the determination of the fair rent his successor-in-interest shall,—

- (a) if he was actually in possession on such date, be entitled to continue in possession of such land subject to the final decision in such suit; and
- (b) if he was not in possession on such date, be entitled to restoration of possession and to continue such possession till the final decision in such suit.

(3) Any person who is entitled to be restored to possession of any land under Sub-section (2) may make an application in writing within a period of six months from the commencement of the Kerala Land Reforms (Amendment) Act, 1969, to the Revenue Divisional Officer having jurisdiction over the area in which the land is situated for the restoration of possession of such land.

1. Inserted by Act 9 of 1967

(4) The Revenue Divisional Officer shall, on receipt of an application under Sub-section (3), make or cause to be made necessary enquiries in respect of such application and if he is satisfied that the applicant is entitled to restoration of possession under Sub-section (2), he shall by order direct the person in possession of the land to deliver possession of the same to the applicant within a period of thirty days from the date of service of the order:

Provide that no order under this Sub-section shall be made unless the person who is in possession of the land has been given an opportunity of being heard in the matter.

(5) Every order made under Sub-section (4) shall be served in such manner as may be prescribed.

(6) Any person aggrieved by an order of the Revenue Divisional Officer under Sub-section (4) may, within a period of thirty days from the date of service of the order, prefer an appeal to the Collector of the district in which the land is situate, and the order of the collector on such appeal be final.

(7) Where an order made under Sub-section (4) has not been complied with, and—

- (a) no appeal has been preferred within the time allowed for such appeal; or
- (b) an appeal having been preferred has been dismissed, the Revenue Divisional Officer shall cause the land to be delivered to the applicant by putting him in possession of the land, and if need be, by removing any person who refuses to vacate the same.]

[29B. Disputes regarding right to cultivate land.— (1) Any person claiming to be the cultivating tenant of any land, if prevented or obstructed from cultivating that land, may apply to the Tahsildar of the taluk in which the land is situate for an order that he is entitled to cultivate the land.

1. Substituted by Act 35 of 1969

(2) The Tahsildar shall, on receipt of an application under Sub-section (1) and after such enquiry as he deems necessary and after issue of notice to the opposite party, by order decide whether the applicant is entitled to cultivate the land, and if the applicant is entitled to cultivate, and is not in possession of, the land, the Tahsildar shall also restore him to possession and allow him to cultivate that land.

(3) In any suit relating to any land in respect of which an application has been presented before the Tahsildar under Sub-section (1) instituted by the opposite party after the date of such application, the court shall not grant an injunction restraining the applicant from cultivating the land, till the final decision in such suit.]

30. Rent payable by an intermediary.— Where in respect of a holding there is an intermediary at the commencement of this Act and as a result of the determination of the fair rent there has been a reduction ¹[x x x] in the rent payable by the cultivating tenant, the rent payable by the intermediary to his landlord shall be reduced ¹[x x x] in the same proportion as the rent to which he was entitled was reduced ¹[x x x].

²[**30A. Jenmikaram payable where rent payable to kanam tenant is reduced.**— Notwithstanding anything to the contrary contained in any other law, where in respect of a holding the landowner is a kanam tenant as defined in the Kanam Tenancy Act, 1955, and as a result of the determination of the fair rent in respect of that holding there has been a reduction in the rent payable to such landowner, the jenmikaram payable by such landowner in respect of that holding and accrued due after the 1st day of May, 1966, ³[and before the commencement of the Kanam Tenancy Abolition Act, 1976] shall be reduced in the same proportion as the rent to which he was entitled was reduced.]

31. Determination of fair rent by Land Tribunal.— (1) The cultivating tenant or any landlord may apply, in such form as may be prescribed, to the Land Tribunal for determining the fair rent in respect of a holding.

1. Omitted by Act 35 of 1969

2. Inserted by Act 35 of 1969

3. Inserted by Act 16 of 1976

(2) On receipt of an application under Sub-section (1), the Land Tribunal shall issue notices to all persons interested and after enquiry, determine by an order—

- (i) the fair rent in respect of the holding;
- (ii) if there is an intermediary or intermediaries, the rent payable by such intermediary or intermediaries to the landlord or to their respective landlords;
- (iii) the instalments, if any, in which the rent shall be payable; and
- (iv) the date or dates on which the said rent or instalment shall be payable.

(3) In determining the fair rent under Sub-section (2), the Land Tribunal may take into account the statistics published under Section 44.

32. Bar of suits for eviction, etc., pending application for determination of fair rent.— During the pendency of an application for determination of fair rent before a Land Tribunal, no court shall entertain any suit for eviction of the applicant from the ¹[land] to which the application relates, or pass any order of injunction prohibiting him from entering the ¹[land] or pass any order staying the proceedings before the Land Tribunal.

33. Agreement as to fair rent.— Notwithstanding anything contained in the foregoing Sections, it shall be competent for the landlord and the tenant to agree as to what shall be the fair rent payable in respect of the holding and, where such an agreement signed by the landlord and the tenant is filed with the Land Tribunal, the Land Tribunal shall pass orders determining such agreed rent as the fair rent in respect of the holding;

Provided that the agreed rent shall not exceed the fair rent under Section 27, in respect of the holding;

Provided further that where there are intermediaries or other persons having an interest in the holding, the landowner, the cultivating

1. Substituted by Act 35 of 1969

tenant and all the intermediaries and other persons interested shall be parties to such an agreement:

Provided also that this Section shall not apply to a case where the landlord is a religious, charitable or educational institution of a public nature.

34. Date from which order determining fair rent, etc., is to take effect.— The order determining the fair rent under Section 31 or Section 33 and the rent payable by an intermediary shall take effect from the beginning of the agricultural year in which the tenant or the landlord filed the application for such determination or the agreement under Section 33, and any amount paid by the tenant in excess of the rent so determined to the landlord till the date of determination shall be adjusted towards the payment of future rent or the purchase price payable under Section 55, and, where the amount of rent paid to the landlord is less than the rent so determined, the balance payable by the tenant shall be paid along with the rent payable immediately after the determination of the rent.

35. Rent payable when Land Tribunal has not determined fair rent.— Where in a case the rent payable in respect of a holding has not been determined by the Land Tribunal, either under Section 31 or Section 33, the landlord shall be entitled to receive and ¹[the tenant shall be bound to pay at his option,—

- (a) in the case of nilams, 50 per cent of the contract rent, or 75 per cent of the fair rent, if any, determined under any law in force immediately before the 21st January, 1961;
- (b) in the case of other lands, 75 per cent of the contract rent, or the fair rent, if any, determined under any law in force immediately before the 21st January, 1961.

¹[x x x]

36. Mode of payment of rent.— (1) Where the rent is payable in kind, it shall be paid either in kind or in the money at the option of the tenant.

1. Omitted by Act 35 of 1969

¹[(2) The money value of the rent payable in kind, unless it is specified in the document evidencing the contract of tenancy, shall be commuted with reference to the rates published in the Gazette under Section 43 for the date on which the rent is payable and if no such rate is published for that date, at the rate for the nearest previous date for which a rate is so published:

Provided that where in respect of any commodity the price has not been published in the Gazette, the money value of such commodity shall be calculated at the market rate prevailing on the date on which the rent is due.]

(3) The tenant shall be entitled to set by money order the rent payable by him to his landlord.

37. Liability for assessment.— (1) As between the tenant and landlord, the former shall be liable for any cess or special charges leviable by the Government for special or additional crops raised, where such special or additional crops have not been taken into account in fixing the fair rent.

(2) A tenant making any payment to the Government or any local authority towards land revenue or any tax in respect of the land comprised in the holding and payable by the landlord, shall be entitled to deduct the same from the rent payable by him to the landlord:

Provided that no such deduction shall be made if the rent payable by the tenant to the landlord is equal to or less than the land revenue or other tax so payable.

38. Remission of rent.— (1) Where there has been a damage to, or a failure of, crops owing to causes beyond the control of the tenant in any holding, the tenant shall be entitled to a remission of the rent payable by him in proportion to the extent of such damage or failure.

¹[(2) The Tahsildar of the taluk in which the holding is situate or any other officer not below the rank of Tahsildar authorised by the Government in this behalf by notification in the Gazette may, either *suo motu* or on application by a tenant, determine, after such enquiry

1. Substituted by Act 35 of 1969

as may be prescribed, the extent of damage to, or failure of, crops under Sub-section (1) and order such remission of rent as appears to him just and proper.

(3) Any person aggrieved by the order of the Tahsildar or the other officer under Sub-section (2) may, within a period of sixty days from the date of the order, appeal against such order to the Revenue Divisional Officer having the jurisdiction over the area in which the holding is situate, and the Revenue Divisional Officer may pass such order on the appeal, as he thinks fit.

(3A) The order of the Revenue Divisional Officer under Sub-section (3) and the order of the Tahsildar or the other officer under Sub-section (2) in cases where no appeal has been preferred under Sub-section (3) within the time specified therefor, or the appeal preferred has been dismissed, shall be final and the tenant shall be entitled to get the benefit of the remission so ordered.

(3B) If in any proceeding under Sub-section (2) or Sub-section (3), any question arises as to whether a person is or is not a tenant, it shall be competent for the Tahsildar or the other officer or the Revenue Divisional Officer, as the case may be, to decide such question for the purposes of this Section.]

(4) Where, in respect of a holding, there is an intermediary and the rent to which the intermediary is entitled is reduced as a result of the remission granted under ¹[Sub-section (2) or Sub-section (3),] the rent payable by the intermediary to his landlord shall be reduced in the same proportion.

Explanation.— For the purposes of this Section, the term crops shall include cereal as well as cash crops.

39. Abatement or reduction of rent.— ¹[(1) The fair rent determined under this Act shall be liable to alteration or revision on the application made by the cultivating tenant to the Land Tribunal on any ground specified in Sub-section (2) or Sub-section (3),

1. Substituted by Act 35 of 1969

(2) Where a portion of the land comprised in the holding is acquired under any law for the time being in force for the compulsory acquisition of land for public purposes or relinquished under the Kerala Land Relinquishment Act, 1958, the tenant shall be entitled to abatement of rent in the same proportion as the yield from the portion acquired or relinquished bears to the yield from the entire holding.]

(3) Where any material part of the holding is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was let, by fire or flood or any other act of God, the rent payable shall be proportionately reduced.

(4) Where in respect of a holding, there is an intermediary and the rent to which the intermediary is entitled is reduced as a result of the abatement in the rent granted under Sub-section (2) or reduction of rent granted under Sub-section (3), the rent payable by the intermediary to his landlord shall be reduced in the same proportion.

40. Invalidity of claims of dues other than rent payable.— Notwithstanding any contract to the contrary, express or implied, no tenant shall be liable to pay to his landlord any customary dues or renewal fees or anything more or anything else than the rent payable under this Act.

41. Arrears of rent to bear interest.— Arrears of rent shall bear interest at the rate of six per cent per annum or at the contract rate whichever is less.

42. Priority of claim for arrears of rent.— Arrears of rent due to the landlord, together with interest thereon, shall be a charge on the interest of the tenant, from whom they are due, in the holding and shall, subject to the priority of the rights of the Government and any local authority for arrears of land revenue, tax, cess or other dues, be a first charge on such interest of the tenant.

43. Publication of prices of commodities.— The District Collector shall cause to be published every quarter, in such manner as may be prescribed, prices prevailing in each taluk of paddy, coconut, arecanut, pepper, groundnut, tapioca, cashewnut and any other crop notified by the Government in this behalf:

Provided that, before publishing such prices, the District Collector shall cause notice to be given to the public, in such manner as he thinks fit, of the prices proposed to be published and consider objections, if any, received within two weeks from the date of the notice.

44. Publications of statistics relating to gross produce of lands.—

The Government shall cause to be published statistics of gross produce of different crops for different classes of land for different areas.

45. Tenant's right to obtain receipt.— (1) Every tenant paying any rent shall be entitled to receive and the landlord shall be bound to grant a receipt containing such particulars as may be prescribed.

(2) If any landlord fails to grant a receipt as provided under Sub-section (1), the tenant shall be entitled to send by money order, after deducting the charges for doing so,

- (i) the money, if the rent is payable in money; and
- (ii) the money value of the rent, if it is payable in kind.

¹[**45A. Rent appropriated for period of stay to be adjusted towards rent for period after 1st May, 1966.**— (1) Where, after the 19th day of May, 1967 and before the commencement of the Kerala Land Reforms (Amendment) Act, 1969, any tenant has paid or deposited any amount by way of rent, and such amount has been appropriated towards arrears of rent accrued due for the period prior to the 1st day of May, 1966, then notwithstanding anything contained in any law, or in any contract, custom or usage, or in any judgment, decree or order of any court or Land Tribunal, such amount shall be adjusted towards the rent accrued due for the period commencing on the 1st day of May, 1966.

(2) Where, in any judgment, decree or order of any court or Land Tribunal passed after the 19th day of May, 1967, any amount paid or deposited by way of rent has been allowed or ordered to be appropriated towards arrears of rent accrued due for the period prior to the 1st day of May, 1966, such judgement, decree or order shall,

1. Inserted by Act 35 of 1969

on application within sixty days from the commencement of the Kerala Land Reforms (Amendment) Act, 1969, be re-opened by the court of Land Tribunal, as the case may be which passed such judgement, decree or order, and disposed of in accordance with the provisions of Sub-section (1).]

46. Application to Land Tribunal when landlord refuses to accept a tender.— ¹[(1) The tenant may apply to the Land Tribunal in the prescribed manner for permission to pay the arrears of rent due by him for any period through the Land Tribunal:

Provided that no such application shall be made, if an application or other proceeding for the recovery of such arrears is pending before the Land Tribunal.]

(2) Along with the application under Sub-section (1) the tenant shall deposit with the Land Tribunal the said dues together with interest, if any, accrued thereon.

¹[**47. Procedure on application under Section 46.**— (1) When an application and deposit have been made under Section 46, the Land Tribunal shall cause written notice thereof to be given at the cost of the applicant to every person who, in the opinion of the Land Tribunal is entitled to be heard thereon, and after hearing such of them as appear, by order, determine —

- (a) the amount of arrears due from the tenant for the period specified in the application under Sub-section (1) of Section 46 together with interest upto the date of deposit and costs, if any; and
- (b) the person or persons who is or are entitled or bound to receive such amount.

(2) If the amount deposited by the tenant under Sub-section (2) of Section 46 is less than the amount referred to in clause (a) of Sub-section (1), the tenant shall deposit the balance amount due within such time as may be directed by the Land Tribunal.

1. Substituted by Act 35 of 1969

(3) If the tenant fails to deposit any amount under Sub-section (2) within the time allowed by the Land Tribunal in that behalf, the application shall be dismissed.

(4) The Land Tribunal may also make such directions regarding costs, if any, awarded to the applicant and such other matters as the Land Tribunal may deem fit.

(5) The deposit of arrears of rent and interest and costs, if any, in accordance with the provisions of this Section and Section 46 shall be a full discharge of the liability of the tenant for the rent due by him for the period specified in the application.

(6) Nothing in Sub-section (5) shall affect the right of any person to recover the amount deposited by the tenant towards arrears of rent and interest from the person to whom it is paid by the Land Tribunal].

48. Apportionment of rent on severance of interest of landlord or tenant.— ¹[(1) Where, by act of parties or by operation of law, the interest of the landlord or of the tenant in the land demised has been severed, or a portion of the land demised has been sub-leased, the landlord or the tenant may apply to the Land Tribunal for the apportionment of the rent and the security for rent, if any.]

(2) The application shall be in such form as may be prescribed.

(3) The Land Tribunal shall, after giving an opportunity to all persons interested to be heard, pass an order on such application apportioning the rent and the security for rent, if any, and directing the execution of a lease deed on the basis of such apportionment, within a specified period and make such order as to the costs of the application as it may deem fit.

(4) If, within the time fixed by the Land Tribunal, such deed is not executed, the Land Tribunal shall, on the application of the person in whose favour such deed is to be executed and on the deposit by such person of such amount as the Land Tribunal may direct, execute the deed on behalf of the person in default; and the Land Tribu-

1. Substituted by Act 35 of 1969

nal shall, by order, direct that the cost of the execution of the deed may be realised by the applicant from the person in default.

¹[x x x]

49. Notice to landlord and intermediary when the interest in the holding of the tenant is acquired.— (1) Any person deriving an interest in the holding or part of the holding of a tenant by virtue of a title acquired by act of parties or by operation of law shall, where such interest is acquired after the commencement of ²[The Kerala Land Reforms (Amendment) Act, 1969,] within sixty days from the date of such acquisition, give registered notice of his interest in the holding or part of the holding to the landlord and the intermediaries, if any. The said notice, shall contain particulars of the property, its extent, the nature of the interest acquired and the date of acquisition of such interest.

(2) Where default is made by a tenant in the payment of rent, his landlord shall give registered notice of the default to the persons who have acquired interest in the holding or part of the holding prior to the date of such default and who have notified the existence of their interest under Sub-section (1). The persons having interest in the holding shall be entitled to pay the arrears and the landlord shall be bound to receive such payment:

Provided that a person who has acquired interest only in a part of the holding, shall be bound to pay only so much of the rent or arrears of the same, as will on apportionment fall on such portion of the holding.

(3) Where there has been no agreement among the persons interested as to the apportionment referred to in the proviso to Sub-section (2), the person who has acquired interest in the part of the holding may, within sixty days from the date of service of the notice of default, apply to the Land Tribunal for the apportionment, and the Land Tribunal shall, by order, make the apportionment.

¹[x x x]

1. Omitted by Act 35 of 1969

50. Rights of tenant to be heritable and alienable.— Subject to the provisions of this Act, all rights which a tenant has in his holding shall be heritable and alienable,

¹[**50A. Extent of tenant's right to use his holding.**— Notwithstanding anything contained in any law or contract, or in any judgement, decree or order of court, a tenant entitled to fixity of tenure shall have the right to use his holding in any manner he thinks fit:

Provided that nothing contained in this Section shall be deemed to empower the tenant to use the holding in contravention of any order issued under the Essential Commodities Act, 1955.

(2) Notwithstanding anything contained in any law or contract, or in any judgement, decree or order of court, where the tenant in respect of a nilam is a varamdar and the fishing right in that nilam is exercised by the landlord, such right of the landlord shall cease to exist and the tenant shall be entitled to exercise such right.]

51. Surrender by tenant.— ²[(1)] Notwithstanding anything contained in this Act, a tenant may terminate the tenancy in respect of any land held by him at any time by surrender of his ³[interest therein:

Provided that no such surrender shall be made in favour of any person other than the Government:]

³[Provided further that] such surrender shall not be effective unless it is made in writing and is admitted by the tenant before the Land Tribunal ⁴[x x x] and is registered in the office of the Land Tribunal in the prescribed manner:

⁴[x x x]

⁵[(2) The Government shall pay to the landlord fair rent of the tenancy surrendered to it under Sub-section (1).

1. Inserted by Act 35 of 1969

2. Renumbered by Act 12 of 1966

3. Substituted by Act 12 of 1966

4. Omitted by Act 12 of 1966

5. Inserted by Act 12 of 1966

(3) The Government may let any land surrendered to it under Sub-section (1) to any person, as far as may be, in accordance with such rules as may be made under this Act.

(4) The tenant to whom any land is let under Sub-section (3) shall pay the fair rent thereof directly to the landlord and the Government's liability under Sub-section (2) with regard to the payment of the rent of that land shall, on and from the date of induction of the tenant on such land, cease.]

¹[**51A. Abandonment by a tenant.**— (1) No landlord shall enter on any land which has been abandoned by a tenant,

²[(2) If a tenant abandons his holding and ceases to cultivate the holding either by himself or by some other person, the Government may, after notice to the tenant and the landlord and after hearing objections, if any, take possession of the land comprised in the holding.

(3) The Government shall pay to the landlord fair rent for the land taken possession of by them under Sub-section (2), from the date on which they take possession of such land.]

(4) The Government may let to another tenant any land, possession of which has been taken under Sub-section (2), as far as may be in accordance with such rules as may be made under this Act.

(5) The tenant to whom any land is let under Sub-section (4) shall pay the fair rent thereof directly to the landlord and the Government's liability under Sub-section (3) with regard to the payment of the fair rent for such land shall, on and from the date of induction of the tenant on the land cease.

51B. Landlord not to enter on surrendered or abandoned land.— If any landlord enters into the possession of any abandoned land or any land which has not been surrendered in accordance with the provisions of Section 51, he shall be deemed to have contravened the provisions of Section 6 of the Kerala Prevention of Eviction Act, 1966, and shall be punished accordingly.]

1. Inserted by Act 12 of 1966

2. Substituted by Act 35 of 1969

52. Rights as to timber trees.— (1) Notwithstanding any law, custom or contract to the contrary, all timber trees planted by the cultivating tenant or his predecessor-in-interest or spontaneously sprouting and growing in the holding after the commencement of the tenancy in favour of the cultivating tenant or his predecessor-in-interest, shall belong to the cultivating tenant.

¹[(2) Subject to the provisions of Sub-sections (3) and (5), in the case of timber trees standing in the holding of a cultivating tenant at the commencement of his tenancy, the cultivating tenant shall have the right to cut and remove such trees, and the landlord or the intermediary shall not have the right to cut and remove such trees.]

(3) Where the cultivating tenant exercises his right under Sub-section (2), he shall be liable to pay to the landowner or the intermediary, as the case may be, one-half of the market value of the timber trees so cut and removed.

²[x x x]

(5) The right conferred by Sub-section (2) shall not be exercisable unless reasonable notice thereof in writing is given to the party to be affected by the exercise of the said right.

(6) If any dispute arises as to the rights of the landowner, intermediary and cultivating tenant over timber, trees, the Land Tribunal shall, on the application of the landowner, intermediary or cultivating tenant, by order, decide the question after hearing all the persons interested.

PURCHASE OF LANDLORD'S RIGHTS BY CULTIVATING TENANTS

53. Cultivating tenant's right to purchase landlord's rights.— (1) ¹[A cultivating tenant (including the holder of a kudiyiruppu, and the holder of a karaima)], entitled to fixity of a tenure under Section 13, shall be entitled to purchase the right, title and interest of the landowner and

the intermediaries, if any, in respect of the land comprised in his holding:

Provided that —

- (i) if the landlord is entitled to resume any portion of the holding under this Act and he applies for such resumption, the cultivating tenant shall be entitled to purchase the right, title and interest of the landowner and the intermediaries only in respect of the remaining portion of the holding;
- (ii) no cultivating tenant shall be entitled to purchase the right, title and interest in respect of any land under this Section if he, or if he is a member of a family, such family, owns an extent of land not less than the ceiling area;
- (iii) Where the cultivating tenant or, if he is a member of a family, such family, does not own any land or owns an extent of land which is less than the ceiling area, he shall be entitled to purchase the right, title and interest in respect of only such extent of land as well, together with the land, if any, owned by him or his family, as the case may be, equal to the ceiling area.

Explanation.— In calculating the extent of land owned by the cultivating tenant or, where he is a member of a family, by such family, for the purposes of clause (ii) or clause (iii) of the proviso to this Sub-section, the portion of the land owned by such cultivating tenant or by the family, which is liable to be purchased by the cultivating tenants holding under such tenant or family, shall not be taken into account.

¹[(2) The provisions of Section 82 shall, so far as may be, apply to the calculation of the ceiling area for the purposes of Sub-section (1):

1. Substituted by Act 35 of 1969

2. Omitted by Act 35 of 1969

1. Substituted by Act 35 of 1969

Provided that if no date has been notified under Section 83, the date of application by the cultivating tenant under Section 54 shall be deemed to be the date notified under Section 83.]

54. Application for purchase of landlord's rights by cultivating tenants.— (1) A cultivating tenant entitled to purchase the right, title and interest of the landowner and the intermediaries under Section 53 may apply to the Land Tribunal for the purchase of such right, title and interest.

(2) The application for the purchase under Sub-section (1) shall be in such form and shall contain such particulars as may be prescribed.

¹[x x x]

(4) Where a cultivating tenant is entitled to purchase the right, title and interest in respect of only a portion of the land held by him, he may indicate in the application, his choice of the portion, the right, title and interest over which he desires to purchase.

55. Purchase price.— The price payable by the cultivating tenant for the purchase of the right, title and interest of the landowner and the intermediaries, if any, shall be the aggregate of:

- (i) sixteen times the fair rent in respect of the holding or part thereof to which the purchase relates;
- (ii) the value of structures, wells and embankments of a permanent nature belonging to the landowner or the intermediaries, if any; and
- (iii) one-half of the value of timber trees belonging to the landowner or the intermediaries, if any:

²[Provided that where the aggregate of the value of structures, wells and embankments and one-half of the value of timber trees referred to in clauses (ii) and (iii) exceeds sixteen times the fair rent in respect of the holding or part thereof to which the purchase relates, such aggregate value shall, for the purpose of calculating the purchase price, be limited to sixteen times, such fair rent.]

1. Omitted by Act 35 of 1969

2. Inserted by Act 35 of 1969

Explanation.— For the purposes of this Section, where the rent is payable in kind, the money value of the rent shall be computed at the average of the prices of the commodity for the six years immediately preceding the year of determination of the purchase price, and, in calculating the average of the prices, the prices, if any, published under Section 43 may also be taken into account.

56. Purchase price to be distributed among the landowner and intermediaries.— (1) Where the right, title and interest of the landowner and the intermediaries in respect of a holding have been purchased by the cultivating tenant, the purchase price paid by the cultivating tenant shall be paid to the landowner or apportioned among the landowner and the intermediaries, as the case may be, in accordance with the provisions of Sub-sections (2) and (3).

(2) Where there is no intermediary, the landowner shall be entitled to the entire purchase price paid by the cultivating tenant.

(3) Where there is an intermediary or there are intermediaries—

- (i) the amount of 16 times the fair rent paid by the cultivating tenant shall be apportioned among the landowner and the intermediary or intermediaries in proportion to the profits derived by them from the holding; and
- (ii) the value of structures, wells and embankments of a permanent nature and half the value of the timber trees paid by the cultivating tenant shall be payable to the landowner or the intermediary to whom such structures, wells, embankment, and timber trees belong:

¹[Provided that where the aggregate of the value of structures, wells and embankments and one-half of the value of timber trees has been limited to sixteen times the fair rent under the proviso to Section 55, the amount payable under this clause to the landowner and the intermediary or intermediaries shall be sixteen times such fair rent apportioned among the landowner and intermediary or intermediaries.]

1. Inserted by Act 35 of 1969

ies in proportion to the value of the structures, wells, embankments and timber trees belonging to each of them.]

Explanation.— “Profits derived from the holding” shall, for the purposes of this Sub-section, mean, in the case of the landowner, the rent to which he is entitled and, in the case of an intermediary, the difference between the rent due to him from his tenant and the rent for which the intermediary is liable to his landlord ¹[and where there is no evidence as to the rent for which the intermediary is liable to his landlord, it shall be presumed that such rent is one-half of the rent payable to the intermediary by his tenant.]

57. Procedure before the Land Tribunal.— (1) As soon as may be after the receipt of the application under Section 54, the Land Tribunal shall give notice to the landowner, the intermediaries and all other persons interested in the holding, to prefer claims or objections with regard to the application, ²[x x x]

(2) The Land Tribunal shall, after considering the claims and objections received and hearing any person appearing in pursuance of the notice issued under Sub-section (1) and after making due enquiries, pass orders:

- (i) on the application, if any, ¹[pending before it] from the landowner or intermediary for resumption, in accordance with the provisions of Section 22; and
- (ii) on the application for purchase under Section 54.

(3) Where the cultivating tenant is entitled to purchase only a portion of the land left after resumption, the Land Tribunal shall, as far as possible, allow the purchase of the portion indicated in the application under Sub-section (3) of Section 54.

¹[(3A) Where the right, title and interest of the landowner or the intermediary vested in the cultivating tenant form part of the security for any encumbrance or charge for maintenance or alimony, the

1. Inserted by Act 35 of 1969

2. Omitted by Act 35 of 1969

3. Substituted by Act 35 of 1969

Land Tribunal shall, for the purpose of discharging the same, apportion the entire encumbrance or the charge for the maintenance or alimony between the portion of the land, the right, title and interest over which vested in the tenant and the portion remaining after such vesting, in proportion to the values of the two portions Of the property; and discharge only the liability pertaining to the portion to which the purchase relates.]

(4) An order under clause (ii) of Sub-section (2) allowing the application shall specify:

- (i) the purchase price payable by the cultivating tenant;
- (ii) the amount due to the landowner and each of the intermediaries, if any, on the apportionment of the purchase price paid by the cultivating tenant;
- (iii) the value of encumbrances subsisting or claims for maintenance or alimony charged on the right, title and interest of the landowner and the intermediaries, if any;
- (iv) the amount payable to the holder of the encumbrance or the person entitled to the maintenance or alimony ¹[and the order of priority in which such amount is payable]; and
- (v) the amount payable to the landowner and each of the intermediaries after deducting the value of the encumbrances or the claims for maintenance or alimony,

(5) If the landowner or intermediary is liable to pay any amount to the cultivating tenant under this Act, the Land Tribunal shall, in passing orders on the application for purchase, set off such amount against the purchase price payable to the landowner or the intermediary.

(6) The Land Tribunal shall, as soon as may be, forward a copy of the orders under Sub-section (2) to the Land Board.

1. Inserted by Act 35 of 1969

58. Purchase price payable in instalments or in lump.— The purchase price determined under Section 57 shall be payable in sixteen equal annual instalments:

Provided that where the purchase price is less than Rs. 160, the number of instalments shall be so fixed by the Land Tribunal that the amount payable in each instalment shall not be less than Rs. 10:

Provided further that it shall be open to the cultivating tenant to pay the entire purchase price in a lump, in which case the amount payable shall be only seventy-five per cent of the purchase price.

59. Deposit of purchase price and issue of certificate of purchase.—

(1) Where an application under Section 54 has been allowed and the purchase price determined under Section 57 by the Land Tribunal, the cultivating tenant shall deposit with the Land Tribunal to the credit of the Land Board:—

- (i) where the purchase price is proposed to be paid in a lump, the entire amount due within one year; or
- (ii) Where the purchase price is proposed to be paid in instalments, the first instalment thereof within ¹[six months] from the date on which ¹[the order of the Land Tribunal under Section 57 has become final.]

²[Provided that Land Tribunal may, on application by the cultivating tenant before the expiry of the said period of one year or six months, as the case may be, extend the period for making such deposit, so however that the period so extended shall not exceed three months.]

(2) On the deposit of the purchase price in a lump or of the first installment of such price, the Land Board shall issue a certificate of purchase to the cultivating tenant and thereupon the right, title and interest of the landowner and the intermediaries, if any, shall vest in the cultivating tenant free from all encumbrances with effect ¹[from the date of the application under Section 54.] The certificate of pur-

1. Substituted by Act 35 of 1969

2. Inserted by Act 35 of 1969

chase shall be conclusive proof as the purchase by the tenant of the right, title and interest of the landowner and intermediary, if any, over the holding or portion thereof.

¹[*Explanation.*— For the removal of doubts, it is hereby declared that on the issue of the certificate of purchase, the landowner or any intermediary shall have no right in the land comprised in the holding and all his rights including rights, if any, in respect of trees reserved for his enjoyment shall stand extinguished.]

(3) Where a cultivating tenant fails to deposit the purchase price in lump or the first instalment thereof, on or before the due date, the order of the Land Tribunal under Section 57 shall stand cancelled and the cultivating tenant shall continue as cultivating tenant.

(4) Where the purchase price is paid in instalments, the second and subsequent instalments shall be deposited in the Government treasury in the prescribed manner to the credit of the Land Board.

²[**60. Interest on defaulted instalments.**— If the second or any subsequent installment of the purchase price is not deposited on the due date, the amount of such instalment shall bear interest at the rate of 4% per cent per annum from that date till the date of deposit of that instalment.

61. Cultivating tenant to pay rent pending determination of purchase price.— (1) Notwithstanding the filing of an application under Section 54, the cultivating tenant shall, pending the determination of the purchase price under Section 55 or, where there has been an appeal against the determination of the purchase price, pending orders on such appeal, deposit with the Land Tribunal an amount equal to the rent which would have been payable by him on the dates on which such rent would have become due if the land were not purchased:

Provided that the Land Tribunal may:—

1. Inserted by Act 16 of 1976

2. Substituted by Act 35 of 1969

- (a) on application by the cultivating tenant for sufficient reason allow the applicant to make the deposit after the due date;
- (b) allow any cultivating tenant to deposit the balance amount, if any where the amount deposited is found to be less than the amount of rent.

(2) The Land Tribunal shall, after intimating the Landlord, pay the amount deposited under Sub-section (1) to the landowner and intermediaries if any, as part payment of the purchase price on taking proper security in case it is found that they are entitled to such amount.

(3) The amount deposited under Sub-section (1) shall be deducted from the purchase price payable by the cultivating tenant and he shall be liable to pay only the balance.

62. Recovery of instalments of purchase price on default.— For the purchase price payable by the cultivating tenant, there shall be a first charge on the land to which the purchase relates, subject to the charges for any dues payable to the Government. Where the second or any subsequent installment is not deposited on the due date, the Land Board may, on application from any person entitled to the instalment of the purchase price in default or any part thereof, pass an order directing the payment of the amount [together with interest thereon] and the order of the Land Board may be executed through the court as if it were a decree passed by it:

Provided that where the right, title and interest of the landowner or intermediary which is a religious, charitable or educational institution of a public nature have vested in the Government under Section 66, the instalment of the purchase price in default or any part thereof due to the Government [together with interest thereon] shall be recoverable as an arrear of land revenue under the provisions of the Revenue Recovery Act for the time being in force.

63. Payment of purchase price, amount of encumbrance, maintenance or alimony.— (1) The purchase price payable to the landowner

1. Inserted by Act 35 of 1969

and the intermediaries shall be distributed by the Land Board according to the provisions of Sub-sections (2) to (9).

(2) Where the right, title and interest of the landowner or the intermediaries are not subject to any encumbrance or charge for maintenance or alimony, the purchase price paid by the cultivating tenant shall be paid to the landowner or apportioned among the landowner and the intermediaries in the manner specified in Sub-section (2) or Sub-section (3), as the case may be, of Section 56.

¹[(3) Where the right, title and interest of the landowner or any intermediary in respect of a holding are subject to any encumbrance or charge for maintenance or alimony, the purchase price paid by the cultivating tenant shall:—

- (i) if there is no intermediary, be paid to the landowner after deducting the value of encumbrance or charge for maintenance or alimony;
- (ii) if there is an intermediary, or there are intermediaries, be apportioned among the landowner and the intermediary or intermediaries in the manner specified in Sub-section (2) or Sub-section (3), as the case may be, of Section 56, and the value of the encumbrance, maintenance or alimony shall be deducted from the purchase price payable to the landowner or the intermediary or intermediaries, as the case may be and the balance amount shall be paid to the landowner or intermediary or intermediaries]. If the total amount of such encumbrance, maintenance or alimony is equal to or more than the amount of the purchase price payable to the landowner or the intermediary, the whole amount shall be reserved for payment to the holder of the encumbrance, or the person entitled to the maintenance or alimony and no amount shall be paid to the landowner or the intermediary, as the case may be.

1. Substituted by Act 35 of 1969

¹[x x x]

(5) Where any amount has been deducted or reserved for payment to the holders of the encumbrances or the persons entitled to the maintenance or alimony, the same shall be paid in their order of priority to the persons entitled thereto.

(6) Where the cultivating tenant pays the purchase price in instalments, the amount of each instalment shall be distributed in the manner specified above. The interest on the purchase price paid by the cultivating tenant shall also be paid to the landowner, intermediary, holder of the encumbrance or the person entitled to the maintenance or alimony, as the case may be.

(7) Where a person entitled to the purchase price or the value of the encumbrance maintenance or alimony dies before it is paid to him, it shall be paid to his legal representatives:

²[Provided that if such person has, in accordance with the rules made in this behalf, nominated any member of his family to receive the amount, the same shall be paid to such nominee.

Explanation.— For the purposes of the preceding proviso, “member of family” means wife or husband, son or daughter.]

(8) Where the person entitled to receive the purchase price or the value of encumbrance is a private trust or endowment or a minor or a person suffering from some legal disability or a limited owner, the purchase price or the value of encumbrance may, notwithstanding anything contained in any law, but subject to any general directions that the Government may give be deposited for and on behalf of the person with such authority or bank as may be prescribed.

(9) Where before any court or authority any suit or proceeding is pending which directly or indirectly affects or is likely to affect the right of any person to receive the whole or part of the purchase price on the amount of encumbrances or maintenance or alimony payable

1. Omitted by Act 35 of 1969
2. Added by Act of 1979

under this Act, the court or authority may require the Land Board to place at its disposal the amount so payable and thereupon the same shall be disposed of in accordance with the orders of the court or authority.

64. Payment of purchase price to the landowner or intermediary to be full discharge.— The payment of purchase price or the value of encumbrance, maintenance or alimony to the landowner or intermediary or other person entitled thereto in the manner specified in Section 63 shall be a full discharge of the liability for payment of purchase price to the landowner and the intermediaries, and no further claims for payment of purchase price shall lie.

65. Special provisions relating to religious, charitable or educational institutions of a public nature.— (1) Notwithstanding anything contained in Sections 53 to 64, where in respect of a holding the landowner or the intermediary is a religious, charitable or educational institution of a public nature, such institution may, by application to the Land Board, choose whether the right, title and interest of the institution in respect of the holding should be vested in the Government in consideration of the payment of an annuity in perpetuity by the Government or whether it should be paid such annuity by the Government instead of purchase price in case the holding is purchased by the cultivating tenant under the provisions of this Act:

Provided that no such application shall be entertained by the Land Board on or after the date notified by the Government under Section 72.

²[**Explanation.**—in this Sub-section, the expression institution of a public nature includes a public trust and a wakf.]

(2) If any question arises as to whether an institution is a religious, charitable or educational institution of a public nature, the question shall be decided by the Land Board after such enquiry as it deems fit, and its decision thereon shall be final.

1. Section 65 to 71 Substituted by Act 35 of 1969
2. Inserted by Act 35 of 1969

(3) The annuity payable to an institution in respect of a holding shall be:—

(a) Where such institution is the landowner, an amount equal to the rent to which it would be entitled if fair rent were determined in respect of the holding, after deducting $2\frac{1}{2}$ per cent thereof by way of collection charges:

(b) Where such institution is the intermediary, an amount equal to the difference between the rent due to such institution from its tenant and the rent for which such institution is liable to its landlord if fair rent were determined in respect of the holding, after deducting $2\frac{1}{2}$ per cent of such difference by way of collection charges.

Explanation I.— For the purposes of this Sub-section, "fair rent" means, the fair rent that would be determined under the provisions of this Act as amended by the Kerala Land Reforms (Amendment) Act, 1969.

Explanation II.— Where the rent payable to an institution is in kind, the annuity payable shall be commuted into money at the average of the prices of the commodity for six years immediately preceding the year in which the annuity is determined.

66. Procedure for vesting of rights of religious, charitable or educational institutions in Government and for determination of annuity.— (1) An application under Sub-section (1) of Section 65 shall specify all the holdings in respect of which the institution desires to be paid annuity.

(2) The application shall be in such form as may be prescribed.

(3) On receipt of such application, the Land Board shall direct any Land Tribunal, or the Land Tribunals within whose jurisdiction the holdings specified in the application are situate, to determine the annuity payable to the institution.

(4) Notwithstanding anything contained in Sub-section (3), the Land Board shall have power to reject an application referred to in Sub-section (1) at any time before the date of the notification under Sub-section (9), if it is found that the institution is not a religious,

charitable or educational institution of a public nature or on any other ground to be recorded in writing:

Provided that, before rejecting the application, the institution shall be given an opportunity of being heard.

(5) On receipt of a direction under Sub-section (3), the Land Tribunal shall, subject to such rules as may be made by the Government in this behalf, by order in the prescribed form determine:—

(a) the fair rent in respect of the holding under the provisions of this Act as amended by the Kerala Land Reforms (Amendment) Act, 1969;

(b) the annuity payable to the institution in respect of the holding;

(c) where the right, title and interest of the institution in respect of the holding form security for any encumbrance the amount of the encumbrance and, where there are more encumbrances than one, the order of priority of each of such encumbrances; and

(d) such other matters as may be prescribed.

(6) The annuity determined under Sub-section (5) shall be paid:—

(a) in the case of a holding included in a notification under Sub-section (9), from the date specified in that notification;

(b) in the case of a holding, the right, title and interest of the landowner and intermediaries in respect of which have been purchased by the cultivating tenant, from the date on which the right, title and interest of the institution in respect of its other holdings have vested in the Government under Sub-section (9) of Section 72, whichever is earlier;

(c) in the case of any other holding, from the date notified under Section 72.

(7) The fair rent in respect of a holding determined under Sub-section (5) shall, subject to the provisions of Section 5102 and 103, be the fair rent for the purposes of Section 72A and 72D.

(8) As soon as may be after the determination of the annuity under Sub-section (5), the Land Tribunal shall forward a statement in the prescribed form together with a copy of the order under that Sub-section, to the Land Board, and the Land Board shall have power to return such statements to the Land Tribunal for the purpose of correcting patent mistakes or errors apparent on the face of the record.

(9) As soon as may be after the determination of the annuity in respect of all holdings specified in the application under Sub-section (1) of Section 65 (other than holdings in respect of which certificates of purchase have been issued), the Government shall issue a notification in the Gazette declaring that the right, title and interest of the institution in respect of such holdings shall vest in the Government with effect from a date to be specified in the notification, and all such right, title and interest shall accordingly vest in the Government free from all encumbrances.

67. Payment of annuity.— The Government shall pay the annuity payable to the institution every year in perpetuity on such date or dates and in such manner as may be prescribed:

Provided that no annuity in respect of a holding shall be paid if the purchase price in respect of that holding has been paid, or deposited in pursuance of Sub-section (8)-of Section 63:

Provided further that where the right, title and interest of the institution are subject to any encumbrance on the date on which such right, title and interest have vested in the Government:—

- (i) the value of the encumbrance shall be paid to the holder of the encumbrance; and
- (ii) five per cent of the value of the encumbrance shall be deducted from the annuity and the balance, if any, alone shall be paid to the institution;

Provided also that where the value of the encumbrance is more than sixteen times the annuity:—

- (i) if there is only one encumbrance, sixteen times the annuity shall be paid to the holder of the encumbrance; and
- (ii) if there are more than one encumbrance, sixteen times the annuity shall be paid to the holders of the encumbrances in their order of priority,

and in either case, no amount by way of annuity shall be payable to the institution.

68. Vesting of the rights of religious, charitable, or educational institutions in the Government not to operate as bar to the purchase of landlord's rights by cultivating tenants.— The filing of an application by a religious, charitable or educational institution of a public nature under Sub-section (1) of Section 65 or the vesting of the right title and interest of the institution in the Government under Sub-section (9) of Section 66 shall not affect the right of the cultivating tenant to purchase such right, title and interest in accordance with the provisions of Section 53 to 64.

69. Government entitled to purchase price in certain cases.— Where the right, title and interest of a religious, charitable or educational institution of a public nature in respect of a holding are purchased by the cultivating tenant and the institution has, under Sub-section (1) of Section 65, expressed its choice for annuity instead of purchase price in respect of that holding, the Government shall, notwithstanding any order of any court or Land Tribunal, be entitled, subject to the provisions of Section 70, to the purchase price payable to the institution.

70. Institution entitled to rent for certain period.— Where the right, title and interest of a religious, charitable or educational institution of a public nature in respect of a holding are purchased by the cultivating tenant and the institution is entitled to annuity in respect of that holding, the institution shall also be entitled from and out of the purchase price to an amount equal to the rent to which it would have

been entitled for the period commencing on the date of application for purchase by the cultivating tenant and ending with the date on which the institution is entitled to annuity, if fair rent had been determined for the holding under this Act as amended by the Kerala Land Reforms (Amendment) Act, 1969, after deducting any amount received by the institution under Sub-section (2) of Section 61.

71. Tenant holding under institution to continue as tenant under the Government.— (1) Where a cultivating tenant does not apply for the purchase of the right, title and interest in respect of his holding vested in the Government under Sub-section (9) of Section 66, the tenant holding directly under the religious, charitable or educational institution of a public nature shall continue as tenant under the Government.

(2) The rent payable by such tenant to the Government shall, on default, be recoverable as an arrear of land revenue under the Revenue recovery Act for the time being in force.]

72. Vesting of landlord's rights in Government.— (1) On a date to be notified by the Government in this behalf in the *Gazette, all right, title and interest of the landowners and intermediaries in respect of holdings held by cultivating tenants (including holders of kudiyrippus and holders of karaimas) entitled to fixity of tenure under Section 13 and in respect of which certificates of purchase under Sub-section (2) of Section 59 have not been issued, shall, subject to the provisions of this Section, vest in the government free from all encumbrances created by the landowners and intermediaries and subsisting thereon the said date:

Provided that nothing contained in this Sub-section shall apply to a holding or part of a holding in respect of which an application for resumption under the provisions of this Act is pending on such date before any court or tribunal or in appeal or revision.

(2) Where in the case of a holding or part of a holding mentioned in the proviso to Sub-section (1), the order rejecting the appli-

cation for resumption, either in part or in full, has become final, the right, title and interest of the landowner and the intermediaries, if any, of the holding or part of the holding, as the case may be, in respect of which resumption has not been allowed shall, with effect from the date on which the application for resumption has been finally rejected, vest in the Government free from all encumbrances created by the landowner and the intermediaries, if any, and subsisting thereon on the said date.

(3) Where any land or portion of a land is restored to the possession of any person under the provisions of this Act after the date notified under Sub-section (1), the right, title and interest of the landowner and intermediaries, if any, in respect of such land or portion of land shall, from the date of such restoration, vest in the Government free from all encumbrances created by the landowner and intermediaries and subsisting thereon on the said date.

(4) Where in the case of a holding or part of a holding, the landowner or an intermediary is a minor or a person of unsound mind or a member of the Armed Forces or a seaman or a legal representative of any such member or seaman, or a small holder, the right, title and interest of the landowner and intermediaries, if any, in respect of such holding or part of a holding shall vest in the Government:-

(a) on the expiry of six months from the commencement of the Kerala Land Reforms (Amendment) Act, 1969, or on the date notified under Sub-section (1), whichever is later, in cases where no application for resumption of the holding or part of the holding has been preferred;

(b) in any case where application for resumption has been preferred, on the date on which the order rejecting such application, either in part or in full, has become final or on the date notified under Sub-section (1), whichever is later.

(5) Where an intermediary has resumed any land under the provisions of this Act, the right, title and interest of the landowner and the other intermediaries, in any, in respect of the said land shall vest in the Government free from all encumbrances created by the land-

owner and the other intermediaries with effect from the date of resumption or the date notified under Sub-section (1), whichever is later.

COMMENTS

The vesting does not take place on the notified date regarding holdings for which application for resumption is pending.

[See *Gopalakrishna Bhat v. Kaveri Amma* 1999 (1) KLT 785]

72A. Compensation to landlords for vesting of their rights in Government.— (1) Every landowner and intermediary whose right, title and interest in respect of any holding have vested in the Government under Section 72 shall be entitled to compensation as provided in Sub-sections (2), (3) and (4).

(2) The compensation payable to the landowner and intermediaries under Sub-section (1) shall be the aggregate of:-

- (a) sixteen times the fair rent of the holding or part thereof, the right, title and interest in respect of which have vested in the Government;
- (b) the value of structures, wells and embankments of a permanent nature belonging to the landowner and the intermediaries, if any; and
- (c) one-half of the value of timber trees belonging to the landowner and the intermediaries, if any;

Provided that where the aggregate of the value of structures, wells and embankments and one-half of the value of the timber trees referred to in clauses (b) and (c) exceeds sixteen times the fair rent in respect of the holding or part thereof, as the case may be, such aggregate value shall, for the purpose of calculating the compensation under this Sub-section, be limited to sixteen times such fair rent.

Explanation I.— For the purposes of this Section and Section 72 D, "fair rent" means the fair rent under this Act as amended by the Kerala Land Reforms (Amendment) Act, 1969.

Explanation II.— For the purposes of this Section, where the rent is payable in kind, the money value of the rent shall be commuted at the average of the prices of the commodity for the six years immediately preceding the year in which the right, title and interest of the land owner and the intermediaries have vested in the Government, and in calculating the average of the prices, the prices, if any, published under Section 43 may also be taken into account.

(3) Notwithstanding anything contained in Sub-section (2), where the total compensation due to a landlord in respect of holdings held by cultivating tenants, after deducting the value of encumbrances and claims for maintenance or alimony, is more than twenty thousand rupees, the compensation payable to such landlord shall be limited to the amount specified in the Table below:—

TABLE
Scales of Compensation

Total amount of compensation	Rate
On the first Rs. 20,000	100 percent
On the next Rs. 10,000	95 per cent
On the next Rs. 10,000	90 per cent
On the next Rs. 10,000	85 percent
On the next Rs. 10,000	80 percent
On the next Rs. 10,000	75 per cent
On the next Rs. 10,000	70 per cent
On the next Rs. 10,000	65 per cent
On the next Rs. 10,000	60 per cent
On the next Rs. 10,000	55 percent
On the next Rs. 10,000 and above	50 percent

(4) Where the landowner or intermediary of a holding or part of a holding is entitled to receive fifty per cent of the compensation in respect of that holding or part in a lump under Section 72H, the compensation payable to such landowner or intermediary, as the case may be, in respect of that holding or part shall, subject to the provi-

sions of Sub-section (3), be 75 per cent of the amount calculated under Sub-section (2).

72B. Cultivating tenants right to assignment.— (1) The cultivating tenant of any holding or part of a holding, the right, title and interest in respect of which have vested in the Government under Section 72, shall be entitled to assignment of such right, title and interest:

Provided that —

- (a) no cultivating tenant shall be entitled to assignment of the right, title and interest in respect of any holding or part of a holding under this Section if he, or if he is a member of a family, such family, owns an extent of land not less than the ceiling area.
- (b) where the cultivating tenant or, if he is a member of a family, such family, does not own any land or owns an extent of land which is less than the ceiling area, he shall be entitled to the assignment of the right, title and interest in respect of only such extent of land as will, together with the land, if any, owned by him or his family, as the case may be, be equal to the ceiling area.

Explanation.— In calculating the extent of land owned by the cultivating tenant or, where he is a member of a family, by such family, for the purposes of clauses (a) and (b) of the foregoing proviso, the portion of the land owned by such cultivating tenant or by the family, which is liable to be assigned to the cultivating tenants holding under him or such family, shall not be taken into account.

(2) The provisions of Section 82 shall, so far as may be, apply to the calculation of the ceiling area for the purposes of the proviso to Sub-section (1);

Provided that if no date has been notified under Section 83, the date notified under Section 72 shall be deemed to be the date notified under Section 83.

(3) Any cultivating tenant entitled to assignment of the right, title and interest in respect of a holding or part of a holding under Sub-

section (1) may apply to the Land Tribunal within whose jurisdiction such holding or part is situate within two years from the date of vesting of such right, title and interest in the Government under Section 72, or such further time as may be allowed by the Government in this behalf, for such assignment to him.

(4) An application under Sub-section (3) shall contain the following particulars, namely:—

- (a) the village, survey number and extent of the holding or part to which the assignment relates.
- (b) the name and address of the landowner and intermediaries and also of every other person interested in the land and the nature of their interest so far as they are known to him;
- (c) the particulars regarding the other lands owned or held by him or if he is a member of a family; by such family; and
- (d) such other particulars as may be prescribed.

(5) Where a cultivating tenant is entitled to the assignment of the right, title and interest in respect of only a portion of the holding held by him, he may indicate in the application under Sub-section (3) his choice of the portion to which the assignment shall relate.

72BB. Right of landlord to apply for assignment and compensation.— (1) Any landowner or intermediary whose right, title and interest in respect of any holding have vested in the Government may apply to the Land Tribunal for the assignment of such right, title and interest to the cultivating tenant and for the payment of the compensation due to him under Section 72A.

(2) An application under Sub-section (1) shall contain the following particulars, namely:—

- (a) the village, survey number and extent of the holding to which the assignment relates:

1. Inserted by Act 17 of 1972

- (b) the names and address of the cultivating tenant, landowner and intermediaries and also of every other person interested in the land and the nature of their interest, so far as they are known to the applicant;
- (c) the particulars regarding the other lands held by the cultivating tenant so far as may be known to the applicant;
- (d) the fair rent, if any, fixed, and the contract rent, if any, of the holding;
- (e) such other particulars as may be prescribed.

72C. Assignment where application is not made by cultivating tenant.— Notwithstanding anything contained in Sub-section (3) of Section 72B¹ [or Section 72BB], the Land Tribunal may, subject to such rules as may be made by the Government in this behalf, at any time after the vesting of the right, title and interest of the landowners and intermediaries in the Government under Section 72, assign such right, title and interest to the cultivating tenants entitled thereto, and the cultivating tenants shall be bound to accept such assignment.

72D. Purchase price.— (1) The cultivating tenant shall be liable to pay purchase price to the Government on the assignment to him of the right, title and interest of the landowner and the intermediaries, if any.

²[(1A) Where the total extent of land held as tenant by a cultivating tenant is one hectare or below, he shall not be liable to pay purchase price under Sub-section (1).

Explanation.— For the removal of doubt it is hereby clarified that the benefit conferred to a cultivating tenant under this Sub-section shall not affect the eligibility of the landowner or intermediary, if any, to receive compensation to which he is entitled under the Act.]

(2) The purchase price referred to in Sub-section (1) shall be the aggregate of:

1. Inserted by Act 17 of 1972

2. Inserted by KLR (Amendment) Act, 1989

- (a) sixteen times the fair rent of the holding or part thereof, the right, title and interest in respect of which have been assigned to the cultivating tenant;
- (b) the value of structures, well and embankments of a permanent nature which belonged to the landowner and the intermediaries, if any, at the time of vesting in the Government;
- (c) one-half of the value of timber trees which belonged to the landowner and the intermediaries, if any, at the time of vesting in the Government;

Provided that where the aggregate of the value of structures, wells and embankments and one-half of the value of timber trees referred to in clauses (b) and (c) exceeds sixteen times the fair rent in respect of the holding or part thereof, as the case may be, such aggregate value shall, for the purpose of calculating the purchase price under this Sub-section, be limited to sixteen times such fair rent.

Explanation.—For the purposes of this Section, where the rent is payable in kind, the money value of the rent shall be commuted at the average of the prices of the commodity for the six years immediately preceding the year in which the right, title and interest of the landowner and intermediaries have vested in the Government, and in calculating the average of the prices, the prices, if any, published under Section 43 may also be taken into account.

72E. Rent of holdings vested in Government but not assigned to cultivating tenants.— Where in respect of any holding or part thereof, the right, title and interest of the landowner and intermediaries have vested in the Government under Section 72 and the cultivating tenant is not entitled to the assignment of such right, title and interest by virtue of Sub-section (1) of Section 72B, the cultivating tenant shall be liable to pay to the Government the rent payable under this Act from the date of vesting under Section 72.

¹[72EE. *Constitution of village committees.*— (1) The Government shall by notification in the Gazette, constitute a village committee for each village for the purpose of performing the functions of the village committee under this Act.

(2) The village committee shall consist of the village officer and six other members nominated by the Government.

(3) The village officer shall be the convener of the village committee.

(4) The village committee shall elect one of its members to be its chairman.

(5) Three members of the village committee shall constitute the quorum at any meeting of the committee.]

72F. Land Tribunal to issue notices and determine the compensation and purchase price.—

(1) As soon as may be after the right, title and interest of the landowner and the intermediaries, if any, in respect of a holding or part of a holding have vested in the Government under Section 72, or, where an application under Section 72B ¹[or Section 72BB] has been received by the Land Tribunal, as soon as may be after the receipt of such application, the Land Tribunal shall publish or cause to be published a public notice in the prescribed form ²[in such manner] as may be prescribed, calling upon —

- (a) the landowner, the intermediaries, if any, and the cultivating tenant; and
- (b) all other persons interested in the land, the right, title and interest in respect of which have vested in the Government, to prefer claims and objections, if any, within such time as may be specified in the notice and to appear before it on the date specified in the notice with all relevant records to prove their respective claims or in support of their objections.

1. Inserted by Act 17 of 1972

2. Substituted by Act 25 of 1971

(2) The Land Tribunal shall also issue a notice individually to the landowner, each of the intermediaries and the cultivating tenant and also, as far as practicable, to the other persons referred to in clause (b) of Sub-section (1) calling upon them to prefer claims and objections if any within such time as may be specified in the notice and to appear before it on the date specified in the notice with all relevant records to prove their respective claims or in support of their objections.

(3) Notwithstanding anything contained in Sub-section (2), the publication of a notice ¹[in the manner referred to in Sub-section (1)] shall be deemed to be sufficient notice to the landowner, the intermediaries, if any, the cultivating tenant and all other persons interested in the land.

²[(3A) The Land Tribunal shall furnish a copy of the public notice under Sub-section (1), along with a statement containing the names and addresses of the persons to whom individual-notices have been issued under Sub-section (2) and such other particulars as may be prescribed, to the village committee of the village in which the holding is situate, or, where the holding is situate in more than one village, the village committee of each such village and require the village committee or village committees, as the case may be, to advise the Tribunal on the matters mentioned in Sub-section (3B) before such date as may be specified in the requisition.

(3B) On receipt of the copy of the public notice and the statement from the Land Tribunal under Sub-section (3A), the village committee, or each of the village committees shall, after such inquiry as may be prescribed, advise the Land Tribunal in respect of the following matters, namely:—

- (a) The names and address of the landowner, the intermediaries, if any, and the cultivating tenant;
- (b) the names and address of all other persons interested in the land;

1. Substituted by Act 25 of 1971

2. Inserted by Act 17 of 1972

- (c) such particulars as are necessary for the identification of the land comprised in the holding, as may be prescribed;
- (d) the value of encumbrances subsisting or claims for maintenance or alimony charged on the right, title and interest of the landowner and intermediaries, if any;
- (e) the amount due to the holders of encumbrances or the persons entitled to maintenance or alimony and the order of priority in which the amount is payable; and
- (f) such other matters as may be prescribed.]

(4) Any person interested in the land, to whom no notice under Sub-section (2) has been issued, may apply to the Land Tribunal stating the nature of his claim or objection and the relief he requires.

¹[(5) The Land Tribunal shall, after considering the claims and objections received in pursuance of the notice issued under Sub-section (1) or Sub-section (2) and the advice received from the village committee or village committees before the date specified therefore and hearing any person appearing in pursuance of the notice issued under Sub-section (1) or subSection (2) and after making due enquiries, pass an order specifying—]

- (a) the extent, survey number and such other particulars as may be prescribed, of the land, the right, title and interest in respect of which have vested in the Government under Section 72;
- (b) the compensation due to the landowner and intermediaries, if any;
- (c) the amount due to the landowner and each of the intermediaries, if any, on the apportionment of the compensation;
- (d) the value of encumbrances subsisting or claims for maintenance or alimony charged on the right, title and interest of the landowner and the intermediaries, if any;

1. Substituted by Act 17 of 1972

- (e) the amount due to the holders of encumbrances or the persons entitled to maintenance or alimony, and the order of priority in which the amount is payable;
- (f) the amount payable to the landowner and each of the intermediaries after deducting the value of encumbrances or claims for maintenance or alimony;
- (g) the purchase price payable by the cultivating tenant;
- (h) the rent payable by the cultivating tenant to the Government in the cases falling under Section 72E; ¹[x x x]
- ²[(hh) where the landowner or intermediary is a religious, charitable or educational institution of a public nature and is entitled to annuity instead of compensation, the amount of such annuity; and]
- (i) such other particulars as may be prescribed.

(6) Where the right, title and interest of the landowner or the intermediaries in respect of a holding or part of a holding vested in the Government form part of the security for any encumbrance or charge for maintenance or alimony, the Land Tribunal shall, for the purpose of determining the value of the encumbrance or the claim for the maintenance or alimony relating to that holding or part, as the case may be, apportion the entire encumbrance or the charge for the maintenance or alimony between such holding or part and the remaining lands which form the security for the encumbrance or the charge for the maintenance or alimony, in proportion to the values of the two portions.

(7) If the landowner or any intermediary is liable to pay any amount to the cultivating tenant under this Act, the Land Tribunal shall, in passing orders under this Section, set off such amount against the compensation payable to the landowner or that intermediary.

(8) Where the cultivating tenant is entitled to the assignment of the right, title and interest in respect only of a portion of the land held

1. Omitted by Act 25 of 1971

2. Inserted by Act 25 of 1971

by him (whether included in one holding or not), the Land Tribunal shall, as far as possible, assign to the cultivating tenant the right, title and interest in respect of the portion of his choice.

72G. Apportionment of compensation by the Land Tribunal.— (1) The compensation payable to the landowner and the intermediaries, if any, for the vesting of their right, title and interest in respect of a holdings in the Government under Section 72 shall be apportioned among the landowner and the intermediaries, as the case may be, in accordance with the provisions of Sub-sections (2) and (3).

(2) The amount of sixteen times the fair rent of the holding or part, the right, title and interest in respect of which have vested in the Government, shall be apportioned among the landowner, and the intermediary or intermediaries in proportion to the profits derived by them from the holding or part.

Explanation.— "Profits derived from the holdings" shall, for the purpose of this Sub-section, mean in the case of the landowner the rent to which he is entitled and in the case of an intermediary, the difference between the rent due to him from his tenant and the rent for which the intermediary is liable to his landlord: and where there is no evidence as to the rent for which the intermediary is liable to his landlord, it shall be presumed that such rent is one-half of the rent payable to the intermediary by his tenant.

(3) The value of the structures, wells and embankments of a permanent nature and one half of the value of timber trees shall be payable to the landowner or the intermediary to whom such structures, wells, embankments and timber trees belongs:

Provided that where the aggregate of the value of structures, wells and embankments and one-half of the value of timber trees has been limited to sixteen times the fair rent under the proviso to Sub-section (2) of Section 72A, the amount payable under this Sub-section to the landowner and the intermediary or intermediaries shall be sixteen times such fair rent apportioned among the landowner and the in-

termediary or intermediaries in proportion to the value of the structures, wells, embankments and timber trees belonging to each of them.

(4) Where the right, title and interest of the landowner or an intermediary in respect of the holding were subject to any encumbrance, or charge for maintenance or alimony, the value of such encumbrance, maintenance or alimony shall be deducted from the compensation payable to the landowner or the intermediary, as the case may be, and the landowner, or the intermediary shall be entitled only to the balance amount; and if the total amount of such encumbrance, maintenance or alimony is equal to or more than the amount of the compensation payable to the landowner or the intermediary, the whole amount shall be reserved for payment to the holder of the encumbrance or the person entitled to the maintenance or alimony and the landowner or the intermediary, as the case may be, shall not be entitled to any amount by way of compensation.

72H. Part payment of compensation, discharge of encumbrance, etc., by Land Tribunal.— (1) The Land Tribunal shall pay to the landowner and each of the intermediaries of a holding fifty per cent of the compensation payable to them in respect of that holding in accordance with the provisions of this Section.

[(2) The amount of compensation payable under Sub-section (1) in respect of a holding shall be paid in cash in lump within a period of one year of the date on which the order of the Land Tribunal under Sub-section (5) of Section 72F has become final.]

[x x x]

[(6) Where the amount of compensation is not paid on or before the expiry of the period or one year specified in Sub-section (2), such amount shall bear interest at the rate of four per cent per annum from the date of expiry of the said period of one year.]

(7) Where any amount has been deducted or reserved for payment to the holders of the encumbrances or the persons entitled to the maintenance or alimony, the same shall be paid by the Land Tribunal in their order of priority to the persons entitled thereto.

1. Substituted by Act 13 of 1976

(8) Where a person entitled to compensation or the value of the encumbrance, maintenance or alimony dies before it is paid to him, it shall be paid to his legal representatives.

¹[Provided that if such person has, in accordance with the rules made in this behalf, nominated any member of his family to receive the amount, the same shall be paid to such nominee Explanation:- For the purposes of the preceding proviso, member of family means wife or husband, son or daughter.]

(9) Where the person entitled to receive the compensation or the value of encumbrance is a private trust or endowment or minor or person suffering from some legal disability or a limited owner, the compensation or the value of encumbrance may, notwithstanding anything contained in any law, but subject to any general directions that the Government may give, be deposited for and on behalf of such person with such authority or bank as may be prescribed.

(10) Where before any court or authority, any suit or proceeding is pending, which directly or indirectly affects or is likely to affect the right of any person to receive the whole or part of the compensation or the amount of encumbrance or maintenance or alimony payable under this Act, the court or authority may require the Land Tribunal to place at its disposal the amount so payable, and thereupon the same shall be disposed of in accordance with the orders of the court or authority.

72 I. Determination and payment of balance compensation.— (1) Every landowner or intermediary shall, as soon as may be after the determination of the compensation in respect of all holdings held by cultivating tenants under him and in respect of which the right, title and interest of the landowner and intermediaries have vested in the Government, apply to the Land Board for the determination and payment of the compensation due to him after deducting the amount referred to in Sub-section (1) of Section 72H.

(2) An application under Sub-section (1) shall be in such form and shall contain such particulars as may be prescribed.

(3) On receipt of an application under Sub-section (1), the Land Board shall make such enquiries as may be prescribed and after giving the applicant an opportunity of being heard determine the amount of compensation due to the applicant after deducting the amount referred to in Sub-section (1) of Section 72H:

¹[Provided that where the amount of compensation mentioned in the application as due to the applicant is not more than the amount of compensation determined by the Land Board it shall not be necessary to give the applicant an opportunity of being heard.]

(4) Subject to such rules as may be made by the Government in this behalf, the amount of compensation determined under Sub-section (3) shall be paid either in cash or in negotiable bonds redeemable after sixteen years and carrying interest at the rate of four and half per cent per annum with effect from the date of such determination, or partly in cash and partly in such bonds.

(5) Where the compensation is proposed to be paid in cash, it shall be payable in eight equal annual instalment with interest at the rate of four per cent per annum on the instalment in default, the first instalment being payable ²[before the date of expiry] of one year from the date of determination of the amount of compensation under Sub-section (3).

³[(5A) Notwithstanding anything contained in Sub-section (4) or Sub-section (5):

- (a) Where the cultivating tenant has opted to pay the purchase price payable by him under Section 72L in a lump; or
- (b) where the landowner or the intermediary is a small holder and the amount of compensation in respect of all

1. Added by KLR (Amendment) Act 1979

1. Added by KLR (Amendment) Act, 1979

2. Substituted by KLR (Amendment) Act, 1979

3. Substituted by Act 15 of 1976

holdings held by cultivating tenants under him does not exceed five thousand rupees,

the amount of compensation determined under Sub-section (3) shall be paid in cash in lump within one year from the date of such determination and if not so paid shall bear interest at the rate of four per cent per annum from the date of expiry of that period.

(6) The provisions of Sub-sections (8), (9) and (10) of Section 72H shall, so far as may be, apply to the payment of the amount of compensation determined under Sub-section (3).

72J. Payment of compensation to landowner and intermediary to be full discharge.— The payment of compensation under Section 72H and 72I shall be a full discharge of the liability of the Government for payment of such compensation, and no further claims for payment of compensation shall lie against the Government;

Provided that nothing contained in this Section shall affect the liability of any person who may receive the whole or any part of the compensation or the value of encumbrances, maintenance or alimony to pay the same to the persons lawfully entitled thereto.

72K. Issue of certificate of purchase.— (1) As soon as may be after the determination of the purchase price under Section 72F¹ [or the passing of an order under Sub-section (3) of Section 72MM] the Land Tribunal shall issue a certificate of purchase to the cultivating tenant, and thereupon the right, title and interest of the landowner and the intermediaries, if any, in respect of the holding or part thereof to which the certificate relates, shall vest in the cultivating tenant free from all encumbrances created by the landowner or the intermediaries, if any.

Explanation— For the removal of doubts, it is hereby declared that on the issue of the certificate of purchase, the landowner or any intermediary shall have no right in the land comprised in the holding, and all his rights including rights, if any, in respect of trees reserved for his enjoyment shall stand extinguished.

1. Inserted by Act 17 of 1972

(2) The certificate of purchase issued under Sub-section (1) shall be conclusive proof of the assignment to the tenant of the right, title and interest of the landowner and the intermediaries, if any, over the holding or portion thereof to which the assignment relates.

(3) The purchase price payable by the cultivating tenant shall be a first charge on the land comprised in the holding or part thereof to which the assignment relates and shall be-recoverable together with interest as provided in Sub-section (3) of Section 72M, under the provisions of the Revenue Recovery Act for the time being in force.

COMMENTS

The interdict that the court shall not allow evidence to be adduced for the purpose of disproving the conclusiveness, will not prevent a party who alleges fraud or collusion from establishing that the document is vitiated by such factors. Except regarding the said limited sphere the conclusiveness of the document would remain beyond the reach of controvertibility.

[Ahmed kutty v. Mariakutty Umma 2000 (1) KLT 829]

Unless that certificate is set aside by a competent authority or is a court of law, the statutory enforcement in terms of Sec. 72K (2) has to be honoured and a person claiming on the basis of such purchase certificate has to be taken as in possession of the properties.

[Lakshmi v. Viswanathan 1999 (2) KLT 621]

72L. Purchase price payable in instalments or in lump.— The purchase price determined under Section 72F shall be payable in sixteen equal annual instalments:

Provided that it shall be open to the cultivating tenant to pay the purchase price in a lump, in which case the amount payable shall be only seventy five per cent of the purchase price:

Provided further that the cultivating tenant shall exercise his option to pay the purchase price in a lump before the date of the order under Sub-section (5) of Section 72F, and such option shall be final.

72M. Deposit of purchase price.—(1) Where the purchase price payable by the cultivating tenant is determined under Section 72F, the cultivating tenant shall deposit with the Land Tribunal:

- (a) where the purchase price is opted to be paid in a lump, the entire amount due within nine months: or
 - (b) where the purchase price is to be paid in instalments, the first instalment thereof within three months, from the date on which the order of the Land Tribunal under Sub-section (5) of Section 72F has become final.
- (2) Where the purchase price is paid instalments, the second and subsequent instalments shall be deposited with the Land Tribunal within such time and in such manner as may be prescribed.
- (3) Where the purchase price or any instalment thereof is not deposited on the due date, the amount in default shall bear interest at the rate of four and a half per cent per annum from that date till the date of deposit.

172MM. Assignment by mutual agreement.—(1) Notwithstanding anything to the contrary contained in Sections 72A to 72D and Sections 72F to 72M, where the right, title and interest of the landowner and the intermediary or intermediaries, if any, in respect of a holding have vested in the Government under Section 72, the cultivating tenant, the landowner, the intermediary or intermediaries, if any, the holders of encumbrances, if any, charged on such right, title and interest and the persons entitled to maintenance or alimony, if any, charged on such right, title and interest, may jointly apply to the Land Tribunal for an order assigning the right, title and interest of the landowner and the intermediary or intermediaries, if any, to the cultivating tenant:

Provided that nothing in this Sub-section shall apply in respect of a holding, if the landowner or any intermediary of that holding is a religious, charitable or educational institution of a public nature which has opted for annuity.

(2) An application under Sub-section (1) shall be in such form and shall contain such particulars as may be prescribed.

(3) On receipt of an application under Sub-section (1), the Land Tribunal may, after such inquiry as may be prescribed, pass an order assigning the right, title and interest of the landowner and the intermediary or intermediaries, if any, to the cultivating tenant.

(4) Before passing an order under Sub-section (3), the Land Tribunal shall, so far as may be, follow the procedure laid down in Sub-sections (1), (2), (3A), (4) and (5) of Section 72F.

(5) An order of the Land Tribunal under Sub-section (3) shall be in such form and shall contain such particulars as may be prescribed.

(6) Where an order has been passed by the Land Tribunal under Sub-section (3), the Government shall have no right to receive any purchase price from the cultivating tenant or liability for the payment of compensation or any other amount in respect of the holding to which the order relates.

(7) Any person affected by the order of a Land Tribunal under Sub-section (3) may, within ninety days from the date of the order, apply to that Land Tribunal to set aside the order on the ground that he had no notice of the application under Sub-section (1), and the Land Tribunal may either set aside the order and proceed under Section 72F, or reject the application:

Provided that no order shall be passed under this Sub-section without giving the parties interested an opportunity of being heard.

(8) An appeal shall lie from any order passed by the Land Tribunal under Sub-section (7) as if such order were an order under Section 72F.

COMMENTS

Once a person is found to be not a tenant in respect of the property in question, he cannot approach the Land Tribunal with joint application in Form J by mutual agreement with the Jenmies for assignment of Jenmom right in the property.

[Kunhikannan v. Ambu 2001 (2) KLT SN 88]

72N. Special provisions relating to institutions which have opted for annuity instead of purchase price.— Notwithstanding anything contained in Sections 72H and 72 I, where in respect of a holding the landowner or intermediary is a religious, charitable or educational institution of a public nature and;

- (a) an application from such institution for annuity is pending on the date notified by the Government under Sub-section (1) of Section 72; or
- (b) the annuity payable to such institution has been determined, but no notification has been issued under Sub-section (9) of Section 66, the Government shall pay to such institution the annuity that would have been payable to the institution under Section 67, from the date notified under Sub-section (1) of Section 72, and the Government shall be entitled, subject to the provisions of Section 70, to the purchase price payable by the cultivating tenant and, in the case of any holding, the right, title and interest in respect of which have not vested in the Government on the said date, also the rent to which such institution is entitled from the said date till its right, title and interest are vested in the Government:

Provided that nothing contained in this Sub-section shall affect the power of the Land Board to decide whether an institution is a religious, charitable or educational institution of a public nature:

Provided further that nothing contained in this Sub-section shall apply in the case of an institution which is found by the Land Board not to be a religious, charitable or educational institution of a public nature.

'[(1A) An application from a religious, charitable or educational institution of a public nature for annuity pending or deemed to be pending on the date notified by the Government under Sub-section (1) of Section 72 shall, on the date of publication of the Kerala Land Reforms (Amendment) Act, 1971, in the Gazette, abate, and where any such application has been made after the date of such publication, that application shall abate on the date on which it is received by the Land Board.

(1B) For the removal of doubts it is hereby clarified that the annuity payable to a religious, charitable or educational institution of a public nature whose application abates under Sub-section (1A) shall be determined by the Land Tribunal under Section 72F and that Section 66 will not apply for such determination.]

(2) Notwithstanding anything contained in Sections 65 to 69, a religious, charitable or educational institution of public nature which has not expressed its choice for annuity instead of purchase price before the date notified under Sub-section (1) of Section 72 shall not be entitled to express such choice, and such institution shall be entitled only to the compensation under Section 72A.

72 O. Rent paid by cultivating tenant to be adjusted towards purchase price and compensation in certain cases:— (1) Any amount paid by way of rent by the cultivating tenant in respect of his holding to the landowner or any intermediary or the Government for the period after the date of vesting of the right, title and interest of the landowner and the intermediaries in respect of the holding in the Government under Section 72 shall be adjusted towards the purchase price payable by the cultivating tenant, and such amount received by the landowner or any intermediary shall be adjusted towards the compensation payable to him under Section 72H.

(2) Where, consequent on the determination of the fair rent in respect of a holding, the rent payable by the cultivating tenant to the landowner or any intermediary has been reduced, the amount paid

by the cultivating tenant in excess of the rent so determined to the landowner or the intermediary for the period commencing on the beginning of the agricultural year in which the cultivating tenant filed the application for such determination and ending with the date of such determination shall be adjusted towards the purchase price payable by the cultivating tenant, and such amount received by the landowner or any intermediary shall be adjusted towards the compensation payable to him under Section 72A.

72P. Applications under Section 54 and proceedings relating thereto to abate on the date notified under Section 72.— (1) All applications under Section 54 (other than those which have been rejected and such rejection has become final) and all proceedings in connection therewith, whether pending before the appellate authority or the High Court or the Land Board, shall, if the certificates of purchase have not been issued under Sub-section (2) of Section 59, abate with effect from the date notified under Sub-section (1) of Section 72, and no party shall be liable to pay the cost of any other party in any such proceedings.

(2) Where a certificate of purchase is issued under Section 72K in respect of any holding or part thereof to which an application referred to in Sub-section (1) relates:

- (a) the right, title and interest of the landowner and intermediaries in respect of such holding or part shall be deemed to have vested in the cultivating tenant from the date of such application;
- (b) any amount paid or deposited by the cultivating tenant by way of rent after the date of such application, shall be adjusted towards the purchase price payable by him under Section 72D.
- (c) any such amount received or withdrawn by the landowner or any intermediary shall be adjusted towards the compensation payable to him under Section 72H and if the amount of compensation payable under that Section

is not sufficient, the balance shall be adjusted towards the compensation payable to him under Section 72I; and

- (d) any purchase price deposited by the cultivating tenant shall be adjusted towards the purchase price payable by him under Section 72D.

72Q. Vesting of landlord's right not to affect right to recover arrears of rent.— The vesting of the right, title and interest of a landowner or an intermediary in respect of any holding or part of a holding in the cultivating tenant under Sub-section (2) of Section 59 or in the Government under Sub-section (9) of Section 66 or Section 72 shall not affect the right of the landowner or the intermediary to recover the arrears of rent due to him before the date of such vesting; and any such arrears may be recovered as if such vesting had not taken place, subject to the provisions of Section 73.

¹[72QQ. Cultivating tenant not liable to pay rent if resumption application is rejected.— Notwithstanding anything contained in any law for the time being in force, or in any contract, custom or usage, or in any judgement, decree or order of any court or Land Tribunal, in the case of a holding or part of a holding in respect of which an application, for resumption under the provisions of this Act is rejected, the cultivating tenant shall not be liable to pay any rent for such holding or part of the holding, as the case may be, with effect on and from the date notified under Sub-section (1) of Section 72]

72R. Special provisions regarding Jenmikaram under the Kanam Tenancy Act, 1955.— (1) Where the right, title and interest of a kanam tenant as defined in the Kanam Tenancy Act, 1955, in respect to any holding or part of a holding have vested in a cultivating tenant, then, notwithstanding anything contained in the said Act, such cultivating tenant shall be liable to pay the jenmikaram in respect of such holding or part—

1. Inserted by KLR (Amendment) Act, 1981

- (a) where such vesting is under Sub-section (2) of Section 59 or Sub-section (2) of Section 72P, from the date on which such right, title and interest are deemed to have vested in the cultivating tenant; and
- (b) in other cases, from the date on which such right, title and interest have vested in the Government.

¹[until the commencement of the Kanam Tenancy Abolition Act, 1976] and the kanam tenant shall have no liability to pay such jenmikaram.

(2) Where the Government have paid any jenmikaram for or during the period commencing on the date on which the right, title and interest of the kanam tenant have vested in the Government under Section 72 and ending with the date on which the certificate of purchase has been issued to the cultivating tenant, which the cultivating tenant is liable to pay under Sub-section (1), such amount of jenmikaram may be recovered from the cultivating tenant as arrears of public revenue due on land.

72S. Liability for assessment after the date of vesting under Section 72.—²[(1) Notwithstanding anything contained in the Kerala Land Tax Act, 1961, or in any other law for the time being in force, or in any contract, where the right, title and interest of the landowner and the intermediaries, if any, in respect of a holding have vested in the Government under Section 72, the cultivating tenant of that holding shall be liable to pay the basic tax payable in respect of that holding under the said Act and other taxes and cesses due in respect of that holding.]

²[(2) In the case of a holding or part of a holding in respect of which an application for resumption under the provisions of this Act is rejected, the cultivating tenant shall be liable to pay the basic tax and other taxes and cesses in respect of such holding or part of the holding, as the case may be, with effect on and from the date notified under Sub-section (1) of Section 72.]

1. Inserted by Act 16 of 1976

2. Inserted by KLR (Amendment) Act, 1981

²[73. **Discharge of arrears of rent.**—(1) Notwithstanding anything to the contrary contained in any other law for the time being in force, or in any contract, or in any judgement, decree or order of any court or tribunal, the landlord of a tenant specified in column (1) of the Table below shall be entitled to recover towards arrears of rent accrued due before the 1st day of May, 1968 and outstanding at the commencement of the Kerala Land Reforms (Amendment) Act, 1969, only the amount specified in the corresponding entry in column (2) of the Table:

Provided that where an intermediary has collected rent from his tenant for any period prior to the 1st day of May, 1968 and has not paid the rent payable by him to his landlord for the period for which he has so collected, he shall also be liable to pay the rent payable by him for such period to his landlord:

Provided further that, subject to the foregoing proviso, no intermediary shall be liable to pay to his landlord anything in excess of what he is entitled to receive under this Sub-section.

TABLE

<i>Class of tenant</i>	<i>Amount of rent to be paid for discharge</i>
(1)	(2)
Tenant Possessing not more than 5 acres of land in the aggregate, whether as owner, mortgagee, lessee or otherwise.	One year's rent or the actual amount in arrears, whichever is less.
Tenant possessing more than 5 acres but not more than 10 acres of land in the aggregate, whether as owner, mortgagee, lessee or otherwise	Two year's rent or the actual amount in arrears, whichever is less.
Tenant possessing more than 10 acres of land in the aggregate, whether as owner, mortgagee, lessee or otherwise.	Three year's rent or the actual amount in arrears, whichever is less:

1. Substituted by Act 35 of 1969

Provided that where the tenant is in possession of more than fifteen acres of land in the aggregate, whether as owner, mortgagee, lessee or otherwise, and the landlord is a small holder, the tenant shall be liable to pay the actual amount in arrears.

Explanation.— For the purposes of this Section, the rent for an year shall be deemed to be an amount equal to the rent payable for the year immediately preceding the commencement of the Kerala Land Reforms (Amendment) Act, 1969 and which has accrued due before such commencement.

(2) Where any suit, appeal, revision or application which involves a claim by a landlord for arrears of rent accrued due prior to the 1st day of May, 1968, is pending before any court or Land Tribunal, such Court or Land Tribunal may, after such enquiry as it deems fit, pass an order specifying—

- (a) the amount to which the landlord is entitled under Sub-section (1);
- (b) the costs, if any, awarded to the landlord in connection with the conduct of the proceedings after the commencement of the Kerala Land Reforms (Amendment) Act, 1969;
- (c) the costs, if any, awarded to the tenant in connection with the conduct of the proceedings after such commencement; and
- (d) where such costs, are, awarded to the tenant, the amount due to the landlord after deducting such costs.

(3) Where any decree or order has been passed in favour of a landlord before the commencement of the Kerala Land Reforms (Amendment) Act, 1969, by any Court or Land Tribunal for the recovery of arrears of rent accrued due prior to the 1st day of May, 1968, such decree or order shall be enforceable only to the extent of the amount due to such landlord under Sub-section (1); and to determine such amount, any of the parties to the decree or order may apply to the Court or the Land Tribunal, as the case may be, which passed the

decree or order, to amend such decree or order in accordance with the provisions of Sub-section (1).

(4) On receipt of an application under Sub-section (3), the Court or the Land Tribunal, as the case may be, may, after such enquiry as it deems fit, reopen the decree or order and pass an order containing the particulars specified in Sub-section (2).

(5) Any landlord who has not instituted a suit or applied under Section 26 for recovery of arrears of rent accrued due prior to the 1st day of May, 1968, before the commencement of the Kerala Land Reforms (Amendment) Act, 1969, may apply to the Land Tribunal under that Section for recovery of the amount due to him under Sub-section (1) of this Section.

(6) Notwithstanding anything contained in Section 26, on receipt of an application referred to in Sub-section (5), the Land Tribunal may, after such enquiry as it deems fit, pass an order containing the particulars specified in Sub-section (2).

(7) The tenant shall deposit the amount specified in an order under Sub-section (2) or Sub-section (4) or Sub-section (6) as due from him in the Court or Land Tribunal which passed the order within a period of six months from the date of the order.

(8) If the tenant fails to deposit any amount as required by Sub-section (7), such amount shall, on a written requisition from the court or the Land Tribunal, as the case may be, to the District Collector, be recovered under the provisions of the Kerala Revenue Recovery Act, 1968, together with interest at the rate of six percent per annum from the date of the order under Sub-section (2) or Sub-section (4) or Sub-section (6), as the case may be.

(9) Notwithstanding anything contained in this Section, a tenant who has paid the amount as provided in Section 34 of the Kerala Agrarian Relations Act, 1960, or in Section 5 of the Kerala Ryotwari Tenants and Kudikidappukars Protection Act, 1962, for the discharge of arrears of rent outstanding on the 11th day of April, 1957, or the arrears of rent accrued due after that date and outstanding on the

15th day of February, 1961, on or before the date specified in those Acts for the payment of the amount, shall not be liable to pay any amount towards arrears of rent for that period.

(10) The assignment by a landlord of his right to receive arrears of rent to any other person shall not affect the benefits conferred on a tenant under this Section

74. Prohibition of future tenancies.— (1) After the commencement of this Act, no tenancy shall be created in respect of any land.

¹[x x x]

(2) Any tenancy created in contravention of the provisions of Sub-section (1) shall be invalid.

RIGHTS AND LIABILITIES OF KUDIKIDAPPUKARS

75. Kudikidappukaran to have fixity.— ²[(1) No Kudikidappukaran shall be liable to be evicted from his kudikidappu except on the following grounds, namely:—

- (i) that he has alienated his right of kudikidappu to a person other than—
 - (a) a member of his family; or
 - (b) a person who has no other homestead or any land in possession, either as owner or as tenant, on which he could erect a homestead and whose annual income does not exceed two thousand rupees;
- (ii) that he has rented or leased out his entire kudikidappu to another person for a period of not less than two years;
- (iii) that he has ceased to reside in the kudikidappu continuously for a period of two years; or
- (iv) that he has another kudikidappu or has obtained ownership and possession of land which is fit for erecting a

1. Omitted by Act 35 of 1969

2. Substituted by Act 35 of 1969

homestead within a distance of five kilometers from his kudikidappu:

Provided that the kudikidappukaran shall not be liable to be evicted on the ground mentioned in sub-clause (iv) if the extent of the land over which he has obtained ownership and possessions is not more than three cents if it is in a city or major municipality or five cents if it is in any municipality or ten cents if it is in a panchayat area or township;

Provided further that a kudikidappukaran shall be liable to be evicted, if he has obtained ownership and possession of land situate beyond a distance of five kilometers where the extent of such land is not less than twenty five cents.

Explanation I.— For the purpose of this Sub-section, “member of family” shall mean, in the case of a joint family, any member of such family, and in other cases, wife or husband, as the case may be, and any of their lineal descendants.

Explanation II.— For the purposes of this Sub-section, a kudikidappukaran shall not be deemed to have ceased to reside in a kudikidappu, notwithstanding the fact that he was not actually residing therein, if any of his near relatives who was residing with him in the kudikidappu continues to reside in the kudikidappu; and in such a case, the near relative who continues to reside in the kudikidappu shall be liable for the rent payable by the kudikidappukaran; and near relative shall mean husband or wife, children, grandchildren, father, mother, brother, sister or children of brother or sister.

(2) Notwithstanding anything contained in Sub-section (1), the person in possession of the land on which there is a homestead or hut (hereinafter in this Sub-section referred to as the landholder) in the occupation of a kudikidappukaran may, if he *bona fide* requires the land—

¹[(a) for constructing a building for his own residence or for the residence of any member of his family included major sons and daughters; or]

1. Substituted by Act 15 of 1976

- (b) for purposes in connection with a town planning scheme approved by the competent authority; or
- (c) for any industrial purpose,

require the kudikidappukaran, to shift to a new site belonging to him, subject to the following conditions, namely:—

- (i) the landholder shall pay to the kudikidappukaran the price of the homestead, if any, erected by the kudikidappukaran;
- (ii) the new site shall be fit for erecting a homestead and shall be within a distance of one mile from the existing kudikidappu;
- ¹[(iii) the extent of new site shall be the extent of the existing kudikidappu, subject to a minimum of three cents if within the limits of a city or a major municipality, five cents if within the limits of any other municipality and ten cents if in any panchayat area or township;]
- (iv) the landholder shall transfer ownership and possessions of the new site to the kudikidappukaran and shall pay to him the reasonable cost of shifting the kudikidappu to the new site.

Where the above conditions are complied with, the kudikidappukaran shall be bound to shift to the new site.

¹[(3) Notwithstanding anything contained in Sub-sections (1) and (2), where the total extent of land held by a person, either as owner or as tenant, is less than one acre and there is a kudikidappu on any land held by him, he may, if he requires the land occupied by such kudikidappu for constructing a building for his own residence, apply to the Government for the acquisition of land to which the kudikidappu may be shifted:]

1. Substituted by Act 35 of 1969.

Provided that, after the expiry of a period of two years from the commencement of the Kerala Land Reforms (Amendment) Act, 1969, an application shall not be made under this Sub-section except with the consent of the kudikidappukaran.

Explanation.— For the purposes of this Sub-section,—

- (a) the total extent of land held by a person shall be computed as on the 1st day of July 1969;
- (b) in calculating the total extent of land held by a person who is a member of a family, the extent of land held by any member of his family or jointly by some or all of the members of such family shall also be taken into consideration.

¹[(3A) In an application under Sub-section (3), the applicant shall offer to deposit, whenever called for, eighty seven and a half per cent of the ²[amount of compensation payable for acquisition of land] equal to the extent of the existing kudikidappu subject to a minimum of three cents if within the limits of a city or major municipality or ten cents if in any panchayat area or township.

(3B) An officer authorised by the Government in this behalf may, after collecting the amount referred to in Sub-section (3A) from the applicant, acquire the necessary land under the Kerala Land Acquisition Act, 1961, give possession of the land to the kudikidappukaran and require him to shift to the said land, and thereupon the kudikidappukaran shall be bound to shift to the new site.]

³[(3BB) Where the kudikidappukaran does not shift to the land acquired in pursuance of Sub-section (3B) within a period of one month from the date of service on him of the requisition under that Sub-section, the officer referred to in that Sub-section shall cause him to be evicted from the existing kudikidappu.]

¹[(3C) The kudikidappukaran shall be entitled before he shifts as required under Sub-section (3B) to receive from the person in posses-

1. Substituted by Act 35 of 1969

2. Substituted by Act 25 of 1971

3. Inserted Act 25 of 1971

sion of the land on which his kudikidappu is situate the expenses as determined by the officer referred to in that Sub-section to be reasonably required to shift to the new site.]

¹[(3D) Where the kudikidappukaran shift as required under Sub-section (3B), or under Sub-section (3BB) he shall be entitled to the ownership and possession of the land to which he shifts or is bound to shift, as the case may be, and also to the registry of such land in his name.]

²[(3E) Twelve and a half per cent of the [amount of compensation payable for the acquisition] under Sub-section (3B) shall be met from the Kudikidappukar's Benefit Fund constituted under Section 109.

(4) Where the person in possession of the land in which there is a kudikidappu considers that the kudikidappu is so located as to cause inconvenience to him, he may require the kudikidappukaran to shift to another part of the land which is fit for the location of the kudikidappu:

Provided that the kudikidappukaran shall have the right to opt for the portion to which the kudikidappu may be shifted:

Provided further that the kudikidappukaran shall not be entitled to opt for any portion which is not adjoining the boundaries of the land, (except with the consent of the person in possession of the land:

Provided also that if the kudikidappukaran refuses to opt, he shall be bound to shift to the portion to which he is required to shift by the person in possession of the land:

Provided also that the person in possession of the land shall transfer to the kudikidappukaran his rights over the land to which the kudikidappu is to be shifted, which shall be equal to the extent of the existing kudikidappu subject to a minimum of three cents if in any city or major municipality or five cents if in any other municipality or ten cents if in any panchayat area or township and pay the price of

the homestead, if any, erected by the kudikidappukaran and the cost of shifting the kudikidappu.

76. Rent payable by kudikidappukaran.— (1) All arrears of rent, if any, payable, by a kudikidappukaran on the date of the commencement of ¹[the Kerala Land Reforms (Amendment) Act, 1969] whether the same be payable under any law, custom or contract or under a decree or order of court shall be deemed to be fully discharged if he pays one year's rent or the actual amount in arrears, whichever is less.

(2) On and after the commencement of this Act, notwithstanding any contract, decree or order of court, a kudikidappukaran shall not be required to pay more than ¹[twenty four rupees yearly as rent in respect of his kudikidappu if it is situated within the limits of any city or major municipality or six rupees yearly as rent in respect of his kudikidappu if it is situated in any other area;]

Provided that a kudikidappukaran who was not liable to pay any rent in respect of his kudikidappu immediately before the commencement of this Act shall not be liable to pay any rent; nor shall a kudikidappukaran be liable to pay any rent in excess of that which he was paying before the commencement of this Act.

¹[77. Procedure to enforce shifting of kudikidappu in certain cases.—

(1) If the kudikidappukaran does not comply with the requisition made under Sub-section (2) or Sub-section (4) of Section 75 by the person in possession of the land to shift to a new site, such person may apply to the Land Tribunal having jurisdiction to entertain an application under Section 80B in respect of the kudikidappu to be shifted, to enforce compliance with such requisition:

Provided that no application under this Sub-section shall be made without giving the kudikidappukaran one month's notice by registered post:

1. Substituted by Act 25 of 1971

2. Substituted by Act 35 of 1969

1. Substituted by Act 35 of 1969

2. Substituted by Act 25 of 1971

¹[Provided further that the Land Tribunal shall not entertain any application under this Sub-section in respect of a kudikidappu, if an order under Sub-section (3) of Section 80B allowing an application for the purchase of that kudikidappu has been passed and such order is in force.]

(2) The Land Tribunal, after such inquiry as it deems fit, and on being satisfied that the applicant has complied with all the conditions mentioned in Sub-section (2) or Sub-section (4), as the case may be, of Section 75, may pass an order requiring the kudikidappukaran to shift the kudikidappu before such date as may be specified in the order.

²[x x x]

(3) If the kudikidappukaran does not shift the kudikidappu before the date specified in the order under Sub-section (2), the Land Tribunal shall cause the kudikidappukaran to be evicted from the kudikidappu.]

COMMENTS

Statutory pre-requisites to shift the kudikidappu.

[See *Antony Francis v. Land Tribunal* 2003(3) KLT SN 20]

³[78. *Right of kudikidappukaran to be heritable but not alienable except in certain cases.*— The rights of a kudikidappukaran in his kudikidappu shall be heritable but not alienable except to any person mentioned in sub-clause (a) or sub-clause (b) of clause (i) of Sub-section (1) of Section 75]

79. *Right of kudikidappukaran to maintain, repair etc., homestead or hut.*— The kudikidappukaran shall have the right to maintain, repair and reconstruct with the same or different materials, but without increasing the plinth area ⁴[at the commencement of the Kerala Land Reforms (Amendment) Act, 1969, by more than fifty per cent], the hut

1. Added by Act 15 of 1969
2. Omitted by Act 15 of 1976
3. Substituted by Act 35 of 1969
4. Inserted by Act 35 of 1969

belonging to the person who permitted occupation by the kudikidappukaran, or the homestead, at his own cost.

¹[*Explanation.*— In this Section and in Section 79A, "homestead" includes a dwelling house occupied by a person who is deemed to be a kudikidappukaran under Explanation IIA to clause (25) of Section 2.]

²[79A. *Customary and other rights of kudikidappukaran.*—(1) Notwithstanding anything contained in any law, or in any contract or in any judgement, decree or order of court, the kudikidappukaran shall be entitled to all rights accrued to him by custom, usage or agreement and which he was enjoying immediately before the commencement of this Act.

(2) Notwithstanding anything contained in any law, or in any judgement, decree or order of court, but without prejudice to any rights to which a kudikidappukaran may be entitled under any other law for the time being in force or under any custom, usage or contract a kudikidappukaran shall in respect of his kudikidappu have all the rights and privileges conferred on the owner of a land under the Indian Easements Act, 1882, as if the kudikidappukaran were the owner of his kudikidappu from the date on which the hut or homestead, as the case may be, was occupied or erected.

(3) Notwithstanding anything contained in any law, or in any judgement, decree or order of court, or in any contract, it shall not be necessary to obtain the consent of the owner or occupier or both of the land in which a kudikidappu is situate, to lay down or place any electric supply line or other work on, over or under such land for the purpose of supply of electrical energy to the kudikidappu for domestic consumption and use.

(4) Notwithstanding anything contained in any law, or in any judgement, decree or order of court, or in any contract, it shall not be necessary to obtain the consent of the owner or occupier or both of the land in which a kudikidappu is situate to lay down any pipe or to

1. Added by Act 17 of 1972
2. Inserted by Act 35 of 1969

carry out any other work on, over or under such land for the purpose of supply of water to the kudikidappu for domestic consumption and use.

Explanation.—For the purposes of this Section, enjoyment of any benefit or concession for a continuous period of three years immediately preceding the commencement of this Act shall be deemed to be enjoyment of a right accrued to the kudikidappukaran by custom, usage or agreement.]

80. Register of kudikidappukars.— (1) The Government shall cause a register of kudikidappukars ¹[within the limits of each local authority to be prepared and maintained.

(2) The register shall show—

- (a) the description of the land in which the kudikidappu is situate;
- (b) the location of the kudikidappu and its extent;
- (c) the name of the landowner and of the person in possession of the land in which the kudikidappu is situate;
- (d) the name and address of the kudikidappukaran;

²[x x x]

³[(dd) the rights referred to in Section 79A; and

(e) such other particulars as may be prescribed.

¹[(3) Subject to such rules as may be made by the Government in this behalf, the local authority shall prepare a register of kudikidappukars within its jurisdiction.

(4) The register shall be maintained by the local authority in such manner as may be prescribed.

1. Substituted by Act 35 of 1969

2. Omitted by Act 35 of 1969

3. Inserted by Act 35 of 1969

(5) Any person aggrieved by the registration of a kudikidappukaran under Sub-section (3) or the refusal to register a person claiming to be a kudikidappukaran may, within ninety days from the date of registration or refusal, as the case may be, appeal—

(a) to the Revenue Divisional Officer having jurisdiction, where the decision appealed against is that of a municipal corporation or a municipal council;

(b) to the Tahsildar having jurisdiction, in other cases.

(6) On receipt of an appeal under Sub-section (5), the Revenue Divisional Officer or the Tahsildar, as the case may be, may call for the record of any proceeding which has been taken by the local authority under this Section and may make such enquiry or cause such enquiry to be made and may pass such orders thereon as he thinks fit:

Provided that no order prejudicial to any person shall be passed without giving him an opportunity of being heard.

(7) For the purposes of this Section, “local authority” shall not include a cantonment board.

¹[80A. Right of kudikidappukaran to purchase his kudikidappu.—

(1) Notwithstanding anything to the contrary contained in any law for the time being in force, a kudikidappukaran shall, subject to the provisions of this Section, have the right to purchase the kudikidappu occupied by him and lands adjoining thereto.

(2) Notwithstanding anything contained in Sub-section (1), where the total extent of land held by the person in possession of the land in which the kudikidappu is situate, either as owner or as tenant is less than one acre, the kudikidappukaran shall be entitled to purchase his kudikidappu and lands adjoining thereto only in cases where the person in possession of the Government under Sub-section (3) of Section 75 for the acquisition of the land to which the kudikidappu may be shifted, within a period of two years from the commencement of the Kerala Land Reforms (Amendment) Act, 1969:

1. Inserted by Act 35 of 1969

Provided that in a case where the person in possession has applied under Sub-section (3) of Section 75, the kudikidappukaran shall be entitled to purchase his kudikidappu and lands adjoining thereto if such application by the person in possession of the land is rejected or if such person fails to pay the expenses for shifting the kudikidappu as required by the Sub-section (3C) of Section 75.

(3) The extent of land which the kudikidappukaran is entitled to purchase under this Section shall be three cents in a city or major municipality or five cents in any other municipality or ten cents in a panchayat area or township:

Provided that where the land available for purchase in the land in which the kudikidappu is situate, or the land in which the kudikidappu is situate, is less than the extent specified in this Sub-section, the kudikidappukaran shall be entitled to purchase only the land available for purchase or, as the case may be, the land in which the kudikidappu is situate.

(4) Notwithstanding anything contained in Sub-section (3), where in the lands held by a person, either as owner or as tenant, there are more kudikidappukars than one, the maximum extent of land which is liable to be purchased under this Section shall be,—

- (a) where such person holds less than one acre of land, three cents in a city or major municipality or five cents in any other municipality or ten cents in a panchayat area or township;
- (b) where such person holds one acre or more, but less than two acres, of land, six cents in a city or major municipality or ten cents in any other municipality or twenty cents in a panchayat area or township;
- (c) where such person holds two acres or more, but less than three acres, of land, nine cents in a city or major municipality or fifteen cents in any other municipality or thirty cents in a panchayat area or township;

(d) where such person holds three acres or more, but less than four acres, of land, twelve cents in a city or major municipality or twenty cents in any other municipality or forty cents in a panchayat area or township;

(e) where such person holds four acres or more, but less than five acres, of land, fifteen cents in a city or major municipality or twenty-five cents in any other municipality or fifty cents in a panchayat area or township:

Provided that the extent of land which a kudikidappukaran shall be entitled to purchase shall, in no case, exceed the extent specified in Sub-section(3):

Provided further that if in any case falling under clause (b) or clause (c) or clause (d) or clause (e), the extent specified in that clause is not sufficient for the purchase of an extent of three cents of land by each kudikidappukaran, the extent of land which is liable to be purchased under this Section shall be the extent required for purchase of three cents by each kudikidappukaran:

¹[Provided also that where any person in possession of any land in which there is a kudikidappu or more than one kudikidappu, has voluntarily transferred such land on or after the 1st day of July, 1969 and before the 1st day of January, 1970 or voluntarily transfers such land on or after 1st day of January, 1970, the kudikidappukaran or each of the kudikidappukars shall be entitled to purchase such extent of land as he would have been entitled to purchase if such transfer had not taken place.]

(5) Where any person holds five acres or more of land, either as owner or as tenant, and there are more kudikidappukars than one in the lands held by him, each of the kudikidappukars shall be entitled to purchase the extent of land specified in Sub-section (3).

(6) No kudikidappukaran shall be entitled to purchase any land which is not in the lawful possession of the person who holds the

land in which the kudikidappu is situate or which is not within the boundaries of each land.

(7) The purchase price payable by a kudikidappukaran in consideration of the purchase allowed under this Section shall be twenty five per cent of the market value of the land purchased and the improvements thereon, other than the improvements, if any, belonging to the kudikidappukaran:

Provided that where the person in possession of the land in which the kudikidappu is situate or, where he is a member of a family, such family, holds lands in excess of the ceiling area. the purchase price payable by the kudikidappukaran shall be one-half of the purchase price payable under this Sub-section.

Explanation.— The provisions of Section 82 shall, so far as may be, apply to the calculation of the ceiling area for the purposes of the foregoing proviso and if no date has been notified under Section 83, the date of the application under Sub-section (1) of Section 80B shall be deemed to be the date notified under Section 83.

¹[(8) The purchase price payable by the kudikidappukaran shall be met from the Kudikidappukar s Benefit Fund constituted under Section 109.]

²[(8A) Notwithstanding anything contained in Sub-sections (7) and (8), the kudikidappukaran shall not be liable to pay his share of the purchase price incases where the person in possession of the land in which the kudikidappu is situate or, where the person in possession of the land is holding such land under a landlord or more than one landlord and the right, title and interest of such landlord or landlords have not vested in the Government under Section 72, the person in possession of such land and such landlord or landlords agrees or agree in writing that the kudikidappukaran need not pay his share of the purchase price.]

1. Substituted by KLR (Amendment) Act, 1989
2. Inserted by Act 25 of 1971

(9) Where the kudikidappukaran applies under Sub-section (1) of Section 80B for purchase of his kudikidappu, and the Land Tribunal, on application within such time as may be prescribed by the person in possession of the land in which the kudikidappu is situate, is satisfied that the portion to be purchased is so located as to cause inconvenience to him, the Land Tribunal may require the kudikidappukaran to purchase another portion of that land:

Provided that the kudikidappukaran shall have the right to opt for the portion to be purchased by him:

Provided further that the kudikidappukaran shall not be entitled to opt for any portion which is not adjoining the boundaries of the land, except with the consent of the person in possession of the land:

Provided also that if the kudikidappukaran purchases another portion of the land, the person in possession of the land shall be liable to pay the price of the homestead, if any, erected by the kudikidappukaran and the cost of shifting the kudikidappu to such portion.

(10) If any kudikidappukaran refuses to opt under Sub-section (9), his application under Sub-section (1) of Section 80B shall be dismissed.

(11) Notwithstanding anything contained in Sub-sections (4) and (5), where there are more kudikidappukars than one and the extent of the land which the kudikidappukars are entitled to purchase, or the extent of the land in which the Kudikidappus are situate, is less than the multiple of the number of kudikidappukars and the extent which each kudikidappukaran is entitled to purchase under this Section, the land available for purchase, or the land in which the Kudikidappus are situate, as the case may be, shall, in the absence of any agreement among the kudikidappukars, be apportioned in equal shares, as far as practicable, for purchase by the kudikidappukars.

(12) For the purposes of this Section—

- (a) the extent of land held by a person shall be the total extent of land held by such person, either as owner or as tenant, on the 1st day of July, 1969;

- (b) in calculating the extent of land held by a person who is a member of a family and the number of kudikidappukars in the lands held by such person, the extent of the land held individually by any member of his family or jointly by some or all of the members of such family, and the number of kudikidappukars thereon shall also be taken into consideration;
- (c) in deciding the extent of land available for purchase by the kudikidappukaran or kudikidappukars,—
- (i) any voluntary transfer effected, or any boundaries put up or any building or other structures erected, after the 1st day of July, 1969, shall not be taken in to account;
 - (ii) the sites of the buildings and other structures situate on the land shall be excluded.

¹[80B. Procedure for purchase by kudikidappukaran.— (1) A kudikidappukaran entitled under Section 80A to purchase the kudikidappu occupied by him and lands adjoining thereto may apply to the Land Tribunal for such purchase.

(2) An application under Sub-section (1) shall be in such form and shall contain such particulars as may be prescribed.

(3) The Land Tribunal shall, after giving notice to the kudikidappukars in the land in which the kudikidappu is situate and other persons interested in the land and after such enquiry as may be prescribed, pass such orders on the application as it thinks fit:

²[Provided that where an application under Sub-section (1) of Section 77 in respect of the kudikidappu is pending, the Land Tribunal shall not pass any order under this Sub-section before the disposal of that application.]

(4) An order under Sub-section (3) allowing an application shall specify—

1. Inserted by Act 35 of 1969

2. Added by Act 25 of 1971

- (i) the extent of land which the kudikidappukaran is entitled to purchase;
- (ii) the purchase price payable in respect of the land allowed to be purchased by the kudikidappukaran;
- (iii) the amounts due to the person in possession of the land in which the kudikidappu is situate and other persons interested in the land;
- (iv) the value of encumbrance subsisting or claims for maintenance or alimony charged on the land allowed to be purchased by the kudikidappukaran;
- (v) the amount payable to the holder of the encumbrance or the person entitled to the maintenance or alimony and the order of priority in which such amount is payable;
- (vi) such other particulars as may be prescribed.

(5) If the person in possession of the land in which the kudikidappu is situate or the landowner or the intermediary, if any, of the land is liable to pay any amount to the kudikidappukaran towards the price of the homestead or the cost of shifting the kudikidappu, the Land Tribunal shall in passing orders on the application for purchase set off such amount against the purchase price payable to such person.

(6) Where the right, title and interest of the person in possession of the land in which the kudikidappu is situate or any other person interested in the land form part of the security for any encumbrance or charge for maintenance or alimony, the Land Tribunal shall for the purpose of determining the value of the encumbrance or the charge for the maintenance or alimony relating to the portion in respect of which purchase is allowed, apportion the entire encumbrance or charge for the maintenance or alimony, between the land in which the kudikidappu is situate and the portion allowed to be purchased in proportion to the values of the two portions.

(7) Where the person in possession of the land in which the kudikidappu is situate is a tenant, the purchase price payable in re-

spect of the land to be purchased shall be apportioned among the landowner, the intermediaries, if any, and the tenant in possession of the land in proportion to the profits derivable by them from the holding.

Explanation.— “Profits derivable from the land” shall be deemed to be equal to —

- (i) in the case of a landowner, the rent which he was entitled to get from the tenant holding immediately under him;
- (ii) in the case of an intermediary, the difference between the rent which he was entitled to get from his tenant and the rent for which he was liable to his landlord; and
- (iii) in the case of the tenant in possession, the difference between the net income and the rent payable by him; and the rent payable by such tenant and the intermediary for the purpose of this Explanation shall be as calculated under the provisions of this Act.]

COMMENTS

The necessary ingredients required to constitute the right of kudikidappu as contained in explanation 2 of Section 2 (25) should be there is the pleading.

[See Kunhambu v. Kunhammar 2000 (1) KLT 490]

Even if homestead is reconstructed, kudikidappukaran is entitled to get benefit. Section 79 does not create or confer any new right.

[Cheru v. Chandran 2002(2) KLT SN 117]

Claim of kudikidappu raised at the time of trial-

[See Janaki Padmakshi v. Saraswathi 2000 (1) KLJ 453]

¹[80C. *Deposit of purchase price and issue of certificate of purchase.*— ²{(1) x x x}]

³{(2) As soon as may be after the order of the Land Tribunal under Sub-section (3) of Section 80B has become final, the Land Tribunal shall issue a certificate of purchase in such form and containing such particulars as may be prescribed, and thereupon the right, title and interest of the landowner, the intermediaries, if any, and the person in possession where he is not the landowner, in respect of the land allowed to be purchased, shall vest in the kudikidappukaran free from all encumbrances with effect from the date of such deposit or, as the case may be, the date on which the order of the Land Tribunal under the said Sub-section (3) has become final.]

⁴[x x x]

(4) After the issue of the certificate of purchase in respect of any land under Sub-section (2), the Land Tribunal may, on application by the kudikidappukaran, put him in possession of that land, if need be by removing any person who refuses to vacate the same.

⁵{(4A) Where the certificate of purchase issued to the kudikidappukaran is in respect of another portion of the land and the kudikidappukaran does not vacate the existing kudikidappu within a reasonable time after the issue of such certificate, the Land Tribunal shall cause him to be evicted from the existing kudikidappu.]

²[x x x]

80D. ²[x x x]

¹[80E. *Payment of purchase price, amount of encumbrance, maintenance or alimony.*— (1) The purchase price payable by the kudikidappukaran shall be distributed by the Land Tribunal according to the provisions of Sub-sections (2) to (8).

1. Inserted by Act 35 of 1969

2. Omitted by KLR (Amendment) Act 1989

3. Substituted by Act 15 of 1976

4. Omitted by Act 15 of 1976

5. Inserted by Act 25 of 1971

(2) Where the right, title and interest of the landowner and the intermediaries, if any, and the person in possession, of the land in which the kudikidappu is situate were subject to any encumbrance or charge for maintenance or alimony, the purchase price shall be paid to the person in possession of the land or apportioned among the landowner, the intermediaries, if any, and the person in possession of the land in accordance with the order of the Land Tribunal under Sub-section (3) of Section 80B.

(3) Where the right, title and interest of the landowner and the intermediaries, if any, or the person in possession, of the land in which the kudikidappu is situate where subject to any encumbrance or charge for maintenance or alimony, the value of such encumbrance, maintenance or alimony shall be deducted from the purchase price payable to the landowner, the intermediaries or the person in possession, as the case may be, and the balance amount shall be paid to the landowner or the intermediaries or the person in possession, as the case may be.

(4) If the total amount of such encumbrance, maintenance or alimony is equal to or more than the amount of the compensation payable to the landowner or the intermediary or the person in possession, as the case may be, the whole amount shall be reserved for payment to the holder of the encumbrance or the person entitled to the maintenance or alimony, and no amount shall be paid to the landowner or the intermediary or the person in possession, as the case may be.

(5) Where any amount has been deducted or reserved for payment to the holders of encumbrances or the persons entitled to the maintenance or alimony, the same shall be paid in their order of priority to the persons entitled thereto.

(6) Where a person entitled to the purchase price or the value of the encumbrance, maintenance or alimony dies before it is paid to him, it shall be paid to his legal representatives:

¹[Provided that if such person has, in accordance with the rules made in this behalf, nominated any member of his family to receive the amount, the same shall be paid to such nominee.]

Explanation.— For the purpose of the preceding proviso, member of family means wife or husband, son or daughter.]

(7) Where the person entitled to receive the purchase price or the value of encumbrance is a private trust or endowment or a minor or a person suffering from legal disability or a limited owner, the purchase price or the value of encumbrance may, notwithstanding anything contained in any law, but subject to any general directions that the Government may give, be deposited for and on behalf of such person with such authority, or bank as may be prescribed.

(8) Where before any court or authority any suit or proceeding is pending which directly or indirectly affects or is likely to affect the right of any person to receive the whole or part of the purchase price or the amount of encumbrance or maintenance or alimony payable under this Section, the court or authority may require the Land Tribunal to place at its disposal the amount so payable, and thereupon the same shall be disposed of in accordance with the orders of the court or authority.

²**80F. Payment of purchase price to landowner, etc to be full discharge.**— The payment of purchase price or the value of encumbrance, maintenance or alimony to the landowner, the intermediaries, if any, and the person in possession, of the land in which the kudikidappu is situate and other persons entitled thereto in the manner specified in Section 80E shall be a full discharge of the liability for the payment of purchase price to the landowner, the intermediaries, if any, and the person in possession, of the land in which the kudikidappu is situate, and no further claims for payment of purchase price shall lie.]

80G. Contribution towards purchase price.— (1) The amount to be met from the Kudikidappukar's Benefit Fund under Sub-section (8) of Section 80A, shall be made available to the Land Tribunal in twelve equal annual instalments for payment to the persons entitled thereto;

1. Added by KLR (Amendment) Act, 1979

2. Inserted by Act 35 of 1969

¹[x x x]

(2) The Land Tribunal shall pay the amount of each instalment made available to it under Sub-section (1) to the persons entitled thereto on such date and in such manner as may be prescribed.

CHAPTER III

RESTRICTION ON OWNERSHIP AND POSSESSION OF LAND IN EXCESS OF CEILING AREA AND DISPOSAL OF EXCESS LANDS

§1. Exemptions.— (1) The provisions of this Chapter shall not apply to—

(a) lands owned or held by the Government of Kerala or the Government of any other State in India or the Government of India or a local authority ²[or the Cochin Port Trust] or any other authority which the Government may, in public interest, exempt, by notification in the Gazette, from the provisions of this Chapter.

³[Provided that the exemption under this clause shall not apply to lands owned by the Government of Kerala and held by any person under lease whether current or time expired or otherwise.]

⁴[**Explanation I.**— “Lands owned by the Government of Kerala” shall, for the purposes of this clause, have the same meaning as “Government Lands” under Sub-section (1) of Section 2 of the Kerala Government Land Assignment Act, 1960; ²[but lands escheated to the Government and held by tenants entitled to fixity of tenure under Section 13 shall not be deemed to be lands owned by the Government of Kerala.]

²[**Explanation II.**— Lands, the right, title and interest in respect of which have vested in the Government under Sub-section (9) of Sec-

1. Omitted by KLR (Amendment) Act 1989
2. Inserted by Act 35 of 1969
3. Inserted by Act 17 of 1972
4. Numbered as Explanation I by Act 35 of 1969

tion 66 or Section 72, shall not be deemed to be “lands owned by the Government of Kerala” for the purposes of this clause;]

¹[**Explanation III.**— For the purposes of this clause, “other authority” shall include a corporation owned or controlled by the Government of Kerala or the Government of any other State in India or the Government of India;]

(b) lands taken under the management of the Court of Wards:

Provided that the exemption under this clause shall cease to apply at the end of three years from the commencement of this Act;

(c) lands comprised in mills, factories or workshops and which are necessary for the use of such mills, factories or workshops;

(d) private forests;

(e) plantations;

²[(f) cashew estate

Explanation.— For the purpose of this clause “cashew estate” shall mean dry land principally cultivated with not less than 150 cashew trees per hectare.]

(g) ³[x x x]

(h) lands mortgaged to the Government, or to a co-operative society (including a co-operative land mortgage bank) registered or deemed to be registered under the Co-operative Societies Act for the time being in force, or to the Kerala Financial Corporation, or to the Kerala Industrial Development Corporation or to the State Small Industries Corporation, as security for any loan advanced by the Government or by such Society or Corporation, so long as the mortgage subsists:

1. Inserted by Act 25 of 1971
2. Inserted by KLR (Amendment) Bill, 2004
3. Omitted by Act 35 of 1969

Provided that the exemption under this clause shall cease to apply at the end of three years from the commencement of this Act;

- (i) lands purchased by the Kerala Co-operative Central Land Mortgage Bank or a Primary Mortgage Bank under Section 18 of the Kerala State Co-operative Land Mortgage Banks Act, 1960, or by the Kerala State Co-operative Bank Ltd., or by a primary agricultural credit co-operative society or by a scheduled bank as defined in the Reserve Bank of India Act, 1934 so long as such lands continue in the possession of the bank;
- (j) lands purchased by the Kerala Financial Corporation or lands the management of which has been taken over by that Corporation, under Section 32 of the State Financial Corporations Act, 1951, so long as such lands remain in the ownership, or continue under the management, as the case may be, of the said Corporation:

¹[Provided that the exemption under this clause shall not apply in the case of lands the management of which has been taken over by the Corporation on or after the 1st day of April, 1964;]

- (k) lands belonging to or held by an industrial or commercial undertaking at the commencement of this Act, and set apart for use for the industrial or commercial purpose of the undertaking;

Provided that the exemption under this clause shall cease to apply if such land is not actually used for the purpose for which it has been set apart, within such time as the District Collector may, by notice to the undertaking, specify in that behalf;

(l) ²[x x x]

³[(m) house sites, that is to say, sites occupied by dwelling houses and lands, wells, tanks and other structures nec-

1. Added by Act 35 of 1969

2. Omitted by Act 35 of 1969

3. Substituted by Act 17 of 1972

essary for the convenient enjoyment of the dwelling houses.

Explanation.—For the avoidance of doubt, it is hereby declared that a compound wall shall not be deemed to be a structure necessary for the convenient enjoyment of a dwelling house, if the land on which the dwelling house is situated and enclosed by the compound wall is more than the land necessary for the convenient enjoyment of the dwelling house.

(n) ¹[x x x]

(o) sites of temples, churches, mosques and cemeteries and burial and burning grounds;

(p) sites of buildings including warehouses;

(q) commercial sites;

(r) land occupied by educational institutions including land necessary for the convenient use of the institutions and playgrounds attached to such institutions;

(s) lands vested in the Bhoodan Yagna Committee;

(t) lands owned or held by—

(i) a University established by law; or

(ii) a religious, charitable or educational institution of a public nature; or

(iii) a public trust which expression shall include a wakf;

Provided that—

(i) the entire income of such lands is appropriated for the University, institution or trust concerned; and

(ii) where the University, institution or trust comes to hold the said lands after the commencement of this Act, the Government have certified previously that such lands are *bona fide* required for the purposes

1. Omitted by Act 35 of 1969

of the University, institution or trust, as the case may be; and

(u) lands granted to defence personnel for gallantry.

(2) ¹[x x x]

²[(3) The Government may if they are satisfied that it is necessary to do so in the public interest—

- (a) on account of any special use to which any land is put; or
- (b) on account of any land being bonafide required for the purpose of conversion into plantation or for the extension or preservation of an existing plantation or for any commercial, industrial, educational or charitable purpose, by notification in the Gazette, exempt such land from the provisions of this Chapter, subject to such restrictions and conditions as they may deem fit to impose:

Provided that the land referred to in clause (b) shall be used for the purpose for which it is intended within such time as the Government may specify in that behalf; and, where the land is not so used within the time specified, the exemption shall cease to be in force.]

82. Ceiling area.— ²[(1) The ceiling area of land shall be,—

- (a) in the case of an adult unmarried person or a family consisting of a sole surviving member, five standard acres, so however that the ceiling area shall not be less than six and more than seven and a half acres in extent;
- (b) in the case of a family consisting of two or more, but not more than five members, ten standard acres, so however that the ceiling area shall not be less than twelve and more than fifteen acres in extent.
- (c) in the case of a family consisting of more than five members, ten standard acres increased by one standard acre

1. Omitted by Act 35 of 1969

2. Substituted by Act 35 of 1969

for each member in excess of five, so however that the ceiling area shall not be less than twelve and more than twenty acres in extent; and

(d) in the case of any other person, other than a joint family, ten standard acres, so however that the ceiling area shall not be less than twelve and more than fifteen acres in extent.]

(2) For the purposes of this Chapter, all the lands owned or held individually by the members of a family or jointly by some or all of the members of such family shall be deemed to be owned or held by the family.

¹[(3) In calculating the extent of land owned or held by a family or an adult unmarried person, the shares of the members of the family or the adult unmarried person, as the case may be, in the lands owned or held—

- (a) by one or more of such members jointly with any person or persons other than a member or members of such family or by such adult unmarried person jointly with any other person or persons; or
- (b) by a co-operative society or a joint family, shall be taken into account.

Explanation.— For the purposes of this Sub-section, the share of a member of a family or an adult unmarried person in the lands owned or held jointly or by a co-operative society or a joint family shall be deemed to be the extent of land which would be allotted to such member or person had such lands been divided or partitioned, as the case may be, on the date notified under Section 83.

(4) Where, after the commencement of this Act, any class of land specified in Schedule II has been converted into any other class of land specified in that schedule or into a plantation, the extent of land liable to be surrendered by a person owning or holding such land shall be determined without taking into consideration such conversion.]

1. Substituted by Act 25 of 1971

¹[Provided that nothing contained in this section shall apply to the conversion of dry land into cashew estate.]

(5) The lands owned or held by a private trust or a private institution shall be deemed to be lands owned or held by the person creating the trust or establishing the institution, or, if he is not alive, by his successors-in-interest.

(6) In computing the ceiling area, lands exempted under Section 81 shall be excluded.

Explanation I:—For the purposes of this Section, where a person has two or more legally wedded wives living, the husband, one of the wives named by him for the purpose and their unmarried minor children shall be deemed to be one family; and the other wife or each of the other wives and her unmarried minor children shall be deemed to be a separate family.

Explanation II:—For the purposes of this Section, an adult unmarried person shall include a divorced husband or divorced wife who has not remarried:

Provided that if such divorced husband or divorced wife is the guardian of any unmarried minor child, he or she together with such unmarried child shall be deemed to be a family.

²[83. **No person to hold land in excess of the ceiling area.**—With effect from such dates as may be notified by the Government in the Gazette, no person shall be entitled to own or hold or to possess under a mortgage lands in the aggregate in excess of the ceiling area.]

84. Certain voluntary transfers to be null and void.—(1) Notwithstanding anything contained in any law for the time being in force, all voluntary transfers effected after the date of publication of the Kerala Reforms Bill, 1963, in the Gazette, otherwise than—

(i) by way of partition; or

(ii) ³[x x x]

1. Added by KLR (Amendment) Bill, 2004

2. Substituted by Act 35 of 1969

3. Omitted by Act 17 of 1972

(iii) in favour of a person who was a tenant of the holding before 27th July, 1960, and continued to be so till the date of transfer; ¹[x x x]

(iv) ¹[x x x]

by a family or any member thereof or by an adult unmarried person owning or holding land in excess of the ceiling area ²[or otherwise than by way of gift in favour of his son or daughter or the son or daughter of his pre-deceased son or daughter by any person owning or holding land in excess of the ceiling area] shall be deemed to be transfers calculated to defeat the provisions of this Act and shall be invalid;

Provided that, without prejudice to any other right of the parties to any such transfer, when any purchase price is payable under Section 56 or any compensation is payable ³[under Section 72H or Section 88] for any land covered by the said transfer, it shall be competent for the Land Tribunal to award to the transferee, out of the purchase price or compensation amount in respect of such land, such sum as the Land Tribunal may consider just and proper.

⁴[(1A) Notwithstanding anything contained in Sub-section (1), or in any judgement, decree or order of any court or other authority, any voluntary transfer effected by means of a gift deed executed during the period commencing on the 1st day of January, 1970 and ending with the 5th day of November, 1974, by a person owning or holding land in excess of the ceiling area in favour of his son or daughter or the son or daughter of his predeceased son or daughter shall be not deemed to be, or ever to have been, invalid —

(a) if the extent of the land comprised in the gift does not exceed the ceiling area specified in clause (a) of Sub-section (1) of Section 82; and

1. Omitted by Act 17 of 1972

2. Inserted by Act 17 of 1972

3. Substituted by Act 35 of 1969

4. Inserted by KLR (Amendment) Act, 1979

- (b) if the extent of the land comprised in the gift exceeds the ceiling area specified in the said clause, to the extent of that ceiling area:

Provided that nothing contained in this Sub-section shall apply—

- (a) to a transfer in favour of a person who was an unmarried minor on the 1st day of January, 1970;

(b) in respect of any land which has been assigned on registry under Section 96, before the commencement of the Kerala Land Reforms (Amendment) Act, 1979.

¹[*Explanation.*— For the purposes of clause (b), a land shall be deemed to have been assigned on registry if the purchase price payable for the assignment of that land or the first instalment thereof has been deposited as required by the rules made under this Act.]

²[(2) Notwithstanding anything contained in any law for the time being in force, all voluntary transfers effected by any person (other than a family or any member thereof or by an adult unmarried person) owning or holding land in excess of the ceiling area after the 1st July, 1969, otherwise than—

- (i) by way of partition; or
- (ii) in favour of a person who was a tenant of the holding before the 27th July, 1960, and continued to be so till the date of transfer; ³[x x x]
- (iii) ³[x x x]

shall be deemed to be transfers calculated to defeat the provision of this Act and shall be invalid:

Provided that without prejudice to any other right of the parties to any such transfer, when any purchase price is payable under Section 56 or any compensation is payable under Section 72H or Section 88 for any land covered by the said transfer, it shall be competent for

1. Inserted by KLR (Amendment) Act 1981
2. Inserted by Act 35 of 1969
3. Omitted by Act 17 of 1972

the Land Tribunal to award to the transferee, out of the purchase price or compensation amount in respect of such land, such sum as the Land Tribunal may consider just and proper.]

¹[(3) For the removal of doubts, it is hereby clarified that the expression “ceiling area” in Sub-sections (1) and (2) means the ceiling area specified in Sub-section (1) of Section 82 as amended by the Kerala Land Reforms (Amendment) Act, 1969 (35 of 1969).]

²[(4) Notwithstanding anything contained in Sub-sections (1), (1A) or (2), or in any judgement, decree, or order of any court tribunal or other authority, no acquisition of land referred to in Section 7E shall be deemed to be invalid, or ever to have been invalid, by reason only of the fact that the land so acquired was found included as, or forming part of, the land liable to be surrendered by the transferor as excess land under the provisions of this Act and no suit or other proceedings including proceedings for eviction relating to the said land shall be instituted, maintained or continued in any court or tribunal against any person who is a deemed tenant under Section 7E and every such suit or proceedings pending shall stand abated:

Provided that ceiling cases wherein excess land has been physically taken over and distributed to landless labourers or reserved for public purposes as provided in this Act shall be reopened:

Provided further that if the Taluk Land Board is satisfied that the transfer of land made by a person, in possession of excess land is calculated to defeat the ceiling provisions, it may take into account the land so transferred in determining his ceiling area, and may direct him to surrender such extent of land held or possessed by him:

Provided also that no ceiling cases or proceedings in which any land has already been surrendered by, or assumed from, a person as excess land before the commencement of the Kerala Land Reforms (Second Amendment) Act, 2004, shall be reopened.]

1. Inserted by Act 17 of 1972
2. Inserted by KLR (Second Amendment) Bill, 2004

COMMENTS

Effect of partition deed- It is open to court to look into relevant circumstances, including nature of rights executants, relations between parties, intention and attending circumstances.

[Mehaboob Beevi v. Taluk Land Board 2002 (1) KLT 305]

85. *Surrender of excess land.*— (1) ¹[Where a person owns or holds land excess of the ceiling area on the date notified under Section 83, such excess land shall be surrendered as hereinafter provided:]

Provided that where any person *bonafide* believes that the ownership or possession of any land owned or ²[held by such person or, where such person is a member of a family, by the members of such family, is liable to be purchased by the cultivating tenant or kudikidappukaran] or to be resumed by the landowner or the intermediary under the provisions of this Act, the extent of the land so liable to be purchased or to be resumed shall not be taken into account in calculating the extent of the land to be surrendered under this Sub-section.

Explanation.— Where any land owned or held by a family or adult unmarried person owning or holding land in excess of the ceiling area was transferred by such family or any member thereof or by such adult unmarried person, as the case may be, after the 18th December, 1957, and on or before the date of publication of the Kerala Land Reforms Bill, 1963, in the Gazette, otherwise than —

- (i) by way of partition; or
- (ii) on account of natural love and affection: or
- (iii) in favour of a person who was a tenant of the holding before the 18th December, 1957, and continued to be so till the date of transfer: or
- (iv) in favour of a religious, charitable or educational institution of a public nature solely for the purposes of the institution,

¹. Substituted by Act 35 of 1969.

the extent of land owned or held by such family or adult unmarried person shall be calculated for purposes of fixing the extent of land to be surrendered under this Section as if such transfer had not taken place, and such family or adult unmarried person shall be bound to surrender an extent of land which would be in excess of the ceiling area on such calculation, or where such family or person does not own or hold such extent of land, the entire land owned or held by the family or person ¹[but nothing in this Explanation—

- (a) shall affect the rights of the transferee under the transfer: or
- (b) shall apply in the case of any transfer of land by a family or any member thereof or an adult unmarried person if the extent of land owned or held by such family or adult unmarried person, as the case may be, immediately before the transfer was not in excess of the ceiling area specified in the Kerala Agrarian Relations Act, 1960, and applicable to such family or adult unmarried person.

(2) ²[Where a person owns or holds land in excess of the ceiling area, such person shall, within a period of three months from the date notified under Section 83, file a statement before the Land Board intimating the location, extent and such other particulars as may be prescribed, of all the lands (including lands exempted under Section 81) owned or held by such person and indicating the lands proposed to be surrendered.]

Explanation I.— Where lands owned or held by a family stand in the name of more than one member of the family, the identity of the land, the ownership or possession or both of which is or are to be surrendered, shall be indicated as far as practicable with the concurrence of all the members in whose names they stand.

Explanation II.— Where land to be surrendered is owned or held by two or more persons jointly, whether or not as members of an institution or of a joint family, the identity of the same shall be indi-

1. Substituted by Act 17 of 1972

2. Substituted by Act 35 of 1969

cated as far as practicable with the concurrence of all the persons who own or hold such land.

Explanation III.— Where ¹[a person] owns or holds lands, including shares in the lands owned or held by a co-operative society, in excess of the ceiling area, the excess lands to be surrendered shall be lands other than shares in the lands owned or held by the co-operative society.

²[**Explanation IV.**— Where any person owns or holds land in excess of the ceiling area, including lands mortgaged to the Government or to a co-operative society or to a co-operative land mortgage bank registered or deemed to be registered under the Co-operative Societies Act for the time being in force, or to the Kerala Financial Corporation or to the Kerala Industrial Development Corporation or to the State Small Industries Corporation, ³[or to a scheduled bank as defined in the Reserve Bank of India Act, 1934 ⁴[or to a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or to the State Bank of India constituted under the State Bank of India Act, 1955 or to a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959] as security for any loan advanced by the Government or by such co-operative society or bank or corporation the excess lands to be surrendered shall, as far as possible, be lands other than those so mortgaged.]

⁵[**Explanation V.**— Where a person owns or holds land in excess of the ceiling area including lands owned by the Government of Kerala, the excess lands to be surrendered shall, as far as possible, be the lands owned by the Government of Kerala.]

²[(2A) The statement under Sub-section (2) shall be filed,—

(a) in the case of an adult unmarried person, by such person;

1. Substituted by Act 35 of 1969
2. Inserted by Act 35 of 1969
3. Inserted by Act 25 of 1971
4. Substituted by Act 17 of 1972
5. Inserted by Act 17 of 1972

- (b) in the case of a minor, lunatic, idiot or a person subject to like disability, the guardian, manager or other person in charge of such person or of the property of such person;
- (c) in the case of a family, the husband or in his absence, the wife, or, in the absence of both, the guardian of the minor children;
- (d) in the case of any other person, any person competent to Act for such person in this behalf.]

¹[(3) Where, after the final settlement of claims for resumption of lands held by a person as tenant, such person holds land in excess of the ceiling area, or where after the purchase of the right, title and interest of the landowner and the intermediary by the cultivating tenant in respect of lands owned by a person, such person owns land in excess of the ceiling area, such excess land shall be surrendered as hereinafter provided.

(3A) The person bound to file a statement under Sub-section (2) shall, within a period of three months from the date of final settlement or purchase, file a statement before the Land Board, and the provisions of the said Sub-section shall, as far as may be, apply in regard to the particulars to be contained in such statement, the calculation of the excess land and for the procedure for the surrender of the same.]

(4) Where a member of a joint family surrenders under this Section, any land belonging to the joint family and the surrender is accepted by the ²[Taluk Land Board] with or without modification in extent or identity of the lands surrendered, he shall be deemed to have become divided in status from the other members of the family, with effect from the date of the surrender, and the lands, the surrender of which has been accepted, shall be deemed to have been lands allotted to the share of such member on partition.

1. Substituted by Act 35 of 1969
2. Substituted by Act 17 of 1972

(5) On receipt of the statement under Sub-section (2) or ¹[Sub-section (3A)] ²[the Land Board shall transfer the statement to such Taluk Land Board as may be decided by the Land Board in accordance with such principles as may be prescribed and such Taluk Land Board shall]—

- (a) cause the particulars mentioned in the statement to be verified;
- (b) ascertain whether ¹[the person to whom] the statement relates, owns or holds any other lands; and
- (c) by order, determine the extent and identity of the land to be surrendered.

(6) In determining the identity of the land, the ³[Taluk Land Board] shall ⁴[x x x] accept the choice indicated under Sub-section (2) or ⁴[Sub-section (3A):]

¹[Provided that the ⁵[Taluk Land Board] shall not be bound to accept such choice if—

- (A) it has reason to believe that the person whose land is indicated to be surrendered has no good title to that land; or
- (B) the land indicated to be surrendered is not accessible; or
- (C) it considers for any other reason to be recorded in writing that it is not practicable to accept the choice or to take possession of the land:]

²[Provided further that] where in such determination the interest of other persons are also likely to be affected, the (Taluk Land Board shall, except in cases where all the persons interested have agreed to the choice indicated, afford an opportunity to such other persons to be heard and pass suitable orders regarding the land to be surrendered.

1. Substituted by Act 35 of 1969
2. Substituted by Act 17 of 1972
3. Substituted by Act 17 of 1972
4. Omitted by Act 25 of 1971
5. Inserted by Act 25 of 1971

¹[(6A) For the removal of doubts it is hereby declared that proceedings for the determination of the extent and other particulars of any land, the ownership or possession or both of which is or are to be surrendered by an adult unmarried person or a family, shall not abate on the death of that adult unmarried person or as the case may be, the sole surviving member of that family where it consists of only one person, or the member of that family who filed the statement under this Section or under Section 85A in the case of any other family, but shall be continued against the legal representatives of such adult unmarried person or sole surviving member or the remaining member or members of such family, as the case may be, and such legal representatives or remaining member or members shall be bound to surrender the same extent of land as such adult unmarried person or sole surviving member of such family would have been liable to surrender, if such adult unmarried person or sole surviving member or the person who filed such statement, as the case may be, were alive on the date of determination of the extent and other particulars of the land.]

(7) Where any person fails to file the statement specified under Sub-section (2) or ²[Sub-section (3A)] ²[the Land Board shall, intimate that fact to the Taluk Land Board and thereupon the Taluk Land Board shall] after necessary enquiries, by order, determine the extent and other particulars of the land, the ownership or possession or both of which is or are to be surrendered:

Provided that before such determination ³[the Taluk Land Board] shall give an opportunity to the persons interested in the land, to be heard.

(8) Where the ³[Taluk Land Board] determines the extent of the land to be surrendered by any person without hearing any person interested, such person may, within sixty days from the date of such determination, apply to the ³[Taluk Land Board] to set aside the order and, if he satisfies the ³[Taluk Land Board] that he was prevented by any sufficient cause from appearing before the ³[Taluk Land Board] it

1. Inserted by KLR (Amendment) Act 1981
2. Substituted by Act 35 of 1969
3. Substituted by Act 17 of 1972

shall set aside the order and shall proceed under Sub-section (5) or Sub-section (7), as the case may be.

¹[(9)The Taluk Board may, at any time, set aside its order under Sub-section (5) or Sub-section (7), as the case may be, and proceed afresh under that Sub-section if it is satisfied that—

- (a) the extent of lands surrendered by, or assumed from, a person under Section 86 is less than the extent of lands which he was liable to surrender under the provisions of this Act, or
- (b) the lands surrendered by, or assumed from, a person are not lawfully owned or held by him; or
- (c) in a case where a person is, according to such order, not liable to surrender any land, such person owns or holds lands in excess of the ceiling area.]

Provided that the Taluk Land Board shall not set aside any order under this Sub-section without giving the persons affected thereby an opportunity of being heard:

Provided further that the Taluk Land Board shall not initiate any proceedings under this Sub-section ²[after the expiry of seven years] from the date on which the order sought to be set aside has become final.]

³[**Explanation 1.**— For the removal of doubts, it is hereby clarified that the references in this Sub-section to the Taluk Land Board shall, in cases in which the order under Sub-section (5) or Sub-section (7) as been passed by the Land Board, be construed as references to the Land Board.]

Explanation 2.— For the purposes of this Section and Section 86, “hold” with reference to land shall include “possess land under mortgage with possession”.

1. Inserted by Act 25 of 1971

2. Substituted by KLR (Amendment) Act, 1989

3. Inserted by Act 13 of 1978

¹[(9A) Power of Taluk Land Board to review its decision- Notwithstanding anything contained in this Act or in the Lamination Act, 1963 (Central Act 36 of 1963), or in any other law for the time being in force or in any judgement, decree or order of any court or other authority, the Taluk Land Board may, if it is satisfied that its decision under Sub-section (5) or Sub-section (7) or subSection (9) requires to be reviewed on the ground that such decision has been made due to the failure to produce relevant data or other particulars relating to ownership or possession before it, or by collusion or fraud or any suppression of material facts the Taluk Land Board may review such decision after giving an opportunity to the parties of being heard and pass such orders as it may think fit:

Provided that the Taluk Land Board shall not reopen any such case after the expiry of three years from the date of coming into force of the Kerala Land Reforms (Amendment) Act 1989.]

²[(10) Any person who, by virtue of the provisions of Sub-section (1A) of Section 84, is entitled to the restoration of the ownership or possession or both of any land may, within sixty days from the commencement of the Kerala Land Reforms (Amendment) Act, 1979, apply to the Land Board or the Taluk Land Board, as the case may be, for such restoration.

(11) An application under Sub-section (10) shall be in such form, shall contain such particulars and shall be verified in such manner as may be prescribed.

(12) On receipt of an application under Sub-section (10), the Land Board or the Taluk Land Board, as the case may be, shall, after giving the applicant or any other person likely to be affected, an opportunity of being heard and after such inquiry as it deems necessary, by order, restore the ownership or possession, or both, as the case may be, of the land.]

1. Inserted by KLR (Amendment) Act 1989

2. Inserted by KLR (Amendment) Act 1979

COMMENTS

Wife is entitled to raise contentions with regard to exemptions under various heads.

[See State of Kerala v. Ambika 2001 (3) KLT SN 130]

Taluk Land Board has no power to reopen to proceeding in exercise of the powers vested in Section 85(a) and the High Court was in error as power of review cannot be construed to upset the judgments and decrees of competent courts.

[Vallapally Plantations Pvt. Ltd. v. State of Kerala 1999 (2) KLT 352 SC]

A declarant is not entitled to invoke the power of review vested in the Taluk Land Board under Section 85 (9A)

[State of Kerala v. Khalid 2000 (1) KLT 152]

Taluk Land Board has no power to reopen a Land ceiling case after 3 years from the date of coming into force of Kerala Land Reforms (Amendment) Act, 1989.

[Mary Michael v. Taluk Land Board 2001 (2) KLT 603]

Order for reopening - Basis for taking action under the section should be fresh materials and not the materials already on record.

[State of Kerala v. Sivasankaran Nair 2001 (3) KLT 408]

1[85A. Certain persons to file statements.— (1) Notwithstanding anything contained in this Chapter, every family consisting of more than one member, owning or holding more than twelve acres in extent of land, every adult unmarried person and every family consisting of a sole surviving member, owning or holding more than six acres in extent of land and every other person (other than a bank) owning or holding more than twelve acres in extent of land shall, within a period of ²[seventy five days] from the commencement of the Kerala Land Reforms (Amendment) Act, 1972, file a statement before the Land Board intimating the location, extent and such other particulars as may be prescribed, of all lands (including lands exempted under Section 81) owned or held by such family or person.

1. Inserted by Act 17 of 1972

2. Substituted by Act 11 of 1973

Explanation.— In this Sub-section "bank" means a scheduled bank as defined in the Reserve Bank of India Act, 1934, or a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, or the State Bank of India constituted under the State Bank of India Act, 1955 or a Subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959.

(2) The statement under Sub-section (1) shall be filed—

- (a) in the case of an adult unmarried person or the sole surviving member of a family, by such person;
- (b) in the case of a minor, lunatic, idiot or a person subject to like disability, by the guardian, manager or other person in charge of such person or of the property of such person;
- (c) in the case of a family, by the husband or in his absence by the wife, or, in the absence of both, by the guardian of the minor children;
- (d) in the case of any other person, by any person competent to act for such person in this behalf.

(3) On receipt of a statement under Sub-section (1), the Land Board shall transfer the statement to such Taluk Land Board as may be decided by the Land Board in accordance with such principles as may be prescribed.

86. Vesting of excess lands in Government.— ¹[(1) On the determination of the extent and other particulars of the lands, the ownership or possession or both of which is or are to be surrendered under Section 85, the ownership or possession or both, as the case may be of the land shall, subject to the provisions of this Act, vest in the Government free from all encumbrances and the Taluk Land Board shall issue an order accordingly.]

(2) On receipt of ¹[the order of the Taluk Land Board under Sub-section (1)] such person shall make the surrender demanded, in such manner as may be prescribed.

1. Substituted by Act 17 of 1972

(3) Where any person fails to make the surrender demanded, the ¹[Taluk Land Board] may authorise any officer to take possession or assume ownership of the land in such manner as may be prescribed.

¹[(4) Where the ownership of any land vests in the Government under Sub-section (1), the rights of the intermediary, if any, in respect of the land shall stand extinguished, and where possession of any land which was in the possession of a cultivating tenant vests in the Government under that Sub-section, the ownership of such land shall vest in the Government and the rights of the intermediary, if any, in respect of such land shall stand extinguished.]

²[(5) Notwithstanding anything contained in the forgoing provisions of this Act, where any land is indicated in the statement under Sub-section (2) of Section 85 as land proposed to be surrendered, the ¹[Taluk Land Board] may, pending determination under Sub-section (5) of Section 85 of the extent and identity of the land to be surrendered by the person who has filed the statement or on whose behalf the statement has been filed, take possession of such land if it is satisfied that such person is in possession of the land and has legal title to such possession and that the land is fit for surrender, and thereupon the provisions of Sub-section (4) shall, so far as may be, apply in respect of such land.]

³[(6) Nothing contained in this Chapter shall be deemed to affect the powers of the Government or any other authority or officer, conferred by or under the provisions of the Kerala Land Conservancy Act, 1957, in respect of unauthorised occupation of lands which are the property of the Government.]

87. Excess land obtained by gift, etc., to be surrendered.—⁴[(1) Where any person acquires any land after the date notified under Section 83 by gift, purchase, mortgage with possession, lease, surrender or any

1. Substituted by Act 17 of 1972
2. Inserted by Act 25 of 1971
3. Inerted by Act 17 of 1972
4. Substituted by Act 35 of 1969

other kind of transfer inter vivos or by bequest or inheritance or otherwise and in consequence thereof, the total extent of land owned or held by such person exceeds the ceiling area, such excess shall be surrendered to such authority as may be prescribed.

¹[**Explanation 1**].— Where any land is exempted by or under Section 81 and such exemption is in force on the date notified under Section 83, such land shall, with effect from the date on which it ceases to be exempted, be deemed to be land acquired after the date notified under Section 83.

¹[**Explanation II**].— Where, after the date notified under Section 83, any class of land specified in schedule II has been converted into any other class of land specified in that Schedule or any land exempt under Section 81 from the provisions of this Chapter is converted into any class of land not so exempt and in consequence thereof the total extent of land owned or held by a person exceeds the ceiling area, so much extent of land as is in excess of the ceiling area, shall be deemed to be land acquired after the said date.]

(1A) Any person referred to in Sub-section (1) shall file a statement containing the particulars specified in ²[Sub-section (1) of Section 85A] within a period of three months of the date of the acquisition.]

²[(2) The provisions of Sections 85 and 86 shall, so far as may be, apply to the vesting in the Government of the ownership or possession or both of the lands required to be surrendered under Sub-section (1).]

COMMENTS

Surrendering of excess land

[See State of Kerala v. S.G. Savotharna Prabhu 1999 (2) KLT 113(SC)]

88. Persons surrendering land entitled to compensation.— (1) Where ownership or possession or both of any land ³[x x x] is vested in the Government under Section 86 or Section 87, such person shall be

1. Inserted by KLR (Amendment) Act, 1981
2. Substituted by Act 17 of 1972
3. Omitted by Act 17 of 1972

entitled to compensation. Where the rights of an intermediary are extinguished, such intermediary shall also be entitled to compensation.

¹[(1A) Notwithstanding anything contained in Sub-section (1), no person shall be entitled to any compensation in respect of any land owned by the Government of Kerala and held by him under lease or otherwise.]

²[(2) The compensation payable to an owner for the ²[vesting in the Government] of ownership and possession of land shall be an amount calculated at the rates specified in Schedule IV.

(3) The compensation payable to the landowner, intermediary or cultivating tenant for the ³[x x x] vesting in the Government or extinguishment of his rights shall be the portion of an amount calculated at the rates specified in Schedule IV that will fall to his share if such amount were apportioned among the landowner, cultivating tenant and intermediary, if any, in respect of the land according to the following provisions:—

- (i) ninety percent of the portion of the compensation for the site of any homestead or hut in the occupation of a kudikidappukaran shall be deducted from the total amount of compensation;
- (ii) the balance remaining after deducting the amount referred to in clause (i) shall be apportioned among the landowner, the intermediaries and the cultivating tenant in proportion to the profits derivable by them from the land immediately before the surrender, assumption or vesting in the Government, as the case may be.

Explanation.—“Profits derivable from the land” shall be deemed to be equal to (i) in the case of a landowner, the rent which he was entitled to get immediately before the 1st day of January, 1970, from

1. Inserted by Act 17 of 1972
2. Substituted by Act 35 of 1969
3. Omitted by Act 17 of 1972

the tenant holding immediately under him; (ii) in the case of an intermediary, the difference between the rent which he was entitled to get immediately before the 1st day of January, 1970, from his tenant and the rent for which he was liable to his landlord immediately before that day; and (iii) in the case of a cultivating tenant, the difference between the net income and the rent which he was liable to pay immediately before the said day.

(3A) Notwithstanding anything contained in Sub-sections (2) and (3), where the compensation due under those Sub-sections to an adult unmarried person, family or any other person (other than a joint family), as owner, landowner, intermediary or cultivating tenant or in any two or more of such capacities exceeds one lakh rupees, the compensation payable shall be limited to the amount specified in the Table below:

TABLE
Scales of compensation

<i>Total amount of compensation</i>	<i>Rate</i>
On the first Rs. 1 lakh	100 per cent
On the next Rs. 50,000	50 per cent
On the balance amount	25 per cent:

Provided that the compensation payable shall in no case exceed Rs. 2 lakhs.

(4) ¹[Where the rights of a mortgagee in possession are vested in the Government] —

- (i) Where the ownership of the land mortgaged ¹[has vested in the Government] the mortgagee shall be treated as a holder of an encumbrance in respect of the land, and the encumbrance shall be discharged as provided in Sections 91 and 92;

1. Substituted by Act 17 of 1972

- (ii) in other cases, the Government shall pay to the mortgagee the amount to which he would have been entitled under clause (i) if the ownership of the land mortgaged¹ [had vested in] the Government, and hold the land as mortgagee with possession with all the rights and liabilities of the mortgagee.

²[(5) For the removal of doubts, it is hereby declared that the compensation payable under this Section in respect of a land shall be deemed to include the compensation for growing crops and improvements, if any, thereon and that no person shall be entitled to any amount other than the compensation payable under this Section for the vesting in the Government or extinguishment of his rights (including his rights in respect of growing crops and improvements if any) in respect of the land.]

89. Payment of advance towards compensation.— Pending the determination of the amount of compensation payable to any person under Section 88, it shall be competent for the Land Board to pay such amount as it considers proper to such person as part payment of the compensation on taking proper security, in case it is found that he is entitled to such amount. The amount so paid shall be deducted from the compensation payable to such person and the Land Board shall pay to him only the balance.

90. Preparation of compensation roll.— (1) As soon as may be after the ¹[Taluk Land Board] has determined the extent and particulars of any land the ownership or possession or both of which is or are to be surrendered, the ¹[Taluk Land Board] shall, forwarding the necessary documents, direct the Land Tribunal to prepare and submit to the Taluk Land Board a compensation roll showing —

- (a) the description of the land or the interests in the land surrendered or assumed;
- (b) the name and address of the person surrendering the same or from whom the same was assumed;

1. Substituted by Act 17 of 1972

2. Inerted by Act 17 of 1972

- (c) the names and addresses of the landowner, intermediary and the cultivating tenant and the amount of compensation payable to each;
- (d) the names of the holders of the encumbrances (including mortgagees who have surrendered possession of excess lands), maintenance or alimony and the value of the encumbrances or of the claims for maintenance or alimony; and
- (e) such other particulars as may be prescribed

¹[(2) On receipt of the direction under Sub-section (1), the Land Tribunal shall, after giving an opportunity to all persons interested to be heard and after making such enquiry as it considers necessary, prepare a draft compensation roll and furnish copies thereof to the persons interested, together with a notice inviting objections to the draft compensation roll within such period, not being less than thirty days from the date of the notice, as may be specified in the notice.]

(2A) The Land Tribunal shall also cause the draft compensation roll to be published in such manner as may be prescribed.]

(3) Where any land, the ownership or possession or both of which is or are surrendered to, or assumed by, the Government, forms part of the security for an encumbrance, maintenance or alimony, the Land Tribunal shall for the purpose of discharging the same apportion the entire encumbrance, maintenance or alimony between the land surrendered to, or assumed by, the Government and the portion of the security remaining, in proportion to the values of the two portions of the security.

¹[(4) After considering the objections, if any, received within the period specified in the notice under Sub-section (2), the Land Tribunal shall prepare a final compensation roll showing the particulars mentioned in Sub-section (1) and shall also pass an order recording his reasons for each entry in the final compensation roll and for accepting or rejecting the objections, if any, received in pursuance of the notice under Sub-section (2).]

1. Substituted by Act 35 of 1969

(5) A copy of the final compensation roll prepared under Sub-section (4) shall, after the order of the Land Tribunal under that Sub-section has become final, be forwarded to the Land Board by the Land Tribunal.]

91. Payment of compensation.— (1) On receipt of the compensation roll under Section 90, the Land Board shall pay the compensation to the persons entitled thereto, subject to the provisions of Sub-section (2).

(2) Where the land or the ownership or possession of land which has vested in the Government, is subject to any encumbrance, maintenance or alimony, the value of the encumbrance, maintenance or alimony shall be deducted from the compensation amount payable to the person liable for such encumbrance, maintenance, or alimony. If the total amount of such encumbrance, maintenance or alimony is more than the amount of compensation, the compensation amount shall be distributed to the holders of the encumbrance and the persons entitled to the maintenance or alimony in the order of priority.

(3) The Land Board shall also pay the mortgage amount payable to a mortgagee under clause (ii) of Sub-section (4) of Section 88.

[92. Payment of compensation and amount of encumbrance.— (1) The compensation or the amount of encumbrance, as the case may be, shall be paid—

- (a) where the person entitled to receive the compensation or the amount of encumbrance is not a private trust or endowment or a body corporate, the compensation or the amount of encumbrance shall be paid either in cash or in negotiable bonds redeemable after the expiry of sixteen years and carrying simple interest at the rate of four and a half per cent per annum with effect from the date on which the ownership or possession or both of the land has or have vested in the Government under Section 86 or Section 87 or partly in cash and partly in such bond, in such manner as may be prescribed;

- (b) where the person entitled to receive the compensation or the amount of encumbrance is a private trust or endowment or a body corporate, the compensation or the amount of encumbrance shall be paid in cash or in treasury certificate to be encashed after the expiry of sixteen years and carrying simple interest at the rate of four and a half per cent per annum with effect from the date on which the ownership or possession or both of the land has or have vested in the Government under Section 86 or Section 87 or partly in cash and partly in such treasury certificate, in such manner as may be prescribed.

(2) Where the person entitled to receive the compensation or the amount of encumbrance is a minor or a person suffering from some legal disability or a limited owner, the compensation or the amount of encumbrance, either in cash or in negotiable bond or partly in cash and partly in such bond as may be payable under Sub-section (1), shall, notwithstanding anything contained in any law, but subject to any general directions that the Government may give, be deposited for and on behalf of the person with such authority or bank as may be prescribed.

(3) Where a person entitled to the compensation or the amount of encumbrance under Sub-section (1) dies before it is paid to him, it shall be paid to his legal representatives:

Provided that if such person has, in accordance with the rules made in this behalf, nominated any member of his family to receive the amount, the same shall be paid to such nominee.

-Explanation.— For the purpose of the preceding proviso, member of family means wife or husband, son or daughter of such person.

(4) Where before any court or authority any suit or proceeding is pending which directly or indirectly affects or is likely to affect the right of any person to receive the whole or part of the compensation or the amount of encumbrance, the court or authority may require the Land Board to place at its disposal the amount so payable and

thereupon the same shall be disposed of in accordance with the orders of the court or authority.

93. Payment of compensation to be full discharge.— The payment of compensation in the manner specified in Section 92 shall be a full discharge of the liability for payment of compensation, and no further claim therefore shall lie.

94. ¹[x x x]

95. Application for assignment of land.— Any person who does not possess any land or possesses only less than ²[one acre] of land in extent may apply to the Land Board for assignment on registry of lands to him.

96. Assignment of lands by Land Board.— ³[(1) The Land Board shall assign on registry subject to such conditions and restrictions as may be prescribed, the lands vested in the Government under Section 86 or Section 87, as specified below:

- (i) the lands in which there are kudikidappukars shall be assigned to such kudikidappukars;
- (ii) the remaining lands shall be assigned to-
 - (a) landless agricultural labourers, and
 - (b) small-holders and other landlords who are not entitled to resume any land:

Provided that eighty-seven and a half per cent of the area of the lands referred to in clause (ii) available for assignment in a taluk shall be assigned to landless agricultural labourers of which one-half shall be assigned to landless agricultural labourers belonging to the ⁴[Scheduled Castes, the Scheduled Tribes and such other socially and economically backward classes of citizens as may be specified in this behalf, by the Government by notification in the Gazette.]

1. Omitted by Act 35 of 1969
 2. Substituted by Act 35 of 1969
 3. Substituted by Act 25 of 1971
 4. Substituted by Act 17 of 1972

¹[**Explanation 1.**— For the purposes of this Sub-section—

- (a) a kudikidappukaran or the tenant of a kudiyirippu shall be deemed to be a landless agricultural labourer if he does not possess any other land;
- (b) kudikidappukaran shall include a person who was a kudikidappukaran to whom a certificate of purchase has been issued under Sub-section (2) of Section 80C.]

(1 A) Notwithstanding anything contained in Sub-section (1), the Land Board may, if it considers that any land vested in the Government under Section 86 or Section 87 is required for any public purpose, reserve such land for such purpose.]

(2) The Land Board shall not assign to any person more than one acre in extent of land.

(3) Where a person possesses any land, only so much land as will make the extent of land in his possession ²[one acre] shall be assigned to him.

97. Payment of purchase price.— (1) The purchase price of the land assigned on registry under Section 96 shall be an amount ³[calculated at the rate specified in Schedule IV] and shall be payable either in lump or in sixteen equal annual instalments. The assignment shall be made on payment of the purchase price either in lump or the first instalment thereof.

(2) Where the purchase price is payable in instalments, the amount outstanding after payment of each instalment shall bear interest at the rate of 4½ per cent per annum.

(3) All amounts due from an assignee shall be a first charge on the land assigned and shall be recoverable as arrears of land revenue under the Revenue Recovery Act for the time being in force.

1. Substituted by Act 15 of 1976
 2. Substituted by Act 35 of 1969
 3. Substituted by Act 25 of 1971

98. Management of surrendered lands till assignment.— The Land Board shall, subject to such rules as may be made by the Government in this behalf, manage the lands vested in them until they are assigned under ¹[Section 96], by making arrangements for their cultivation and protection.

²**98A. Interpretation.**— For the purposes of this Chapter, the term “person” shall not include a co-operative society or an institution of a public nature for religious and charitable purposes established and maintained by a religious denomination or any Section thereof or the Board of Trustees for the Improvement of the City of Trivandrum constituted under Section 3 of the Trivandrum City Improvement Trust Act, 1960].

³**[Explanation.**— If any question arises as to whether an institution is an institution of a public nature for religious and charitable purposes maintained by a religious denomination or any Section thereof, the question shall be decided by the Government and such decision shall be final.]

CHAPTER IV

MISCELLANEOUS

⁴**99. Constitution of Land Tribunal.**— (1) The Government may, by notification in the Gazette, constitute one or more Land Tribunal or Land Tribunals for any area or for any class of cases specified in the notification, for the purpose of performing the functions of a Land Tribunal under this Act.

(2) The Land Tribunal shall consist of a sole member who shall be a judicial officer of the rank of a Munsiff or an officer not below the rank of a Tahsildar, appointed by the Government.]

1. Substituted by Act 25 of 1971

2. Inserted by Act 35 of 1969

3. Added by KLR (Amendment) Act, 1979

4. Substituted by Act 35 of 1969

¹**99A. Constitution of appellate authority.**— (1) The Government may, by notification in the Gazette, constitute as many appellate authorities as may be necessary for the purposes of this Act.

(2) The appellate authority shall consist of a sole member who shall be a judicial officer not below the rank of a Subordinate Judge ²[or an officer not below the rank of a Deputy Collector.]

(3) Each appellate authority shall have jurisdiction over such areas ²[or in such class of cases] as the Government may, by notification in the Gazette, from time to time determine.]

100. Constitution of Land Board.—(1) The Government shall constitute a Land Board for the whole State for performing the functions of the Land Board under this Act. The Board shall consist of a sole member, who shall be ³[a member of the Board of Revenue or an officer not below the rank of Secretary to Government, appointed by the Government] or of three members.

(2) Where the Board consists of three members, the members shall be—

- ³(i) a member of the Board of Revenue or an officer not below the rank of Secretary to Government, appointed by the Government, who shall be the Chairman;
- (ii) a judicial officer not below the rank of a District Judge nominated by the Government in consultation with the High court;
- (iii) an officer of the Government nominated by the Government.

(3) (a) The functions of the Board, where it consists of three members, may be exercised by a Bench consisting of all the members of the Board or by a Bench consisting of two members constituted by the Chairman or, in the event

1. Inserted by Act 35 of 1969

2. Inserted by Act 17 of 1972

3. Substituted by Act 35 of 1969

of the office of a member other than the Chairman being vacant, by a Bench consisting of the Chairman and the other member.

(b) Where any matter is heard by a Bench consisting of all the three members of the Board and the members differ in opinion on any point, the point shall be decided in accordance with the opinion of the majority.

(c) Where any matter is heard by a Bench consisting of two members and the members are divided in their opinion on any point, they shall state the point upon which they differ and the matter shall then be heard upon that point only by third member and such point shall be decided according to the opinion of the third member.

¹**1100A. Constitution of Taluk Land Boards.**— (1) The Government shall, by notification in the Gazette, constitute a Taluk Land Board for each taluk in the State for performing the functions of the Taluk Land Board under this Act.

(2) A Taluk Land Board shall consist of the following members, namely:—

- (a) an officer not below the rank of Deputy Collector appointed by the Government, who shall be the Chairman of the Board;
- (b) not more than six members nominated by the Government.

²[(2A) Notwithstanding anything contained in sub-Section (2), but subject to such rules as may be made by the Government in this behalf, the functions of the Taluk Land Board may be performed by the Chairman alone or by the Chairman and any one or more of the other members of the board.]

³[(2B)]The member or members present at any meeting of the Taluk Land Board may deal with any evidence or memorandum taken

1. Inserted by Act 17 of 1972

2. Inserted by Act 27 of 1974

3. Substituted by Act 15 of 1976

down or made in any case during any previous meeting or meetings of the Board as if such evidence or memorandum had been taken down or made [by him or them] and may proceed with that case from the stage at which it was left at the last previous meeting in which that case was dealt with by the Board.

(3) ²[Subject to the provisions of Sub-sections (2A) and (2B)] the procedure to be followed by the Taluk Land Board in performance of its functions under this Act shall be such as may be prescribed.

(4) A person shall be disqualified for being nominated as, or for being, a member of the Taluk Land Board if he is or has been convicted of an offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months unless a period of five years has elapsed from the date of expiry of the sentence.

(5) The term of office of the Taluk Land Board and the manner of filling casual vacancies among the non-official members of the Board shall be such as may be prescribed.

(6) Any member nominated to fill the vacancy in the office of a member shall hold office only so long as the member in whose vacancy he was nominated would have held office if the vacancy had not occurred.

²[(6A) Any member of the Taluk Land Board other than the Chairman shall cease to hold office if he absents himself from three consecutive meetings of the Board:

Provided that no meeting from which a member absented himself shall be counted against him under this Sub-section, if due notice of that meeting was not given to him.]

³[(6B) The members of the Taluk Land Board other than the Chairman shall be entitled to a sitting fee of ten rupees per day for attending the meetings of the Board:

1. Substituted of Act 15 of 1976

2. Inserted by Act 27 of 1974

3. Inserted by Act 15 of 1976

Provided that the Government may, by notification in the Gazette, and for reasons to be stated in such notification, fix such other amount as they deem fit, as sitting fee.]

(7) The Government may, at any time, for reasons to be recorded in writing, remove from office any member of the Taluk Land Board after giving him a reasonable opportunity of showing cause against the proposed removal:

[Provided that it shall not be necessary to record in writing the reasons for the removal or to give an opportunity of showing cause against the proposed removal, if the Government are of the opinion that it is not expedient, in the public interest, to record the reasons in writing or to give such opportunity.]

2[100B. Dissolution and reconstitution of Taluk Land Board.—(1) If the Government are of the opinion that a Taluk Land Board is not functioning satisfactorily or in accordance with the provisions of this Act, the Government may, by notification in the Gazette, dissolve the Board after giving it an opportunity of showing cause against the proposed dissolution.

(2) As soon as may be after the dissolution of a Taluk Land Board under Sub-section (1), the Government shall constitute a new Taluk Land Board in accordance with the provisions of Section 100A, and until such constitution, the Land Board shall exercise the powers and perform the functions of the Taluk Land Board.]

2[100C. Powers of the Taluk Land Board.—For the purpose of performing its functions under this Act, the Taluk Land Board shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure 1908, (Central Act 5 of 1908), in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;

1. Added by Act 15 of 1976

2. Inserted by Act 17 of 1972

- (c) receiving evidence on affidavit; and
- (d) any other matter which may be prescribed.

100D. Constitution of Land Reforms review Board.—(1) For the purpose of reviewing the progress of implementation of this Act, the Government may, by notification in the Gazette, constitute a Board to be called the Land Reforms Review Board which shall consist of—

- (a) the Minister of the State in charge of land reforms, who shall be the Chairman;
- (b) the member or members, as the case may be, of the Land Board; and
- (c) six non-official members nominated by the Government-

(2) The member of the Land Board where it consists of a sole member, or the Chairman of the Land Board where it consists of three members, shall be the convenor of the Land Reforms Review Board.

(3) The term of office of the non-official members of the Land Reforms Review Board shall be such as may be prescribed.

(4) Any vacancy in the office of a non-official member of the Land Reforms Review Board shall be filled by the Government.

(5) The procedure to be followed by the Land Reforms Review Board in the performance of its functions under this Act shall be such as may be prescribed.

100E. Powers of the Land Reforms Review Board.—For the purpose of performing its functions under this Act, the Land Reforms Review Board may—

- (a) call for returns from any authority or officer exercising any power or performing any function under this Act or the rules made thereunder;
- (b) lay down such guidelines as may be necessary for the speedy and effective implementation of this Act.]

101. Powers of the Land Board and the Land Tribunal.—(1) The Land Board and the Land Tribunal constituted under this Act shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavit;
- (d) issuing commissions for the examination of witnesses or for local investigation; and
- (e) any other matter which may be prescribed.

¹[(2) The Land Board shall have superintendence over all the ²[Land Tribunals, Appellate Authorities and the Taluk Land Boards] and the Land Board may—

- (a) call for returns from the ²[Land Tribunals, Appellate Authorities and the Taluk Land Boards];
- (b) make and issue general rules and prescribe forms for regulating the practice and proceedings of the ²[Land Tribunals, Appellate Authorities and the Taluk Land Boards];
- (c) prescribe forms in which books entries and accounts shall be kept by the ²[Land Tribunals, Appellate Authorities and the Taluk Land Boards]; and
- (d) on the application of any of the parties and after notice to the parties and after hearing such of them as desire to be heard, or of its own motion, without such notice, transfer any application, appeal or other proceeding pending before any Land Tribunal or Appellate Authority, to any other Land Tribunal or Appellate Authority, as the case may be, or retransfer the same for trial or dis-

posal to the Land Tribunal or the Appellate Authority, as the case may be, from which it was originally transferred.]

¹[(e) ²[on its own motion or] on the application of any of the parties and after notice to the parties and after hearing such of them as desire to be heard, transfer any proceeding pending before any Taluk Land Board to any other Taluk Land Board or retransfer the same for disposal to the Taluk Land Board from which it was originally transferred.]

(3) Where in any proceeding before the Land Tribunal a question arises whether a person is a small holder or not or whether a person is or is not a tenant ³[or whether the right, title and interest of the landowner and the intermediaries, if any, in respect of any holding, have or have not vested in the Government under Section 72,] it shall be competent for the Land Tribunal to decide the question.

⁴[(4) If any question arises as to whether any land is exempted under Section 81, the question shall be decided by the Land Board ¹[or the Taluk Land Board, as the case may be] in such manner and having regard to such matters as may be prescribed, and the decision of the Land Board ²[or the Taluk Land Board] shall be final.]

(5) If any question arises as to whether any land is principally used for the purposes specified in clause (5) of Section 2, the question shall be decided by the Land Board ¹[or the Taluk Land Board, as the case may be] after taking into account the extent of, the amount invested in, and the income from, the portion of the land so used and the remaining portion and other relevant matters, and the decision of the Land Board ¹[or the Taluk Land Board] shall be final.]

⁴[102. Appeal to Appellate Authority.—(1) The Government or any person aggrieved by any order of the Land Tribunal under Sub-section (2) of Section 12, Sub-section (3) of Section 13A, Section 22,

¹ Inserted by Act 17 of 1972

² Inserted by KLR (Amendment) Act, 1979

³ Inserted by Act 35 of 1969

⁴ Substituted by Act 35 of 1969

¹ Substituted by Act 35 of 1969

² Substituted by Act 17 of 1972

Section 23, Sub-section (2) of Section 26 (where the amount of arrears of rent claimed exceeds five hundred rupees) Section 31, Section 47, Sub-section (3) or Sub-section (4) of Section 48 Sub-section (3) of Section 49, Sub-section (6) of Section 52, Section 57, Sub-section (5) of Section 66, Section 72F, Section 73, [Sub-section (2) of Section 77], Section 80B, Sub-section (4) of Section 90, Section 106 or Section 106A may appeal against such order within such time as may be prescribed to the Appellate authority.

(2) The Appellate authority may admit an appeal presented after the expiration of the period prescribed under Sub-section (1) if it is satisfied that the appellant had sufficient cause for not presenting it within that period.

(3) In deciding appeals under Sub-section (1), the Appellate authority shall exercise all the powers which a court has and follow the same procedure which a court follows in deciding appeals against the decree of an original court under the Code of Civil Procedure, 1908.

(4) Where there has been any modification in appeal from any decision or order of the Land Tribunal, such decision or order shall be modified accordingly.]

103. Revision by High Court.—(1) Any person aggrieved by—

- (i) any final order passed in an appeal against the order of the Land Tribunal; or
- (ii) any final order passed by the Land Board under this Act²[or:]
- ²[(iii) any final order of the Taluk Land Board under this Act.]

may, within such time as may be prescribed, prefer a petition to the High Court against the order on the ground that the Appellate authority or the Land Board, or the Taluk Land Board, as the case may be, has either decided erroneously, or failed to decide, any question of law.

1. Inserted by Act 15 of 1976
2. Inserted by Act 13 of 1978

¹[(A) In any petition for revision preferred under Sub-section (1), the Government shall be made a party.]

²[(1B) The Government may within such time as may be prescribed, prefer a petition for revision to the High Court against any final order referred to in Sub-section (1), on any of the grounds mentioned in that Sub-section.]

(2) The High Court may, after giving an opportunity to the parties to be heard, pass such orders as it deems fit and the orders of the Appellate authority or the Land Board, [or the Taluk Land Board] as the case may be, shall, wherever necessary, be modified accordingly.

(3) The High Court may, for the purpose of satisfying itself that an order made by the Land Tribunal under Section 26 [in cases where the amount of arrears of rent claimed does not exceed five hundred rupees] was according to law, call for the records and pass such order with respect thereto as it thinks fit.

³[(4) The power of the High Court under this Section may be exercised by a Bench consisting of a Single Judge of the High Court.]

COMMENTS

Revision lies against the order of remand passed by the Appellate Authority to the Land Tribunal for fresh disposal.

[Mammuv. Hari Mohan 2001 (1) KLT 835 (SC)]

The High Court had still powers under Article 227 of the Constitution of India to quash the orders passed by the tribunals if the findings of fact had been arrived at by non-consideration of the relevant and material documents the consideration of which could have led to an opposite conclusion.

[Baby v. Travancore Devaswom Board 1999 (1) KLT SN 1 (SC)]

Scope of interference in revision under Section 103.

[See Mammuv. Hari Mohan 2000 (1) KLT 835 (SC)]

1. Substituted by Act 17 of 1972
2. Inserted by Act 17 of 1972
3. Inserted by Act 35 of 1969

104. Proceedings by or against joint families, etc.— (1) Where, in any proceeding under this Act, a joint family is a party, it shall be sufficient to implead the manager, karanavan or yajaman and the senior most male member of such family and, in the case of a Marumakkathayam or Aliyasanthana family, also the karanavan or yajaman of each tavazhi or kavaru, but any other member of the family shall have the right to get himself impleaded as a party.

(2) Where any such proceeding relates to any property or part thereof under the management of a receiver appointed by a court, it shall be sufficient to implead the receiver as party to the proceeding [and notwithstanding anything contained in any other law, it shall not be necessary to obtain the permission of the court which appointed the receiver for so impleading him.]

¹[(3) The provisions of this Section, shall have effect notwithstanding anything to the contrary contained in any other provision of this Act.]

¹[**104A. Applications relating to holdings situate within the jurisdiction of more than one Land Tribunal.**— An application to be filed before a Land Tribunal under this Act relating to a holding situate within the jurisdiction of more than one Land Tribunal may be filed before any one of such Land Tribunals, and the Land Tribunal before which the application is filed shall be competent to dispose of the application under the provisions of this Act as if the whole of the holding were situate within its jurisdiction.

105. Authorised officer empowered to obtain information from persons.— (1) For the purpose of carrying into effect the provisions of this Act, any officer, not below the rank of a ²[Revenue Inspector] authorised by the Government in this behalf (hereinafter in this Section referred to as the authorised officer) may, by notice, require any person to furnish any information relating to the extent of land held by such person, the numbers of the members of the family, if any, of such person and such other particulars as may be prescribed. The

1. Inserted by Act 35 of 1969
2. Substituted by Act 35 of 1969

person aforesaid shall furnish the information to such officer within such time as may be specified in the notice or within such further time not exceeding thirty days as the authorised officer may, in his discretion, allow.

- (2) (a) Where any person on whom notice under subSection (1) has been served fails to furnish the information within the time specified in that notice or within the further time allowed by the authorised officer under Sub-section (1), the authorised officer may obtain, in such manner as may be prescribed, the necessary information either by himself or through such agency as he thinks fit.
- (b) The authorised officer shall, as soon as may be after obtaining the information under clause (a), give to the person concerned a reasonable opportunity of making his representation and of adducing evidence, if any, in respect of such information and consider any such representation and evidence and pass such orders as he deems fit.

¹[**105A. Appointment of officers for certain purposes.**— (1) The Government may appoint any officer not below the rank of a Revenue Inspector for bringing to the notice of the Land Tribunal or the Land Board ²[or the Taluk Land Board] any fact or information required by the Land Tribunal or the Land Board, ²[or the Taluk Land Board] as the case may be, or for moving the Land Tribunal or the Land Board ²[or the Taluk Land Board] to take any action necessary for the implementation of the provisions of this Act.

(2) The Land Tribunal or the Land Board ²[or the Taluk Land Board] may depute any officer appointed under Sub-section (1) to make local enquiry, investigation or inspection and to collect any data, and the report and the records submitted by such officer may be used without examining him as evidence in the proceedings before the Land Tribunal or the Land Board ²[or the Taluk Land Board.]

1. Inserted by Act 35 of 1969
2. Inserted by Act 17 of 1972

(3) The Land Tribunal or the Land Board [or the Taluk Land Board] may, if it thinks fit, summon and examine any officer referred to in Sub-section (2).]

106. Special provisions relating to leases for commercial or industrial purposes.—²[(1) Notwithstanding anything contained in this Act, or in any other law, or in any contract, or in any order or decree of court, where on any land leased for commercial or industrial purposes, the lessee has constructed buildings for such commercial or industrial purpose before the 20th May, 1967, he shall not be liable to be evicted from such land, but shall be liable to pay rent under the contract of tenancy, and such rent shall be liable to be varied every twelve years.

Explanation.—For the purposes of this Section-

- (a) "lessee" includes a legal representative or an assignee of the lessee; and
- (b) "building" means a permanent or a temporary building and includes a shed.

(1A) The lessor or the lessee may apply to such authority as may be prescribed for varying the rent referred to in Sub-section (1), and thereupon such authority may, after taking into consideration such matters as may be prescribed and after giving the lessor and the lessee an opportunity of being heard, pass such orders on the application as it deems fit.

(2) If, between the 18th December, 1957 and the date of commencement of this Act, any decree or order of court has been executed and any person dispossessed by delivery, such person shall, on application before the Land Tribunal, be entitled to restoration of possession:

Provided that, before restoration, such person shall be liable to pay—

1. Inserted by Act 17 of 1972
2. Substituted by Act 35 of 1969

(i) the compensation paid by the landlord for any improvements in the land and subsisting at the time of restoration;

(ii) the compensation for any improvements effected subsequent to the delivery:

Provided further that he shall not be entitled to restoration if the property has passed on to the possession of a *bonafide* transferee for value.

¹[(3) Nothing contained in Sub-section (1), Sub-section (1A) and Sub-section (2) shall apply to lands owned or held by the Government of Kerala or a local authority.]

²[**Explanation.**—For the purposes of this Sub-section, "local authority" includes the Cochin Port Trust and any University established by an Act of the Kerala State Legislature.]

COMMENTS

Lease for commercial or industrial purposes.

[See Abdul Haji v. Abdurahiman 2003 (3) KLT SN 160]

Protection against eviction-

[See Chandy Varghese v. Abdul Khader 2003 (3) KLT 553 (SC)]

If it is found that it is on the basis of a new lease arrangement that a person is holding property and that there is no continuation of the earlier lease, then he is not entitled to the benefit of fixity of tenure.

[Sulalika Beevi v. Mathew 2001 (1) KLT 360]

Tenant claiming benefit under Section 106 - If such an issue arises from the pleadings, civil court is bound to refer the same to the Land Tribunal.

[Aleykutty Joseph v. Thomman Varkey 1999 (2) KLT 290]

1. Inserted by Act 35 of 1969
2. Added by Act 17 of 1972

¹[106A. *Special provisions relating to buildings used by kudikidappukars for commercial or industrial purposes.*— (1) Notwithstanding anything contained in this Act, or in any other law, or in any contract, or in any decree or order of court, wherein any land in which a kudikidappu is situate, the kudikidappukaran has constructed a building for any commercial or industrial purpose before the 20th May, 1967, and such kudikidappukaran was carrying on any trade, business or industry in such building without interruption from the date of construction of the building till the 1st July, 1969, he shall have the right, subject to the provisions of Sub-section (2), to carry on such trade, business or industry in such building without interference by the person in lawful possession of the land in which the building is situate.

(2) The kudikidappukaran shall be liable to pay rent as specified below for the use and occupation of the building to the person in lawful possession of the land in which the building is situate:—

- (a) if the kudikidappukaran was liable to pay any rent for the use and occupation of the building before the commencement of the Kerala Land Reforms (Amendment) Act, 1969, such rent;
- (b) in other cases, such rent as may be determined by the Land Tribunal having regard to such matters as may be prescribed.

(3) Nothing contained in Sub-sections (1) and (2) shall apply to buildings constructed on lands owned or held by the Government of Kerala or a local authority.

Explanation.— For the purpose of this Section, “building” means a permanent or a temporary building and includes a shed.]

²[106B. *Special provision for issue of Certificate of title.*— (1) Notwithstanding anything to the contrary contained in any other provision of this Act or in any other law for the time being in force, a

1. Inserted by Act 35 of 1969

2. Inserted by KLR (Second Amendment) Bill, 2004

person claiming to be a deemed tenant under Section 7E may apply, within such time and in such manner as may be prescribed, to the Land Tribunal having jurisdiction over the area, for a certificate of title in respect of the land held by him.

(2) On receipt of an application under Sub-section (1) the Land Tribunal shall, within a period of six months from the date of application pass orders thereon after verifying the records as it may deem fit and when the application is allowed, issue a certificate of title in such manner as may be prescribed.]

107. Costs.— (1) Subject to the provisions of this Act, the costs of and incident to all proceedings before the Land Tribunal ¹[or the Appellate authority] shall be in its discretion and it shall have full power to determine by whom or out of what property and to what extent such costs are to be paid and to give all necessary directions for the purposes aforesaid. The fact that any proceeding before the Land Tribunal ¹[or the Appellate authority] is without jurisdiction shall be no bar to the exercise of such powers.

²[(2) An order passed by the Land Tribunal or the Appellate authority in exercise of the powers vested in it under Sub-section (1) may be executed by it in such manner as may be prescribed.]

108. Application of the provisions of Section 5 of the Indian Limitation Act.— Unless otherwise specifically provided in this Act, the provisions of Section 5 of the Indian Limitation Act, 1908, shall apply to all proceedings under this Act.

³[108A. *Section 11 of Code of Civil Procedure to apply to proceedings before Land Tribunal.*— The provisions of Section 11 of the Code of Civil Procedure, 1908 (Central Act 5 of 1908), shall, so far as may be, apply to proceedings, before the Land Tribunal.]

1. Inserted by Act 35 of 1969

2. Substituted by Act 35 of 1969

3. Inserted by KLR (Amendment) Act, 1979

¹[109. *Constitution of Agriculturist Rehabilitation Fund and Kudikidappukars Benefit Fund.*—(1) A fund of not less than two hundred lakhs rupees called the Agriculturist Rehabilitation Fund and another fund of not less than one hundred lakhs rupees called the Kudikidappukars Benefit Fund may be constituted by the Government to be administered by the Revenue Department in such manner as may be prescribed.

(2) The funds referred to in Sub-section (1) shall consist of grants or loans by or from the State Government and other moneys, if any, received by the Government from any person or raised by the Government in accordance with the rules made by the Government in this behalf.

(3) The Agriculturist Rehabilitation Fund shall be utilised for payment of solatium to small holders under Section 109A and for rendering help by way of loan, grant or otherwise to persons affected by this Act who are eligible for the same in accordance with the rules made by the Government.

(4) The Kudikidappukars Benefit Fund shall be utilised—

- (a) for meeting twelve and half per cent of the ²[amount of compensation payable for acquisitions] as provided in Sub-section (3E) of Section 75;
- (b) for meeting ³[x x x] the purchase price payable by the kudikidappukars, as provided in Sub-section (8) of Section 80A; and

⁴[(c) for providing better facilities to —

- (i) the kudikidappukars: and
- (ii) persons who were kudikidappukars to whom certificates of purchase have been issued under Sub-section (2) of Section 80C.

1. Substituted by Act 35 of 1969
 2. Substituted by Act 25 of 1971
 3. Omitted by KLR (Amendment) Act, 1989
 4. Substituted by Act 15 of 1976

in accordance with such rules as may be made by the Government in this behalf.

Provided that a person to whom a certificate of purchase has been issued under the said Sub-section or his successor-in-interest shall not be entitled to any benefit under this clause after the expiry of a period of twenty years from the date on which the right, title and interest in respect of the land allowed to be purchased by such person have vested in him under the said Sub-section.]

¹[109A. *Solatium to small holders.*—(1) The Land Board shall pay to every small holder whose right, title and interest, either as landowner or as intermediary or as both, in respect of lands held by cultivating tenants have vested in the Government under Section 72, a solatium equal to the amount of the compensation payable to him in consideration of such vesting, after deducting the value of encumbrances and claims for maintenance or alimony, if any:

Provided that the solatium payable to a small holder shall, in no case, exceed ²{one thousand five hundred rupees}:

Provided further that no small holder shall be entitled to such solatium if—

- (a) such compensation exceeds ²{five thousand rupees}; or
- (b) he is assessed to sales tax on a turnover which in the aggregate is not less than thirty thousand rupees in any two years within the three years immediately preceding the financial year in which the notification under Section 72 is issued, under the Kerala General Sales Tax Act, 1963 or the Central Sales Tax Act, 1956 or the law of any other State relating to sales tax; or

(c) he is assessed to income-tax under the Income-tax Act, 1961, in any two years within the three years referred to in clause (b)

Explanation.— For the purposes of this Section, a person shall not be deemed to be a small holder if any of his predecessors-in-

1. Inserted by Act 35 of 1969
 2. Substituted by KLR (Amendment) Act, 1981

interest was in possession of, or had interest in, land exceeding the limits specified in clause(52) of Section 2 immediately before the 18th December, 1957, provided that nothing in this Explanation shall apply in the case of a person who would have been a small holder immediately before the 18th December, 1957, if this Act had been in force immediately before that date.

(2) Any person entitled to the solatium under Sub-section (1) shall apply to the Land Board within such time as may be prescribed.

(3) An application under Sub-section (2) shall be in such form and shall contain such particulars as may be prescribed.

(4) On receipt of an application under Sub-section (2), the Land Board shall, after making such enquiry as may be prescribed, pay the solatium in cash.

(5) Where a person entitled to the solatium dies before it is paid to him, it shall be paid to his legal representatives.

110. Special provisions for applications of the Act.— (1) If any difficulty arises in the application of the provisions of this Act to any area on account of local variations or difference in nomenclature between the tenures prevailing in that area (by whatever name such tenures may be known) and the corresponding tenures prevailing in the remaining part, of the State, the Government may, subject to the provisions of Sub-section (2), by notification in the Gazette, direct that the said provisions shall apply to the aforesaid area subject to such adaptations, exceptions and modifications as may be specified in this behalf in such notification.

(2) A draft of the notification proposed to be issued under Sub-section (1) shall be laid before the Legislative Assembly for a period of ten days, and the Legislative Assembly may approve the draft with or without modification or disapprove the draft during the period in which it is so laid. On approval of the draft by the Legislative Assembly, the Government shall publish the notification as approved, in the Gazette. If the Legislative Assembly does not—

- (i) approve with or without modification; or
- (ii) disapprove;

the said draft during the period aforesaid, it shall be lawful for the Government to publish the notification in the Gazette in terms of the draft.

111. Rent under certain contracts of tenancy not to be affected.— Notwithstanding anything contained in Sub-section (2) of Section 5 of the Cochin Verumpattamdars Act, VIII of 1118, the pattam payable by a verumpattamdar, to whom the provisions of the said Sub-section applied, for the period subsequent to the 1st day of Chingom, 1124, till the date of commencement of this Act, shall only be the amount payable immediately before the commencement of the said Verumpattamdars Act, whether or not such contract was renewed after such commencement.

111A. Mortgage money not to be returned in certain cases.— Notwithstanding anything contained in any law for the time being in force, or in any contract, or in any judgement, decree or order of court, where a mortgagee or any person claiming under him is entitled to fixity of tenure under any provision of this Act, the mortgagor shall not be liable to return the mortgage money or any portion thereof to such mortgagee or person.]

112. Apportionments of land value in cases of acquisition.— (1) Where any land is acquired under the law for the time being in force providing for the compulsory acquisition of land for public purposes, the compensation awarded under such law in respect of the land acquired shall be apportioned among the landowner, intermediaries, cultivating tenant and the kudikidappukaran in the manner specified in this Section.

(2) The compensation for any building or other improvements shall be awarded to the person entitled to such building or other improvements.

1. Inserted by Act 35 of 1969

2. Substituted by Act 35 of 1969

(3) The kudikidappukaran shall be entitled to the value of the land occupied by his homestead or hut subject to a minimum of—

- (a) three cents in a city or major municipality; or
- (b) five cents in any other municipality; or
- (c) ten cents in a panchayat area or township.

(4) The difference between the value of three cents or five cents or ten cents, as the case may be, and the value of the extent of the land occupied by the homestead or hut shall, notwithstanding anything contained in the Kerala Land Acquisition Act, 1961, be borne by the Government or the local authority or the company or other person on whose behalf the land is acquired.

(5) The balance remaining after deducting the compensation referred to in Sub-section (2) and the value of the land occupied by the homestead or hut shall be apportioned among the landowner, the intermediaries and the cultivating tenant in proportion to the profits derivable by them from the land acquired immediately before such acquisition.

Explanation.— “Profits derivable from the land” shall be deemed to be equal to (i) in the case of a landowner, the rent which he was entitled to get from the tenant holding immediately under him; (ii) in the case of an intermediary, the difference between the rent which he was entitled to get from his tenant and the rent for which he was liable to his landlord; and (iii) in the case of a cultivating tenant, the difference between the net income and the rent payable by him; and the rent payable by the cultivating tenant and the intermediary for the purposes of this *Explanation* shall be as calculated under the provisions of this Act.

¹[(5A) Notwithstanding anything contained in Sub-sections (2) and (5), where there the right, title and interest of the landowner and the intermediaries in respect of the land acquired have vested in the Government under Section 72,—

1. Inserted by Act 25 of 1971

- (a) the compensation for any building or other improvements belonging to such landowner and intermediaries shall be awarded to the Government; and
- (b) the balance remaining after deducting the compensation referred to in clause (a) and the value of the land occupied by the homestead or hut, if any, shall be apportioned between the cultivating tenant and the Government in proportion to the profits derivable by them from the land.

Explanation.— “Profits derivable from the land” shall be deemed to be equal to—

- (i) in the case of the cultivating tenant, the difference between the net income immediately before the acquisition and the rent which he was liable to pay immediately before the date on which the right, title and interest of the landowner and the intermediaries have vested in the Government; and
- (ii) in the case of the Government, such rent.]

¹[x x x]

²[(7) In this Section, “homestead” includes a dwelling house occupied by a person who is deemed to be a kudikidappukaran under Explanation IIA to clause (25) of Section 2.]

113. Prices published under Section 43 to be deemed to be market rates.— If, for the purposes of this Act, the price of any commodity referred to in Section 43 has to be commuted into money at the market rate for any date, such commutation shall be made at the price of that commodity published by the District Collector under the said Section for the relevant quarter.

114. Amendments to certain enactments.— (1) Sections 7 and 9 of the Devaswom Verumpattamdars (Settlement) Proclamation, XXIII of 1118, shall be omitted.

1. Omitted by Act 16 of 1979

2. Inserted by Act 17 of 1972

¹[(2) In Section 113 of the Travancore-Cochin Hindu Religious Institutions Act, 1950, Sub-section (2) shall be omitted.]

(3) ²[x x x]

³[(4) In Section 2 of the Kerala Land Relinquishment Act, 1958, in clause (d), the words, brackets and figures "as amended by the Kerala Land Reforms (Amendment) Act, 1969" shall be inserted at the end.

(5) In the Kerala Prevention of Eviction Act, 1966,—

- (i) in clause (a) of Section 2, the words, brackets and figures "as amended by the Kerala Land Reforms (Amendment) Act, 1969" shall be inserted at the end;
- (ii) for Section 8 the following Section shall be substituted, namely:

"8. *Stay of suits or other proceedings for eviction.*— Where in any suit or other proceeding for the eviction of a cultivating tenant, a holder of a kudiyruppu or a kudikidappukaran from his holding, kudiyruppu or kudikidappu, as the case may be, whether pending at the commencement of this Act or instituted after such commencement, the cultivating tenant or the holder of the kudiyruppu or the kudikidappukaran makes a representation to the court or the Land Tribunal in which such suit or other proceeding is pending or instituted that no record of rights in respect of the holding or register of kudikidappukars in respect of the area in which that kudikidappu is situate, as the case may be, has been prepared, and made available to it and the court or the Land Tribunal shall not proceed with the suit or proceeding until the record of rights in respect of the holding or the land in which the kudikidappu is situate, as the case may be, is prepared, and made available to it and the court or the Land Tribunal shall also, by order, direct the Tahsildar of the Taluk in which the holding or the kudikidappu is situate to prepare a record of rights in respect of the holding or, as the case may be, the land in which the

1. Substituted by Act 35 of 1969

2. Omitted by Act 16 of 1976

3. Inserted by Act 35 of 1969

kudikidappu is situate and to file the same in the court or the Land Tribunal and the Tahsildar shall cause the same to be prepared in the manner prescribed under the Kerala Land Reforms Act, 1963:

Provided that where the area in which the holding or kudikidappu is situate has been notified by the Government under Sub-section (1) of Section 3 of the Kerala Record of Rights Act, 1968, the court or the Land Tribunal shall direct the prescribed officer under that Act instead of the Tahsildar to prepare a record of rights in respect of the holding or, as the case may be, the land in which the kudikidappu is situate, in accordance with the provisions of the said Act and to file the same in the court or the Land Tribunal"

(6) In Section 2 of the Kerala Record of Rights Act, 1968, for clause (a), the following clause shall be substituted, namely.—

- (a) the expression "kudikidappukaran" shall have the meaning assigned to it in the Kerala Land Reforms Act, 1963, as amended by the Kerala Land Reforms (Amendment) Act, 1969;]

115. Appearance before Land Tribunal¹[or Appellate Authority] or Land Board²[or Taluk Land Board].— (1) Any appearance, application or act in or to any Land Tribunal¹[or Appellate authority] or the Land Board²[or Taluk Land Board] required or authorised by law to be made or done by a party in such Land Tribunal¹[or Appellate authority] or the Land Board²[or Taluk Land Board,] may be made or done by the party in person or by his recognised agent or by a pleader appearing, applying or acting, as the case may be, on his behalf:

Provided that any such appearance shall, if the Land Tribunal¹[or Appellate authority] or Land Board²[or Taluk Land Board] so directs, be made by the party in person.

(2) The recognised agents of parties by whom such appearance, application and act may be made or done are persons holding powers of attorney authorising them to make and do such appearance, application and act on behalf of such parties.

1. Inserted by Act 35 of 1969

2. Inserted by Act 17 of 1972

116. Court fees.— Notwithstanding anything contained in the Kerala Court Fees and Suits Valuation Act, 1959, every application or appeal made under this Act ¹[x x x] shall bear court fee stamp of such value as may be prescribed.

117. Members of ²[Land Board, ³[Taluk Land Board], Appellate authority] and Land Tribunal to be deemed public servants.—The members of the ²[Land Board, ³[Taluk Land Board], Appellate authority] and the Land Tribunal and any officer appointed under this Act shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code.

²[117A. Penalty for disturbance of customary, easement, and other rights of kudikidappukars.— Any person who in any manner wilfully disturbs or interferes with the customary, easement or other rights to which a kudikidappukaran is entitled under Sub-section (1) or Sub-section (2) of Section 79A shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.]

118. Penalty for failure to furnish return.— (1) If any person who is under an obligation to furnish a return or information under this Act refuses or wilfully fails to furnish the return or information within the time specified for the purpose, he shall be punishable with fine which may extend to two hundred rupees.

(2) If any person who, after having been convicted under Sub-section (1), continues to refuse or to wilfully fail to furnish the return or information, he shall be punishable with fine which may extend to fifty rupees for each day after the previous date of conviction during which he continued so to offend.

1. Omitted by Act 35 of 1969
2. Substituted by Act 35 of 1969
3. Inserted by Act 17 of 1972

¹[118A. Penalty for failure to furnish statement under Section 85A.— (1) If any person bound to file a statement under Section 85A does not file the statement within the time specified in that Section, he shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

(2) If any person who, after having been convicted under Sub-section (1), continues to fail to file the statement referred to in that Sub-section, he shall be punishable with fine which may extend to two hundred rupees for each day after the previous date of conviction during which he continued so to offend.]

119. Penalty for furnishing false returns or information.— If any person who is under an obligation to furnish any return or information furnishes any return or information which he knows or has reasons to believe to be false, he shall be punishable with fine which may extend to one thousand rupees.

120. Penalty for making false declaration.— ²[(1) After the commencement of the Kerala Land Reforms (Amendment) Act, 1969, no document relating to any transfer of land shall be received for registration under the Indian Registration Act, 1908, unless the transferor and the transferee make separate declarations in writing (in duplicate) in such form as may be prescribed as to the total extent of land held by him.

(1A) The registering officer shall forward a copy of the declarations made under Sub-section (1) to the officer authorised by the Government in this behalf for such action as may be necessary].

(2) If any person makes any declaration before the registering officer under Sub-section (1), which he knows or has reason to believe to be false, he shall be punishable with fine not exceeding one thousand rupees.

1. Inserted by Act 17 of 1972
2. Substituted by Act 35 of 1969

1120A. Registering officer not to register in certain cases.—Notwithstanding anything contained in the Registration Act, 1908 (Central Act 16 of 1908), where the District Collector or any other officer authorised by the Government in this behalf informs the registering officer in writing that there are reasonable grounds to believe that any document relating to transfer of land which may be presented before him for registration is intended to defeat the provisions of this Act, such registering officer shall not register such document until the District Collector or the officer so authorised, as the case may be, informs the registering officer that the transfer is not intended to defeat the provisions of this Act.]

121. Penalty for contravention of any lawful order.—If any person wilfully contravenes any lawful order passed under this Act or obstructs any person from lawfully taking possession of any land under any of the provisions of this Act, he shall be punishable with fine which may extend to five hundred rupees.

122. Penalty for cutting trees or for removing machinery, etc.—If any person cuts or causes to be cut trees on any land indicated under Sub-section (2) of Section 85, as land to be surrendered or removes or causes to be removed any building, machinery, plant or apparatus constructed, erected or fixed on any such land and used for agricultural purposes, or does or causes to be done any act likely to diminish the utility of any such land, he shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees, or with both.

122A. Offences by companies.—(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:—]

1. Inserted by Act 17 of 1972
2. Substituted by Act 35 of 1969

Provided that nothing contained in this Sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in Sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this Section—

- (a) "company" means any body corporate and includes a firm or other association of individuals; and
- (b) "director" in relation to a firm, means a partner in the firm

123. Cognizance of offences.—(1) No court shall take cognizance of any offence punishable under this Act, except on complaint in writing made by an officer authorised by the Government in this behalf:—

¹Provided that an offence under Section 117A shall, notwithstanding anything contained in the ²[Code of Criminal Procedure, 1898 (Central Act 2 of 1974), be cognizable.]

(2) No court inferior to that of ³[a Judicial Magistrate of the first class] shall try any offence punishable under this Act.

123A. Cognizance of offences under Section 118A.—(1) Notwithstanding anything contained in Section 123, or in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), an offence punishable under Section 118A shall be tried by the Taluk Land Board of the taluk in which the person bound to file the statement under Section 85A ordinarily resides.

1. Added by Act 35 of 1969
2. Substituted by Act 15 of 1976
3. Inserted by Act 17 of 1972

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), every member of a Taluk Land Board shall, for the purposes of Sub-section (1), be deemed to be a Judicial Magistrate of the first class.

(3) Subject to such rules as may be made by the Government under Sub-section (5), the Taluk Land Board shall, in trying an offence punishable under Section 118A follow the procedure prescribed by the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), for the trial of summons cases by Judicial Magistrates.

(4) The Taluk Land Board shall not take cognizance of any offence punishable under Section 118A, except on complaint in writing made by an officer authorised by the Government in this behalf.

(5) For the trial of offences punishable under Section 118A by the Taluk Land Board, the Government may make rules in respect of the following matters, namely:—

- (a) the constitution of benches consisting of two or more members of the Taluk Land Board;
- (b) the times and places of sitting; and
- (c) the mode of setting differences of opinion which may arise between the members of the bench so constituted.

(6) For the removal of doubts it is hereby declared that, notwithstanding anything contained in Section 100A, a Taluk Land Board or any member of a Taluk Land Board shall not take cognizance of, or try, any offence punishable under Section 118A except in accordance with the provisions of this Section and the rules made thereunder.]

124. Protection of action taken under Act.— No suit, prosecution or other legal proceedings shall lie against any officer for anything in good faith done or intended to be done under this Act or the rules made thereunder.

125. Bar of jurisdiction of civil courts.— (1) No civil court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under this Act required to be settled, decided or dealt with or to be determined by the Land Tribunal or the Appellate authority or the Land Board ²[or Taluk Land Board] or the Government or an officer of the Government:

Provided that nothing contained in this Sub-section shall apply to proceedings pending in any court at the commencement of the Kerala Land Reforms (Amendment) Act, 1969.

(2) No order of the Land Tribunal or the Appellate authority or the Land Board ²[or the Taluk Land Board] or the Government or an officer of the Government made under this Act shall be questioned in any civil court, except as provided in this Act.

(3) If in any suit or other proceedings any question regarding rights of a tenant or of a kudikidappukaran (including a question as to whether a person is a tenant or a kudikidappukaran) arises, the civil court shall stay the suit or other proceeding and refer such question to the Land Tribunal having jurisdiction over the area in which the land or part thereof is situate together with the relevant records for the decision of that question only.

(4) The Land Tribunal shall decide the question referred to it under Sub-section (3) and return the records together with its decision to the civil court.

(5) The civil court shall then proceed to decide the suit or other proceedings accepting the decision of the Land Tribunal on the question referred to it.

(6) The decision of the Land Tribunal on the question referred to it shall, for the purposes of appeal, be deemed to be part of the finding of the civil court.

1. Substituted by Act 35 of 1969

2. Inserted by Act 17 of 1972

(7) No civil court shall have power to grant injunction in any suit or other proceedings referred to in Sub-section (3) restraining any person from entering into or occupying or cultivating any land or kudikidappu or to appoint a receiver for any property in respect of which a question referred to in that Sub-section has arisen, till such question is decided by the Land Tribunal., and any such injunction granted or appointment made before the commencement of the Kerala Land Reforms (Amendment) Act, 1969, or before such question has arisen, shall stand cancelled.]

1[(8) In this Section, "civil court" shall include a Rent Control Court as defined in the Kerala Buildings (Lease and Rent Control) Act, 1965.]

COMMENTS

The finding of the Land Tribunal on the claim of tenancy over land - in- suit is entitled to great weight being a subject matter in its exclusive jurisdiction. It has binding effect on the civil court. It can be held liable to be upset only on strong and cogent grounds.

[Chandy Varghese v. Abdul Khader 2003 (3) KLT 553 (SC)]

Suit for redemption of mortgage pending on 1-1-1970. The question of tenancy is to be decided by the civil court and not by Land Tribunal.

[Kamalakshi Amma Thankamma v. Sicily Joseph 1999 (1) KLT 373]

There is no obligation for the civil court to make a reference if the question of tenancy does not legally arise before it.

[S.K. Nathan v. Guruvayoor Devaswom 1999 (1) KLJ 624]

Only a claim of tenancy coming within the purview of section 13 of the Act need be referred to the concerned Land Tribunal in terms of Section 125 (3) of the Act. There is no exclusion of the jurisdiction of the Civil Court in considering and deciding the claims of a lessee.

[Govinda Paniker v. Sreedhara Warriar 2000 (2) KLT 43]

Civil Court has no jurisdiction to decide the issue regarding tenancy.

Cont....

1. Inserted by Act 17 of 1972

[Abu v. Naranan Nambiar 1999 (2) KLT SN 77]

"Hut" means "a dwelling house" complete in itself and not a place which is merely a part of a larger structure which can be used for residential purposes.

[Parukutty v. Sarasamma 2002 (2) KLT 259]

A Civil Court is not obligated to make a reference to the Land Tribunal merely because a party has raised a contention that he is a tenant or a kudikidappukaran and the civil court has power to consider whether such contention is bonafide.

[Thomas Antony v. Varkey 2000 (1) KLT 12 (SC)]

126. Construction of references to acres and cents.— All references in this Act to areas of land expressed in terms of acres (but not standard acres) and cents shall be construed as references to areas expressed in terms of hectares and ares, converted thereto at the rates specified in the Schedule to the Standards of Weights and Measures (Conversion of Land Areas) Rules, 1960.

127. Act to override other laws, etc.— The provisions of this Act shall have effect notwithstanding anything in any other law or any custom or usage or in any contract, express or implied, inconsistent with the provisions of this Act.

128. Power to remove difficulties.— If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order, do anything not inconsistent with the provisions of this Act, which appears to them necessary for the purpose of removing the difficulty.

128A. Delegation of powers by Land Board.— The Land Board may, with the previous approval of the Government, by general or special order in writing, delegate to any District Collector any of its powers under this Act, other than the powers under Sub-section (2) of Section 101, to be exercised in respect of such area as may be specified in the order, subject to such conditions and reservations as it may deem fit.

128B. Wrong or excess payments recoverable under Revenue Re-

1. Inserted by Act 35 of 1969

covery Act.— If, for any reason any amount has been paid by the Land Board or the Land Tribunal to any person not entitled to such amount under this Act or to any person in excess of the amounts due to him under this Act, such amount or, as the case may be, the amount in excess shall be recoverable from the person to whom it has been paid as arrears of public revenue due on land under the provisions of the Revenue Recovery Act for the time being in force.]

129. Power to make rules.— (1) The Government may make rules to carry out all or any of the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for the following matters:—

- ¹[(a) the fees payable on applications, appeals and claims made under this Act and the persons by whom and the period within which such fees shall be paid;]
- (b) the registers to be kept and maintained by the ¹[Land Tribunal, the Appellate authority,] ²[the Taluk Land Board] and the Land Board and the particulars to be entered therein;
- (c) the procedure to be followed in the preparation of compensation rolls;
- (d) the filing of statements before the Land Tribunal, ²[the Taluk Land Board] and the Land Board;
- (e) the procedure to be followed by the Land Tribunal, ²[the Taluk Land Board] and the Land Board;
- (f) for the joint consideration by the Land Tribunal of two or more applications involving the same question;
- ³[(ff) for the joint consideration by the Appellate authority of two or more appeals involving the same question];
- (g) the assignment of lands by the Land Board under ⁴[Section 96];

1. Substituted by Act 35 of 1969

2. Inserted by Act 17 of 1972

3. Inserted by Act 35 of 1969

4. Substituted by Act 35 of 1969

- (h) the management of land before assignment under Section 98;
- (i) any other matter which under this Act is to be, or may be, prescribed.

130. Laying of rules and notifications before the Legislative Assembly.— Every rule made under this Act and every notification issued under clause (a) of Sub-section (1) or Sub-section (3) of Section 81 shall be laid as soon as may be after it is made or issued before the Legislative Assembly while it is in session for a total period of 14 days which may be comprised in one session for session or in two successive sessions, and if, before the expiry of the session in which it is so laid, or the session immediately following, the legislative Assembly makes any modification in the rule or notification or decides that the rule or notification should not be made, or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

131. Limitation.— In computing the period of limitation for the institution of suits or proceedings under this Act, the time during which such suits or proceedings were prohibited or stayed under any of the enactments repealed by this Act, shall be excluded.

132. Repeal and Savings.— (1) (a) The Proclamation XVI of 1122 (Cochin), dated the 14th February, 1947, the Proclamation VI of 1124 (Cochin), dated the 12th January, 1949, the Kerala Roytwari Tenants and Kudikidappukars Protection Act, 1962 and the Kerala Tenants and Kudikidappukars Protection Act, 1963, are hereby repealed, and all suits, appeals, revisions, reviews and proceedings in execution of decrees stayed by the said enactments may be disposed of by the courts in which they were pending at the commencement of this Act, in accordance with the provisions of this Act.

- (b) The costs in respect of the suits, appeals, revisions, reviews and execution proceedings stayed by the enact-

ments specified in clause (a) shall be in the discretion of the court.

(2) The following enactments as in force in any part of the State of Kerala are hereby repealed, namely:—

- (i) The Cochin Verumpattamdars Act, VIII of 1118
- (ii) The Travancore-Cochin Prevention of Eviction of Kudikidappukars Act, 1955.
- (iii) The Malabar Tenancy Act, 1929.
- (iv) The Madras Cultivating Tenants (Payment of Fair Rent) Act, 1956.

(3) Notwithstanding the repeal of the enactments mentioned in Sub-section (2)—

- (a) any decree passed before the commencement of this Act for the eviction of a tenant from his holding, pursuant to which eviction has not been effected, may, on the application of the tenant or the landlord, be reopened and the matter may be disposed of in accordance with the provisions of this Act;
- (b) any suit for restoration filed under Section 24 or Section 26 or Sub-section (3) of Section 53 of the Malabar Tenancy Act, 1929 or any application for determination of fair rent made under Section 16 of that Act or any application for fixation of fair rent made under Section 9 of the Madras Cultivating Tenants (Payment of Fair Rent) Act, 1956, and pending disposal at the commencement of this Act shall be disposed of in accordance with the provisions of the said Acts as if those Acts had not been repealed;
- (c) (i) Where the decree-holder, plaintiff, appellant or petitioner, as the case may be, is a person entitled to resumption of land under this Act he shall have the right to apply to the court to allow resumption of the holding or any part thereof to which he is entitled;
- (ii) the application under sub-clause (i) shall be made within one year from the commencement of this Act and shall contain a statement of facts in support of

the claims of the applicant and also the names and addresses of all persons who have interest in the holding either as owner, lessee or kudikidappukaran;

(iii) the court shall dispose of the application as if it were an application for resumption before the Land Tribunal under this Act;

(d) Notwithstanding anything contained in Section 11 of the Code of Civil Procedure, 1908, the right conferred on the decree-holder, plaintiff, appellant or petitioner, as the case may be, under sub-clause (i) of clause (c) shall not be deemed to take away or in any manner affect his right to apply for resumption under this Act.

(4) (i) The Kerala Agrarian Relations Act, 1960, is hereby repealed.

(ii) Notwithstanding the repeal of the Kerala Agrarian Relations Act, 1960 (hereinafter referred to as the said Act).-

(a) all applications for determination of fair rent filed or purported to have been filed under the said Act, in which no order determining the fair rent had been passed by the Land Tribunal, shall be deemed to have been filed under this Act and shall be disposed of according to the provisions of this Act;

(b) where the Land Tribunal constituted or purported to have been constituted under the said Act had passed an order determining the fair rent in respect of a holding, but an appeal or application for revision in respect of such order was pending before the Appellate or revising authority at the time when the said Act was declared unconstitutional by the Supreme Court or the High Court, or the proceedings under the said Act were stayed under the Kerala Tenants and Kudikidappukars Protection Ordinance, 1962, as the case may be, in its or their application to the land comprised in the holding, such Appellate or revising authority shall reopen the matter and dispose of it in accordance with the provisions of this Act, and, for that purpose, shall have all the powers of the Appellate or revising authority, as the case may be, under this Act;

- (c) Where the Land Tribunal constituted or purported to have been constituted under the said Act had passed an order determining the fair rent in respect of a holding, but the time for preferring appeal or revision in respect of such order had not expired at the time when the said Act was declared unconstitutional by the Supreme Court or the High Court, or the proceedings under the said Act were stayed under the Kerala Tenants and Kudikidappukars Protection Ordinance, 1962, as the case may be, in its or their application to the land comprised in the holding, any party aggrieved by the order of the Land Tribunal may, within three months from the commencement of this Act, prefer an appeal or an application for revision against such order before the Appellate or revising authority under this Act, and thereupon such authority shall re-open the matter and dispose of it in accordance with the provisions of this Act;
- (d) in cases where orders determining fair rent have been passed or purported to have been passed under the said Act and such order had become final, such orders shall be deemed to have been passed under this Act for purposes of payment of fair rent;
- (e) notwithstanding anything contained in this Act, the fair rent referred to in sub-clause (d) shall be the rent payable by the cultivating tenant, but such fair rent shall not be taken as the basis for the determination of the purchase price under Section 55, and the fair rent for the determination of such purchase price shall be the fair rent determined under this Act.
- (iii) Subject to the provisions of clause (ii), the said Act or the rules, notifications or orders made or issued thereunder, shall not be deemed to have conferred any right or imposed any liability on any person, as if the said Act had not been enacted.

SCHEDULE I

[See section 2 (27)]

Kuttanad Area

ALLEPPEY DISTRICT

<i>Taluk</i>	<i>Village</i>
1. Ambalapuzha	1. Prakkad
	2. Ambalapuzha
	3. Alleppey
	4. Aryad South
	5. Punnappa
2. Kuttanad	6. Pulincunno
	7. Chennamkari
	8. Kainakari
	9. Champakulam
	10. Nedumudy
	11. Thakazhy
	12. Kozhimukku
	13. Thalavady
	14. Neelamperoor
	15. Velianad
	16. Muttar
	17. Ramankari
	3. Sherthallai
19. Vayalar West	
20. Vayalar East	
21. Thuravoor South	
22. Thuravoor North	
23. Aroor	
24. Thycattussery	
4. Karthigappally	25. Pathiyoor
	26. Cheppad
	27. Pallipad
	28. Haripad
	29. Veeyapuram
5. Mavelikara	30. Cheruthana
	31. Karuvatta
	32. Thamarakulam
	33. Kannamangalam
	34. Thripoorunthura
	35. Chennithala

	36. Mavelikara
	37. Chunakara
	38. Thazhakara
	39. Noornad
	40. Palamel
	41. Pandalam South
	42. Thonaloor
6. Thiruvalla	43. Kizhakkumbhagom
	44. Kadapra
	45. Peringara
	46. Kavumbhagom
	47. Thiruvalla
7. Chengannoor	48. Cheriyanad
	49. Venmony
	50. Mannar
	51. Kurattisseri
	52. Puliyoor
	KOTTAYAM DISTRICT
8. Kottayam	53. Thiruvappu
	54. Kottayam
	55. Nattakam
	56. Panachikkad
	57. Vijayapuram
	58. Aymanam
	59. Kumarakom
	60. Kaipuzha
	61. Onamthuruthu
	62. Puthuppally
9. Changanacherry	63. Kuruchi
	64. Vazhappally West
	65. Vazhappally East
	66. Changanacherry
	67. Madappally
	68. Thrikodithanam
	69. Vakathanam
10. Vaikom	70. Naduvile
	71. Thalayazham
	72. Kallara
	73. Vechoor
	74. Manjoor
	75. Vadayar
	76. Kaduthuruthy

SCHEDULE II
[See Section 2 (55)]
PART I
Lands other than nilam
TRIVANDRUM DISTRICT

<i>Class of land</i>	<i>Standard acres</i>
1. Garden land:	
(i) Land used principally for growing coconut trees	: 1.00
(ii) Land used principally for growing arecanut trees	: 0.50
(iii) Land used principally for growing peppervines	: 1.50
2. Dry land principally cultivated with cashew	: 2.00
3. Other dry land	: 2.50
4. Palliyal Land	: 4.00
QUILON DISTRICT	
1. Garden land:	
(i) Land used principally for growing coconut trees	: 1.00
(ii) Land used principally for growing arecanut trees	: 0.50
(iii) Land used principally for growing peppervines	: 1.50
2. Dry land principally cultivated with cashew	: 2.00
3. Other dry land	: 2.50
4. Palliyal Land	: 3.00
ALLEPPEY DISTRICT	
1. Garden land:	
(i) Land used principally for growing coconut trees	: 1.00
(ii) Land used principally for growing arecanut trees	: 0.50
(iii) Land used principally for growing peppervines	: 2.00
2. Dry land principally cultivated with cashew	: 2.00
3. Other dry land	: 2.50
4. Palliyal Land	: 4.00

KOTTAYAM DISTRICT

1. Garden land:
 - (i) Land used principally for growing coconut trees : 1.00
 - (ii) Land used principally for growing arecanut trees : 0.50
 - (iii) Land used principally for growing peppervines : 1.50
2. Dry land principally cultivated with cashew : 2.00
3. Other dry land : 2.00
4. Palliyal Land : 3.00

ERNAKULAM DISTRICT

1. Garden land:
 - (i) Land used principally for growing coconut trees : 1.00
 - (ii) Land used principally for growing arecanut trees : 0.50
 - (iii) Land used principally for growing peppervines : 1.50
2. Dry land principally cultivated with cashew : 2.00
3. Other dry land : 2.50
4. Palliyal Land : 3.00

TRICHUR DISTRICT

1. Garden land:
 - (i) Land used principally for growing coconut trees : 1.00
 - (ii) Land used principally for growing arecanut trees : 0.50
 - (iii) Land used principally for growing peppervines : 1.50
2. Dry land principally cultivated with cashew : 2.00
3. Other dry land : 3.00
4. Palliyal Land : 3.00

PALGHAT DISTRICT

1. Garden land:
 - (i) Land used principally for growing coconut trees : 1.25
 - (ii) Land used principally for growing arecanut trees : 0.50
 - (iii) Land used principally for growing peppervines : 3.00
2. Dry land principally cultivated with cashew : 2.00
3. Other dry land : 2.50
4. Palliyal Land : 4.00

MALAPPURAM DISTRICT

1. Garden land:
 - (i) Land used principally for growing coconut trees : 1.00
 - (ii) Land used principally for growing arecanut trees : 0.50
 - (iii) Land used principally for growing peppervines : 3.00
2. Dry land principally cultivated with cashew : 2.00
3. Other dry land : 2.50
4. Palliyal Land : 3.00

KOZHIKODE DISTRICT

1. Garden land:
 - (i) Land used principally for growing coconut trees : 1.00
 - (ii) Land used principally for growing arecanut trees : 0.50
 - (iii) Land used principally for growing peppervines : 3.00
2. Dry land principally cultivated with cashew : 2.00
3. Other dry land : 2.50
4. Palliyal Land : 3.00

CANNANORE DISTRICT

1. Garden land:
 - (i) Land used principally for growing coconut trees : 1.25
 - (ii) Land used principally for growing arecanut trees : 0.50
 - (iii) Land used principally for growing peppervines : 3.00
2. Dry land principally cultivated with cashew : 2.00
3. Other dry land : 2.50
4. Palliyal Land : 3.00

PART II

Standard acres of nilam

Sl. No.	Taluk	Standard acres of nilam	
		Double crop nilam (acre)	Single crop nilam (acre)
(1)	(2)	(3)	(4)
1.	Neyyattinkara Trivandrum Nedumangad Chirayinkil	1.00	2.00
2.	Quilon Kottarakkara Kunnathur Pathanapuram Pathanamthitta	1.00	2.00
3.	Karunagappally Karthikappally Mavelikara	1.00	2.00
4.	Chengannur Thiruvalla Kuttanad	1.00	1.75
5.	Ambalapuzha Sherthalai	1.50	2.50
6.	Changanacherry Kanjiappally Peermade Kottayam Vaikom Meenachil Devikolam Udumbanchola	1.00	2.00
7.	Thodupuzha Moovattupuzha Cochin Kanayannur Kunnathunad Parur Alwaye	1.00	2.00
8.		1.25	2.25

9.	Cranganur Mukundapuram Trichur Talappally	1.25	2.00
10.	Chittur Alathur Palghat	0.75	1.50
11.	Ottappalam Perinthalmanna Mannarghat Ernad	1.00	2.00
12.	Chowghat Ponnani Tirur	1.25	2.25
13.	Kozhikode Quilandy Badagara	1.50	3.00
14.	South Wynnad North Wynnad	1.25	2.25
15.	Tellicherry Cannanore Taliparamba Hosdrug Kasargod	1.25	2.25]

SCHEDULE III

[See Section 27]

Rates of fair rent

Sl. No.	Class of land	Rate of fair rent
(1)	(2)	(3)
1.	Nilam	
(i)	Land covered into nilam by tenant's labour not falling under items (v), (vi) and (vii)	1/8 th of the gross paddy produce
(ii)	Other nilam not falling under items (v), (vi) and (vii)	1/4 th of the gross paddy produce

- | | |
|--|---|
| (iii) Kole land | 1/6 th of the gross paddy produce |
| (iv) Land not being Karinilam cultivated on the Kaipad system | 1/6 th of the gross paddy produce
For the districts of Cannanore, Ernakulam, Alleppey and Kottayam No such land in other district |
| (v) Karinilam: | |
| (a) Converted into wet by tenant's labour | 1/9 th of the gross paddy produce
¹ [x x x] |
| (b) Other Karinilam | 1/5 th of the gross paddy produce |
| (vi) Nilam in the North Wynad and South Wynad taluks: | |
| (a) Converted by tenant's labour | 1/20 th of the gross paddy produce |
| (b) Other nilam | 1/12 th of the gross paddy produce |
| (vii) Nilam in the Devicolam, Peermade and Udumbanchola taluks and the Attappady valley. | |
| (a) Converted by tenant's labour | 1/16 th of the gross paddy produce |
| (b) Other wet land | 1/8 th of the gross paddy produce |
| (viii) Nilam where fishing is carried on for part of the year by a varamdar | Aggregate of rent fixed as for nilam and 1/8 th of the gross annual income derived from fishing [determined in such manner as may be prescribed] |
| (ix) Nilam not used for paddy cultivation (but not cultivated with sugarcane) | Rent that would have been payable had the land been used for cultivation of paddy |
| 2. Garden | |
| (i) Coconut trees in respect of which the landlord is bound to pay compensation under | ² [1/16 th] of the gross coconut produce |

1. Omitted by Act 35 of 1969

2. Substituted by Act 35 of 1969

- | | |
|---|--|
| | the Kerala Compensation for Tenant's Improvements Act, 1958 |
| (ii) Coconut trees in respect of which the landlord is not bound to pay compensation under the Kerala, Compensation for Tenant's Improvements Act, 1958 | 1/4 th of the gross coconut produce |
| (iii) Arecanut trees in respect of which the landlord is bound to pay compensation under the Kerala, Compensation for Tenant's Improvements Act, 1958 | ¹ [1/16 th] of the gross arecanut produce |
| (iv) Arecanut trees in respect of which the landlord is bound to pay compensation under the Kerala, Compensation for Tenant's Improvements Act, 1958 | 1/4 th of the gross arecanut produce |
| (v) Pepper-vines in respect of which the landlord is bound to pay compensation under the Kerala, Compensation for Tenant's Improvements Act, 1958 | ¹ [1/20 th] of the gross pepper produce |
| (vi) Pepper-vines in respect of which the landlord is not bound to pay compensation under the Kerala, Compensation for Tenant's Improvements Act, 1958 | ¹ [1/16 th] of the gross pepper produce |

1. Substituted by Act 35 of 1969

3. Dry Land —
- (a) Cultivated with groundnut or other crops notified by the Government
- (b) in other cases
4. Palliyal land
5. Land under Punam or Kumari cultivation
6. Land under sugarcane cultivation
7. Land not falling under any of the above items

1/10th of the gross produce

Rs. 4 per acre

1/8th of the gross produce of the land or Rs. 4 per acre, whichever is higher

Rs. 3 per acre

1/4th of the gross sugarcane produce

Contract rent

2 SCHEDULE IV

[See Section 88 (2)]

RATES OF COMPENSATION

PART I

Land other than nilam

Class of land	Rate per acre Rs.
---------------	----------------------

Trivandrum, Quilon, Alleppey, Kottayam, Ernakulam and Trichur Districts

1. Garden land:

(i) Land used principally for growing coconut trees 2,000

(ii) Land used principally for growing arecanut trees 2,000

(iii) Land used principally for growing peppervines 1,300

2. Dry land principally cultivated with cashew 750

3. Palliyal Land 500

4. Waste land (with or without scattered trees) 400

1. Substituted by Act 35 of 1969
2. Inserted by Act 35 of 1971

- 14A. Land not yet cultivated and which cannot be put to cultivation without incurring heavy expenditure
5. Land not falling under any of the above classes Palghat, Malappuram, Kozhikode and Cannanore Districts 500
1. Garden land:
- (i) Land used principally for growing coconut trees 1,600
- (ii) Land used principally for growing arecanut trees 3,000
- (iii) Land used principally for growing peppervines 700
2. Dry land principally cultivated with cashew 500
3. Palliyal Land 400
4. Waste land (with or without scattered trees) 200
- 14A. Land not yet cultivated and which cannot be put to cultivation without incurring heavy expenditure 100]
5. Land not falling under any of the above classes 300

PART II

Nilams

Sl. No.	Taluk	Rate per acre of double crop nilam	Rate per acre of single crop nilam
(1)	(2)	(3)	(4)

1. Neyyattinkara 2,000 1,000

Trivandrum

Nedumangad

Chirayinkil

2. Quilon

Kottarakkara

Kunnathur

Pathanapuram

Pathanamthitta

3. Karunagappally 2,000 1,000

Karthikappally

Mavelikara

4. Chengannur 2,000 1,200

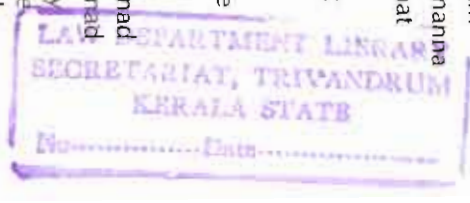
Thiruvalla

Kuttanad

1. Inserted by Act 17 of 1972

LIST OF ACT & RULES IN KERALA

5.	Ambalapuzha Sherthallai	1,300	800	Industrial Employees Payment of Gratuity Act & Rules	❖	Places of Public Resort Act & Rules
6.	Changanacherry Kanjirappally Peermade	2,000	1,000	Industrial Establishments (National and Festival Holidays) Act	❖	Plantation Tax Act & Rules
7.	Kottayam Vaikom Meenachil Devicollam Udumbanchola Thodupuzha Moovattupuzha Cochin	2,000	1,000	Industrial Infrastructure Development Act	❖	Police Act
8.	Kannayannur Parur Alwaye	1,600	900	Industrial Revitalisation Fund Act	❖	Police Departmental Inquiries and Punishment Rules
9.	Cranganur Mukundapuram Trichur Talappally	1,600	1,000	Infrastructure Investment Fund Act	❖	Prevention of Trees Act
10.	Alathur Palghat	2,000	1,300	Insolvency Act	❖	Prevention of Disturbances of Public Meetings Act
11.	Ottappalam Perinthalmanna Mannarghat Ernad	2,000	1,000	Interpretation and General Clauses Act	❖	Prohibition of Ragging Act
12.	Chowghat Ponnani Tirur	1,600	900	Joint Hindu Family System (Abolition) Act	❖	Protection of River Banks and Regulation of Removal of Sand Act & Rules
13.	Kozhikode Quilandy Badagara	1,300	700	Judicial Officers Protection Act	❖	Public Libraries Act & Rules
14.	South Wynaad North Wynaad	1,600	900	Kerala University Act	❖	Public Accounts Act
15.	Tellicherry Cannanore Taliparamba Hosdruag Kasaragod	1,600	900	Labour Welfare Fund Act & Rules	❖	Public Building (Eviction of Unauthorised Occupants) Act
				Land Conservancy Act	❖	Public Health Act
				Land Development Act	❖	Public Safety Measures Act
				Land Relinquishment Act	❖	Public Servants (Inquiries) Act & Rules
				Land Assignment Act	❖	Public Services Act
				Land Tax Act	❖	Restriction on Transfer by and Resurrection of Land of Scheduled Tribes Act
				Literary, Scientific and Charitable Societies Registration Act	❖	Revenue Card Act
				Local Authorities Entertainment Tax Act & Rules	❖	Revenue Recovery Act
				Local Authorities Loans Act	❖	Registration of Tourist Trade Act
				Local Fund Audit Act	❖	(SCST) Regulation of Issue of Community Certificate Act
				Local Authorities (Prohibition of Defective) Act	❖	Shops and Commercial Establishment Act & Rules
				Lok Ayukta Act & Rules	❖	Small Cause Court Act
				Loading and Unloading (Regulation of Wages) Act	❖	Sweepdam Land Entranchisement Act
				Mahatma Gandhi University Act	❖	Sree Sankaracharya University of Sanskrit Act
				Marine Fishing Regulation Act	❖	Stamp Act
				Medical Practitioners Act	❖	State Housing Board Act
				Minor Mineral Concession Rules	❖	Survey and Boundaries Act
				Money Lenders Act	❖	Tax on Luxuries Act & Rules
				Motor Transport Workers Payment of Fairwages Act	❖	Tax on Entry of Goods in Local Areas Act & Rules
				Motor Vehicles Taxation Act	❖	Tolls Act
				Municipalities Act	❖	Town Planning Act
				Nurses and Midwives Act	❖	Value Added Tax Act
				Panchayats Act & Rules	❖	Water Supply and Sewerage Act
				Payment of Subsistence Allowance Act	❖	Women's Commission Act



❖ ❖ ❖ ❖ ❖

Act 25 of 1971

THE KERALA LAND REFORMS (AMENDMENT) ACT, 1971[11](#)

An Act further to amend the Kerala Land Reforms Act, 1963

Preamble.—WHEREAS it is expedient further to amend the Kerala Land Reforms Act, 1963, for the purposes hereinafter appearing;

BE it enacted in the Twenty-second Year of the Republic of India as follows:—

1. Short title and commencement.—(1) This Act may be called the Kerala Land Reforms (Amendment) Act, 1971.

(2) Clause (b) of section 2, sections 3, 4 and 8, clauses (a) and (b) of section 10, section 12, clause (c) of section 13, section 14 to 18 (both inclusive) and sections 20 to 22 (both inclusive) shall be deemed to have come into force on the 1 st day of January, 1970 and the remaining provisions of this Act shall come into force at once.

2. Amendment of section 2.—In section 2 of the Kerala Land Reforms Act, 1963 (1 of 1964) (hereinafter referred to as the principal Act),—

(a) in clause (25), after Explanation VI, the following Explanation shall be inserted, namely:—

“Explanation VII.—For the removal of doubts it is hereby declared that a person occupying a homestead or hut situate on a land held or owned by the Government of Kerala or the Government of any other State in India or the Government of India shall not be deemed to be a kudikidappukaran;”;

(b) in the Explanation to clause (33B), for the portion beginning with the words “but shall be deemed” and ending with the words “before such inclusion;”, the following shall be substituted, namely:—

“but shall be deemed,—

(i) where such area was within the limits of a local authority immediately before such inclusion, to continue within the limits of that local authority; and

(ii) where such area was not within the limits of a local authority immediately before such inclusion, to be within the limits of a panchayat;”.

3. Amendment of section 65.—In section 65 of the principal Act, in sub-section (1), after the proviso, the following Explanation shall be inserted namely:—

“Explanation.—In this sub-section, the expression “institution of a public nature” includes a public trust and a wakf.”

4. Amendment of section 72F.—In section 72F of the principal Act,—

(a) in sub-section (1), for the words “in the Gazette and also in such other manner”, the words “in such manner” shall be substituted;

(b) in sub-section (3) for the words, brackets and figure “in the Gazette under sub-section (1),”. the words, brackets and figure “in the manner referred to in sub-section (1)” shall be substituted;

(c) in sub-section (5),—

(i) in clause (h), the word “and” at the end shall be omitted;

(ii) after clause (h), the following clause shall be inserted, namely:—

“(hh) where the landowner or intermediary is a religious, charitable or educational institution of a public nature and is entitled to annuity instead of compensation, the amount of such annuity; and”.

5. Amendment of section 72N.—In section 72N of the principal Act, after sub-section (1), the following sub-sections shall be inserted, namely:—

“(1A). An application from a religious, charitable or educational institution of a public nature for annuity pending or deemed to be pending on the date notified by the Government under sub-section (1) of section 72 shall, on the date of publication of the Kerala Land Reforms (Amendment) Act, 1971, in the Gazette, abate, and where any such application has been made after the date of such publication, that application shall abate on the date on which it is received by the Land Board.

(1B). For the removal of doubts it is hereby clarified that the annuity payable to a religious, charitable or educational institution of a public nature whose application abates under sub-section (1A) shall be determined by the Land Tribunal under section 72F and that section 66 will not apply for such determination.”.

6. Amendment of section 75.—In section 75 of the principal Act.—

(a) in sub section (3A) for the words “cost of acquisition of land”, the words “amount of compensation payable for acquisition of land” shall be substituted;

(b) after sub-section (3B), the following sub-section shall be inserted, namely:—

“(3BB) Where the kudikidappukaran does not shift to the land acquired in pursuance of sub-section (3B) within a period of one month from the date of service on

him of the acquisition under that sub-section, the officer referred to in that sub section shall cause him to be evicted from the existing kudikidappu.”;

(c) for sub-section (3D), the following sub-section shall be substituted, namely:—

“(3D) Where the kudikidappukaran shifts as required under sub-section (3B), or under sub-section (3BB), he shall be entitled to the ownership and possession of the land to which he shifts or is bound to shift, as the case may be, and also to the registry of such land in his name.”;

(d) in sub-section (3E), for the words “cost of the acquisition”, the words “amount of compensation payable for the acquisition” shall be substituted.

7. Substitution of new section for section 77.—For section 77 of the principal Act, the following section shall be substituted, namely:—

“77. Procedure to enforce shifting of kudikidappu in certain cases.—(1) If the kudikidappukaran does not comply with the requisition made under sub-section (2) or sub-section (4) of section 75 by the person in possession of the land to shift to a new site, such person may apply to the Land Tribunal having jurisdiction to entertain an application under section 80B in respect of the kudikidappu to be shifted, to enforce compliance with such requisition;

Provided that no application under this sub-section shall be made without giving the kudikidappukaran one month’s notice by registered post.

(2) The Land Tribunal, after such inquiry as it deems fit, and on being satisfied that the applicant has complied with all the conditions mentioned in sub-section (2) or sub-section (4), as the case may be, of section 75, may pass an order requiring the kudikidappukaran to shift the kudikidappu before such date as may be specified in the order:

Provided that no such order shall be passed in any case where a certificate of purchase has been issued under section 80C in respect of the kudikidappu.

(3) If the kudikidappukaran does not shift the kudikidappu before the date specified in the order under sub-section (2), the Land Tribunal shall cause the kudikidappukaran to be evicted from the kudikidappu.”

8. Amendment of section 80A.—In section 80A of the principal Act,—

(a) to sub-section (4), the following further proviso shall be added, namely:—

“Provided also that where any person in possession of any land in which there is a kudikidappu or more than one kudikidappu, has voluntarily transferred such land on or after the 1 st day of July, 1969 and before the 1 st day of January 1970 or voluntarily

transfers such land on or after the 1 st day of January, 1970, the kudikidappukaran or each of the kudikidappukarans shall be entitled to purchase such extent of land as he would have been entitled to purchase if such transfer had not taken place.”;

(b) after sub section (8), the following sub-section shall be inserted, namely:—

“(8A) Notwithstanding anything contained in sub-sections (7) and (8), the kudikidappukaran shall not be liable to pay his share of the purchase price in cases where the person in possession of the land in which the kudikidappu is situate or, where the person in possession of the land is holding such land under a landlord or more than one landlord and the right, title and interest of such landlord or landlords have not vested in the Government under section 72, the person in possession of such land and such landloard or landlords agrees or agree in writing that the kudikidappukaran need not pay his share of the purchase price.”.

9. Amendment of section 80B.—In section 80B of the principal Act, to sub-section (3), the following proviso shall be added, namely:—

“Provided that where an application under sub-section (1) of section 77 in respect of the kudikidappu is pending, the Land Tribunal shall not pass any order under this sub-section before the disposal of that application.”.

10. Amendment of section 80C.—In section 80C of the principal Act,—

(a) in sub-section (1), for the words, brackets, figures and letter “The kudikidappukaran shall deposit the first instalment of the purchase price payable by him under sub section (8) of section 80A”, the words “Where the kudikidappukaran is liable to pay his share of the purchase price, he shall deposit the first instalment thereof” shall be substituted;

(b) for sub-section (2), the following sub-section shall be substituted namely:—

“(2) On the deposit of the first instalment of the purchase price as provided in sub-section (1) or on the deposit of the purchase price in a lump as provided in sub-section (8) of section 80A or, where the kudikidappukaran is not liable to pay his share of the purchase price or, where no purchase price is due from the kudikidappukaran after set-off as provided in sub-section (5) of section 80B, after the order of the Land Tribunal under sub-section (3) of section 80B, has become final, the Land Tribunal shall issue a certificate of purchase in such form and containing such particulars as may be prescribed, and thereupon the right, title and interest of the landowner, the intermediaries, if any, and the person in possession where he is not the landowner, in respect of the land allowed to be purchased, shall vest in the kudikidappukaran free from all encumbrances with effect from the date of such deposit or, as the case may be, the date on which the order of the Land Tribunal under the said sub-section (3) has become final.”;

(c) after sub-section (4), the following sub-section shall be inserted, namely:—

“(4A) Where the certificate of purchase issued to the kudikidappukaran is in respect of another portion of the land and the kudikidappukaran does not vacate the existing kudikidappu with a reasonable time after the issue of such certificate, the Land Tribunal shall cause him to be evicted from the existing kudikidappu.”.

11. Amendment of section 81.—In section 81 of the principal Act, in clause (a) of sub-section (1), after Explanation II, the following Explanation shall be inserted, namely:—

“Explanation III.—For the purposes of this clause, “other authority” shall include a corporation owned or controlled by the Government of Kerala or the Government of any other State in India or the Government of India.”.

12. Amendment of section 82.—In section 82 of the principal Act, for sub-sections (3) and (4), the following sub-sections shall be substituted, namely:—

“(3) In calculating the extent of land owned or held by a family or an adult unmarried person, the shares of the members of the family or the adult unmarried person, as the case may be, in the lands owned or held—

(a) by one or more of such members jointly with any person or persons other than a member or members of such family or by such adult unmarried person jointly with any other person or persons; or

(b) by a co-operative society or a joint family, shall be taken into account.

Explanation.—For the purposes of this sub-section, the share of a member of a family or an adult unmarried person in the lands owned or held jointly or by a co-operative society or a joint family shall be deemed to be the extent of land which would be allotted to such member or person had such lands been divided or partitioned, as the case may be, on the date notified under section 83.

(4) Where, after the commencement of this Act, any class of land specified in Schedule II has been converted into any other class of land specified in that Schedule or into a plantation, the extent of land liable to be surrendered by a person owning or holding such land shall be determined without taking into consideration such conversion.”

13. Amendment of section 85.—In section 85 of the principal Act,—

(a) in sub-section (2), in Explanation IV after the words “State Small Industries Corporation”, the words and figures “or to a scheduled bank as defined in the Reserve Bank of India Act, 1934, receiving assistance from the Agricultural Refinance Corporation established under the Agricultural Refinance Corporation Act, 1963” shall be inserted;

(b) in sub-section (6),—

(i) in the opening portion, the words, “as far as practicable,” shall be omitted;

(ii) In the proviso, for the words “Provided that”, the words “Provided further that” shall be substituted, and before that proviso, the following proviso shall be inserted, namely:—

Provided that the Land Board shall not be bound to accept such choice if—

(A) It has reason to believe that the person whose land is indicated to be surrendered has no good title to that land; or

(B) the land indicated to be surrendered is not accessible; or

(C) it considers for any other reason to be recorded in writing that it is not practicable to accept the choice or to take possession of the land;”;

(c) after sub-section (8) and before the Explanation thereunder, the following sub-section shall be inserted, namely:—

“(9) The Land Board may, if it is satisfied that the extent of lands surrendered by, or assumed from, a person under section 86 is less than the extent of lands which he was liable to surrender by, or assumed from, a person were not lawfully owned or held by him set aside its order under sub-section (5) or sub-section (7), as the case may be, in respect of such lands and shall proceed afresh under that sub-section:

Provided that the Land Board shall not set aside any order under this sub-section without giving the persons affected thereby an opportunity of being heard:

Provided further that the Land Board shall not initiate any proceedings under this sub-section after the expiry of three years from the date on which the order sought to be set aside has become final.”.

14. Amendment of section 86.—In section 86 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) Notwithstanding anything contained in the foregoing provisions of this Act, where any land is indicated in the statement under sub-section (2) of section 85 as land proposed to be surrendered, the Land Board may, pending determination under sub-section (5) of section 85 of the extent and identity of the land to be surrendered by the person who has filed the statement or on whose behalf the statement has been filed, take possession of such land if it is satisfied that such person is in possession of the land and has legal title to such possession and that the land is fit for surrender, and thereupon the provisions of sub-section (4) shall, so far as may be, apply in respect of such land.”.

15. Amendment of section 88.—In section 88 of the principal Act, for sub-section (2) and (3), the following sub-sections shall be substituted, namely:—

“(2) The compensation payable to an owner for the surrender or assumption of ownership and possession of land shall be an amount calculated at the rates specified in Schedule IV.

(3) The compensation payable to the landowner, intermediary or cultivating tenant for the surrender, assumption, vesting in the Government or extinguishment of his rights shall be the portion of an amount calculated at the rates specified in Schedule IV that will fall to his share if such amount were apportioned among the landowner, cultivating tenant and intermediary, if any in respect of the land according to the following provisions:—

(i) ninety per cent of the portion of the compensation for the site of any homestead or hut in the occupation of a kudikidappukaran shall be deducted from the total amount of compensation;

(ii) the balance remaining after deducting the amount referred to in clause (i) shall be apportioned among the land owner, the intermediaries and the cultivating tenant in proportion to the profits derivable by them from the land immediately before the surrender, assumption or vesting in the Government, as the case may be.

Explanation.—‘Profits derivable from the land’ shall be deemed to be equal to (i) in the case of a landowner, the rent which he was entitled to get immediately before the 1 st day of January, 1970, from the tenant holding immediately under him; (ii) in the case of an intermediary, the difference between the rent which he was entitled to get immediately before the 1 st day of January, 1970, from his tenant and the rent for which he was liable to his landlord immediately before that day; and (iii) in the case of a cultivating tenant, the difference between the net income and the rent which he was liable to pay immediately before the said day.

(3A) Notwithstanding anything contained in sub-section (2) and (3), where the compensation due under those sub sections to an adult unmarried person, family or any other person (other than a joint family), as owner, landowner, intermediary or cultivating tenant or in any two or more of such capacities exceeds one lakh rupees, the compensation payable shall be limited to the amount specified in the Table below:

TABLE

Scales of compensation

Total amount of compensation	Rate
On the first Rs. 1 lakh	100 per cent
On the next Rs. 50,000	50 per cent

On the balance amount
cent:

25 per

Provided that the compensation payable shall in no case exceed Rs. 2 lakhs.”.

16. Amendment of section 96.—In section 96 of the principal Act, for sub-section (1), the following sub-sections shall be substituted, namely:—

“(1) The Land Board shall assign on registry, subject to such conditions and restrictions as may be prescribed, the lands vested in the Government under section 86 or section 87, as specified below:

(i) the lands in which there are kudikidappukars shall be assigned to such kudikidappukars;

(ii) the remaining lands shall be assigned to—

(a) landless agricultural labourers; and

(b) smallholders and other landlords who are not entitled to resume any land:

Provided that eighty-seven and a half per cent of the area of the lands referred to in clause (ii) available for assignment in the taluk shall be assigned to landless agricultural labourers of which one-half shall be assigned to landless agricultural labourers belonging to the Scheduled Castes or the Scheduled Tribes.

Explanation.—For the purposes of this section—

(a) a kudikidappukaran or the tenant of kudiyruppu shall be deemed to be a landless agricultural labourer if he does not possess any other land; and

(b) “Scheduled Castes” and “Scheduled Tribes” shall include converts to Christianity from such Castes and Tribes.

(1A) Notwithstanding anything contained in sub-section (1), the Land Board may, if it considers that any land vested in the Government under section 86 or section 87 is required for any public purpose, reserve such land for such purpose.”.

17. Amendment of section 97.—In section 97 of the principal Act, in sub-section (1), for the words “equal to fifty five per cent of the market value of the land and improvements, if any, thereon”, the words and figure “calculated at the rate specified in Schedule IV” shall be substituted.

18. Amendment of section 98.—In section 98 of the principal Act, for the words and figures “section 94 and 96”, the word and figures “section 96” shall be substituted.

19. Amendment of section 109.—In section 109 of the principal Act, in clause (a) of sub-section (4), for the words “cost of acquisitions”, the words “amount of compensation payable for acquisitions” shall be substituted.

20. Amendment of section 112.—In section 112 of the principal Act,—

(a) after sub-section (5), the following sub-section shall be inserted, namely:—

“(5A) Notwithstanding anything contained in sub-sections (2) and (5), where the right, title and interest of the landowner and the intermediaries in respect of the land acquired have vested in the Government under section 72,—

(a) the compensation for any building or other improvements belonging to such landowner and intermediaries shall be awarded to the Government; and

(b) the balance remaining after deducting the compensation referred to in clause (a) and the value of the land occupied by the homestead or hut, if any, shall be apportioned between the cultivating tenant and the Government in proportion to the profits derivable by them from the land.

Explanation.— ‘Profits derivable from the land shall be deemed to be equal to—

(i) in the case of the cultivating tenant, the difference between the net income immediately before the acquisition and the rent which he was liable to pay immediately before the date on which the right, title and interest of the land-owner and the intermediaries have vested in the Government; and

(ii) in the case of the Government, such rent.”;

(b) in sub-section (6), for the brackets, figures and word “(3) and (5)”, the brackets, figures, word and letter “(3), (5) and (5A)” shall be substituted.

21. Insertion of new Schedule IV.—After Schedule III to the principal Act the following Schedule shall be inserted, namely:—

“SCHEDULE IV

[See section 88 (2)]

RATES OF COMPENSATION

Part I

Lands other than nilam

Class of land Rate per acre

Rs.

Trivandrum, Quilon, Alleppey, Kottayam, Ernakulam and Trichur Districts

1	Garden land:	
	(i) Land used principally for growing coconut trees	2,000
	(ii) Land used principally for growing arecanut trees	2,000
	(iii) Land used principally for growing peppervines	1,300
2.	Dry land principally cultivated with cashew	750
3.	Palliyal land	500
4.	Waste land (with or without scattered trees)	400
5	Land not falling under any of the above classes	500

Palghat, Malappuram, Kozhikode and Cannanore Districts

1.	Garden land:	
	(i) Land used principally for growing coconut trees	1,600
	(ii) Land used principally for growing arecanut trees	3,000
	(iii) Land used principally for growing peppervines	700
2.	Dry land principally cultivated with cashew	500
3.	Palliyal land	400
4.	Waste land (with or without scattered trees)	200
5.	Land not falling under any of the above classes	300

PART II
Nilams

Sl. No.	Taluk	Rate per acre of double crop nilam	Rate per acre of single crop nilam
(1)	(2)	(3) Rs.	(4) Rs.
1	Neyyattinkara	2,000	1000
	Trivandrum		
	Nedumangad		
	Chirayinkil		
2	Quilon	2000	1000
	Kottarakara		
	Kunnathur		
	Pathanapuram		
	Pathanamthitta		
3	Karunagappally	2000	1000

	Karthigappally		
4	Mavelikkara Chengannur	2000	1200
	Thiruvalla		
5	Kuttanad Ambalapuzha	1300	800
6	Shertallai Changanacherry	2000	1000
	Kanjirappally		
	Peermade		
	Kottayam		
	Vaikom		
	Meenachil		
	Devikulam		
7	Udumbanchola Thodupuzha	2000	1000
	Moovattupuzha		
	Cochin		
8	Kanayannur Kunnathunad	1600	900
	Parur		
9	Alwaye Crangannur	1600	1000
	Mukundapuram		
	Trichur		
	Talappally		

10	Chittur	2000	1300
	Alathur		
	Palghat		
11	Ottappalam	2000	1000
	Perinthalmanna		
	Mannarghat		
	Ernad		
12	Chowghat	1600	900
	Ponnani		
	Tirur		
13	Kozhikode	1300	700
	Quilandy		
	Badagara		
14	South Wynad	1600	900
	North Wynad		
15	Tellicherry	1600	900.”.
	Cannanore		
	Taliparamba		
	Hosdrug		
	Kasargod		

22. Amendment of section 108, Act 35 of 1969.—In section 108 of the Kerala land Reforms (Amendment) Act, 1969 (35 of 1969),—

(a) in sub-section (2), after the words “on the application of such person”, the words “to the court which passed the decree” shall be inserted;

(b) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) If in any suit, application, appeal revision, review, proceedings in execution of a decree or other proceedings pending at the commencement of this section before any court, tribunal, officer or other authority, any person claims any benefit, right or remedy

conferred by any of the provisions of the principal Act or the principal Act as amended by this Act, such suit, application, appeal, revision, review, proceedings in execution or other proceedings shall be disposed of in accordance with the provisions of the principal Act as amended by this Act.”.

23. Transitory provisions.— (1) Any suit instituted against a kudikidappukaran under section 77 of the principal Act and pending before any court at the commencement of this section shall be transferred to the Land Tribunal having jurisdiction, and such Land Tribunal shall dispose of such suit as if it is an application under section 77 of the principal Act as amended by this Act.

(2) Where a decree has been passed by any court before the commencement of this section in a suit instituted under section 77 of the principal Act for shifting a kudikidappu karan from his kudikiduppu, and an application under section 80B of the principal Act for purchase of such kudikidappu is pending before any Land Tribunal, the Land Tribunal shall dispose of such application subject to the terms of that decree.

24. Special Provisions regarding applications under Madras Acts XXXIII of 1951 and XXII of 1956.—(1) Notwithstanding anything contained in any judgment, decree or order of any court and notwithstanding the repeal of the Malabar Tenancy Act, 1929 (Madras Act XIV of 1930), by section 132 of the Kerala Land Reforms Act, 1963 (1 of 1964), section 52 of the Malabar Tenancy (Amendment) Act, 1951 (Madras Act XXXIII of 1951) and sub-section (2) of section 5 of the Malabar Tenancy (Amendment) Act, 1956 (Madras Act XXII of 1956), shall be deemed never to have been repealed; and accordingly no court shall dispose of any application, appeal, revision review or other proceeding on the basis that the said section 52 or sub-section (2) of section 5, as the case may be, is not in force.

(2) Notwithstanding anything contained in any judgment, decree or order of any court, any application, appeal, revision, review or other proceeding which has been disposed of by any court on or after the 1 st day of January, 1970, on the basis that section 52 or sub-section (2) of section 5, as the case may be, referred to in sub-section (1) of this section, has been repealed, shall, on the application by any person aggrieved by such disposal to the court which disposed of the application, appeal, revision , review or other proceeding, as the case may be, within ninety days from the commencement of this section be re-opened by that court and disposed of in accordance with the provisions of the said section 52 or sub-section (2) of section 5, as the case may be.

Act 11 of 1973

THE KERALA LAND REFORMS (AMENDMENT) ACT, 1973^[1]

An act further to amend the Kerala Land Reforms Act, 1963.

Preamble.—*WHEREAS* it is expedient further to amend the Kerala Land Reforms Act, 1963, for the purpose hereinafter appearing;

Be it enacted in the twenty-fourth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Land Reforms (Amendment) Act, 1973.

(2) It shall be deemed to have come into force on the 16th day of December, 1972.

2. *Amendment of section 85A.*—In section 85A of the Kerala Land Reforms Act, 1963 (1 of 1964) (hereinafter referred to as the principal Act), in sub-section (1), for the words "forty-five days", the words "seventy-five days" shall be substituted.

3. *Repeal and saving.*— (1) The Kerala Land Reforms (Second Amendment) Ordinance, 1972 (10 of 1972), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

Act 12 of 1973

THE KERALA LAND REFORMS (AMENDMENT) AMENDING ACT, 1973[\[1\]](#)

An Act to amend the Kerala Land Reforms (Amendment) Act, 1972.

Preamble. —WHEREAS it is expedient to amend the Kerala Land Reforms (Amendment) Act, 1972, for the purposes hereinafter appearing;

BE it enacted in the Twenty-fourth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Land Reforms (Amendment) Amending Act, 1973.

(2) It shall be deemed to have come into force on the 16th day of December, 1972.

2. *Amendment of section 38.*—In section 38 of the Kerala Land Reforms (Amendment) Act, 1972 (17 of 1972),—

(a) in sub-section (2), after the word and figures "section 85", the words "of the principal Act" shall be inserted ;

(b) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) Any case in which the Land Board has, before the commencement of this Act, issued notice under sub-rule (1) of rule 12 of the Kerala Land Reforms (Ceiling) Rules, 1970, inviting objections to the draft statement of lands to be surrendered prepared under rule 10 of the said rules, shall be continued to be dealt with by the Land Board under the provisions of the principal Act as amended by this Act, as if—

(a) sub-sections (4) to (9) (both inclusive) of section 85 and section 90 of the principal Act had not been amended by this Act; and

(b) in section 86 of the principal Act, for the words 'Taluk Land Board' wherever they occur, the words 'Land Board' had been substituted."

3. *Repeal and saving.*—(1) The Kerala Land Reforms (Amendment) Amendment Ordinance, 1972 (11 of 1972), is, hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under section 38 of the Kerala Land Reforms (Amendment) Act, 1972 (17 of 1972) as amended by the said Ordinance shall be deemed to have been done or taken under the said section as amended by this Act.

THE KERALA LAND REFORMS (AMENDMENT) ACT, 1978 [\[1\]](#)

(ACT 13 OF 1978)

An Act further to amend the Kerala Land Reforms Act, 1963.

Preamble.— Whereas it is expedient further to amend the Kerala Land Reforms Act, 1963, for the purposes hereinafter appearing;

Be it enacted in the Twenty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.* —(1) This Act may be called the Kerala Land Reforms (Amendment) Act, 1978.

(2) It shall be deemed to have come into force on the 1st day of October, 1977.

2. *Amendment of section 85.* —In section 85 of the Kerala Land Reforms Act, 1963 (1 of 1964) (hereinafter referred to as the principal Act),—

(a) in sub-section (9), for the opening paragraph, the following paragraph shall be, and shall be deemed to have been, substituted with effect on and from the 1st day of January, 1970, namely :—

“The Taluk Land Board may, at any time, set aside its order under subsection (5) or subsection (7), as the case may be, and proceed afresh under that subsection if it is satisfied that—

(a) the extent of lands surrendered by, or assumed from, a person under section 86 is less than the extent of lands which he was liable to surrender under the provisions of this Act, or

(b) the lands surrendered by, or assumed from, a person are not lawfully owned or held by him; or

(c) in a case where a person is, according to such order, not liable to surrender any land, such person owns or holds lands in excess of the ceiling area.” ;

(d) the *Explanation* after subsection (9) shall be numbered as *Explanation II* and before that *Explanation*, the following *Explanation* shall be inserted, namely: -

“ *Explanation I.*— For the removal of doubts, it is hereby clarified that the references in this subsection to the Taluk Land Board shall, in cases in which the order under subsection (5) or sub-section (7) has been passed by the Land Board, be construed as references to the Land Board.”.

3. *Amendment of Section 103* — In section 103 of the principal Act, after subsection (1A), the following subsection shall be, and shall be deemed to have been, inserted with effect on and from the 2nd day of November, 1972, namely: —

"(1B) The Government may, within such time as may be prescribed, prefer a petition for revision to the High Court against any final order referred to in subsection (1), on any of the grounds mentioned in that subsection."

4. *Transitory provisions.* —(1) Notwithstanding anything in any law, or in any judgment, decree or order of any court, the Land Board or the Taluk Land Board, as the case may be, may set aside any order passed by it under subsection (5) or subsection (7), as the case may be, of section 85 of the principal Act and proceed afresh under that subsection if it is satisfied that any person who, according to such order, was not liable to surrender any land, had owned or held, on the date of such order, land in excess of the ceiling area:

Provided that the Land Board or the Taluk Land Board shall not —

(a) set aside any order under this subsection without giving the persons affected thereby an opportunity of being heard;

(b) initiate any proceedings under this subsection after the expiry of one year from the commencement of this Act.

(2) Notwithstanding anything contained in any law, or in any judgment, decree or order of any court, —

(a) the Government may, within one year from the commencement of this Act, prefer a petition for revision to the High Court against any final order referred to in subsection (1) of section 103 of the principal Act, passed before such commencement, on any of the grounds mentioned in that subsection;

(b) any petition for revision purported to have been preferred by the Government to the High Court under section 103 of the principal Act before the commencement of this Act shall be deemed to have been preferred under the said section as amended by this Act and accordingly—

(i) any such petition dismissed by the High Court before the commencement of this Act solely on the ground that the Government were not competent to prefer such petition shall, on application by the Government within ninety days from such commencement, be restored and proceeded with by that court,

(ii) any such petition pending before the High Court shall not be dismissed solely on the ground that the Government were not competent to prefer such petition.

5. *Repeal and saving.*— (1) The Kerala Land Reforms (Amendment Ordinance, 1977 (17 of 1977), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance or under the principal Act as amended by said Ordinance shall be deemed to have been done or taken under this Act or, as the case may be, under the principal Act as amended by this Act.

THE KERALA LAND REFORMS (AMENDMENT) ACT, 1979 [\[1\]](#)

(ACT 27 OF 1979)

An Act further to amend the Kerala Land Reforms Act, 1963

Preamble.-WHEREAS it is expedient further to amend the Kerala Land Reforms Act, 1963, for the purposes hereinafter appearing;

BE it enacted in the Thirtieth Year of the Republic of India as follows:-

1. Short title and commencement.- (1) This Act may be called the Kerala Land Reforms (Amendment) Act, 1979.

(2) It shall be deemed to have come into force on the 7 th day of July, 1979.

2. Amendment of section 2.-In section 2 of the Kerala Land Reforms Act, 1963 (1 of 1964) (hereinafter referred to as the principal Act), in sub-clause (c) of clause (44), after the words “Land Board”, the words “or the Taluk Land Board, as the case may be” shall be inserted.

3. Insertion of new section 6C.-After section 6B of the principal Act, the following section shall be inserted namely:-

“6C. Certain lessees who have made substantial improvements etc. to be deemed tenants . - Notwithstanding anything contained in section 74, or in any contract, or in any judgment, decree or order of any court or other authority, any person in occupation at the commencement of the Kerala Land Reforms (Amendment) Act, 1969, of the land of another person on the basis of a lease deed executed after the 1st day of April, 1964, shall be deemed to be a tenant if-

(a) he (including any member of his family) did not own or hold land in excess of four acres in extent on the date of execution of the lease deed; and

(b) he or any member of his family has made substantial improvements on the land.

Explanation.- For the purposes of this section, improvements shall be deemed to be substantial improvements if the value of such improvements is more than fifty per cent of the value of the land on the date of execution of the lease deed.”

4. Amendment of section 19.-In section 19 of the principal Act, after the words “Land Board”, the words “or the Taluk Land Board, as the case may be,” shall be inserted.

5. Amendment of section 26.-In section 26 of the principal Act, for sub-section (3), the following sub section shall be substituted, namely:-

“(3) The person liable to pay the amount determined under sub-section (2) shall deposit the same with the Land Tribunal which determined the amount within a period of six months from the date of such determination.

(3A) In the event of the failure to deposit the amount referred to in sub-section (3) within the time specified in that sub-section, such amount shall, on a written requisition from the Land Tribunal to the District Collector, be recovered under the provisions of the Kerala Revenue Recovery Act, 1968, together with interest at the rate of six per cent per annum from the date of determination of the amount under sub-section (2).”.

6. Amendment of section 27.-In section 27 of the principal Act, *Explanation II* shall be, and shall be deemed to have been renumbered as *Explanation III* with effect on and from the 1 st day of January, 1970 and before that *Explanation* , the following *Explanation* shall be and shall be deemed to have been, inserted with effect on and from the said date, namely:-

“ Explanation II.- Where in respect of a holding there is a stipulation in the contract of tenancy for the payment of interest by the transferor to the transferee on the consideration paid by, or due to, the transferee, or for the payment by the transferee of land tax due to the Government or any tax or cess due to a local authority, the contract rent of that holding shall, for the purpose of this section, be calculated after deducting such interest, tax and cess.”.

7. Amendment of section 63.-In section 63 of the principal Act, to sub-section (7) the following proviso and Explanation shall be added, namely: -

“Provided that if such person has, in accordance with the rules made in this behalf, nominated any member of his family to receive the amount, the same shall be paid to such nominee.

Explanation.- For the purposes of the preceding proviso, “member of family” means wife or husband, son or daughter”.

8. Amendment of section 72H.-In section 72H of the principal Act, to sub-section (8), the following proviso and Explanation shall be added, namely:-

“Provided that if such person has, in accordance with the rules made in this behalf, nominated any member of his family to receive the amount, the same shall be paid to such nominee.

Explanation.- For the purposes of the preceding proviso, “member of family” means wife or husband, son or daughter”.

9 . Amendment of section 72I.-In section 72 I of the principal Act,-

(1) to sub-section (3), the following proviso shall be added namely:-

“Provided that where the amount of compensation mentioned in the application as due to the applicant is not more than the amount of compensation determined by the Land Board it shall not be necessary to give the applicant an opportunity of being heard.”;

(2) in sub-section (5) for the words “on the date of expiry”, the words “before the date of expiry” shall be substituted.

10. Amendment of section 80E.-In section 80E of the principal Act, to sub-section (6), the following proviso and *Explanation* shall be added, namely:-

“Provided that if such person has, in accordance with the rules made in this behalf, nominated any member of his family to receive the amount, the same shall be paid to such nominee.

Explanation.- For the purposes of the preceding proviso, “member of family” means wife or husband, son or daughter.”.

11. Amendment of section 84.-After sub-section (1) of section 84 of the principal Act, the following sub-section shall be, and shall be deemed to have been, inserted with effect on and from the 1 st day of January, 1970, namely:-

“(1A) Notwithstanding anything contained in sub-section (1), or in any judgment, decree or order of any court or other authority, any voluntary transfer effected by means of a gift deed executed during the period commencing on the 1 st day of January, 1970 and ending with the 5 th day of November, 1974, by a person owning or holding land in excess of the ceiling area in favour of his son or daughter or the son or daughter of his predeceased son or daughter shall be not deemed to be, or ever to have been, invalid-

(a) if the extent of the land comprised in the gift does not exceed the ceiling area specified in clause (a) of subsection (1) of section 82; and

(b) if the extent of the land comprised in the gift exceeds the ceiling area specified in the said clause, to the extent of that ceiling area:

Provided that nothing contained in this sub-section shall apply-

(a) to a transfer in favour of a person who was an unmarried minor on the 1 st day of January, 1970;

(b) in respect of any land which has been assigned on registry under section 96, before the commencement of the Kerala Land Reforms (Amendment) Act, 1979.”

12. Amendment of section 85.-In section 85 of the principal Act, the following sub-sections shall be inserted at the end, namely:-

“(10) Any person who, by virtue of the provisions of sub-section (1A) of section 84, is entitled to the restoration of the ownership or possession or both of any land may, within sixty days from the commencement of the Kerala Land Reforms (Amendment) Act, 1979, apply to the Land Board or the Taluk Land Board, as the case may be, for such restoration.

(11) An application under sub-section (10) shall be in such form, shall contain such particulars and shall be verified in such manner as may be prescribed.

(12) On receipt of an application under sub-section (10), the Land Board or the Taluk Land Board, as the case may be, shall, after giving the applicant or any other person likely to be affected, an opportunity of being heard and after such inquiry as it deems necessary, by order, restore the ownership or possession, or both, as the case may be, of the land.”.

13 . Amendment of section 87.-In section 87 of the principal Act, the Explanation to sub-section (1) shall be numbered as *Explanation I* and after that *Explanation* , the following *Explanation* shall be inserted, namely:-

“ Explanation II.-Where, after the date notified under section 83, any class of land specified in Schedule II has been converted into any other class of land specified in that Schedule or any land exempt under section 81 from the provision of this Chapter is converted into any class of land not so exempt and in consequence thereof the total extent of land owned or held by a person exceeds the ceiling area, so much extent of land as is in excess of the ceiling area, shall be deemed to be land acquired after the said date.”.

14. Amendment of section 98A.-To section 98A of the principal Act, the following *Explanation* shall be added, namely:-

“ Explanation.- If any question arises as to whether an institution is an institution of a public nature for religious and charitable purposes maintained by a religious denomination or any section thereof, the question shall be decided by the Government and such decision shall be final.”.

15. Amendment of section 101.-In section 101 of the principal Act, in clause (3) of sub-section (2), the words “on its own motion or” shall be inserted at the beginning.

16. Insertion of new section 108A.-After section 108 of the principal Act, the following section shall be inserted, namely:-

“ 108A. Section 11 of Code of Civil Procedure to apply to proceedings before Land Tribunal.- The provisions of section 11 of the Code of Civil Procedure, 1908 (Central Act 5 of 1908), shall, so far as may be, apply to proceedings before the Land Tribunal.”.

17. Transitory provision.- (1) Notwithstanding anything contained in any contract, or in any judgment, decree or order of any court or other authority, where the right, title and interest in respect of a holding referred to in *Explanation II* to section 27 of the principal Act as amended by this Act has been assigned in favor of a cultivating tenant and the purchase price and compensation or annuity payable in respect of such holding has been determined on the basis of contract rent calculated without deducting the interest, tax or cess referred to in the said *Explanation*, the Land Tribunal may, on application made by the cultivating tenant to whom such right, title and interest have been assigned or by his successor-in-interest within a period of one year from the commencement of this Act, by order, re-determine the purchase price and compensation or annuity payable in respect of such holding on the basis of contract rent calculated after deducting such interest, tax or cess.

(2) An application under sub-section (1) shall be in such form and shall contain such particulars as may be prescribed.

(3) No order shall be passed under sub-section (1) without giving any person affected thereby an opportunity of being heard.

(4) Where an order has been passed under sub-section (1),-

(a) any amount paid to a land owner or intermediary as compensation in excess of the amount payable under such order shall be refunded by the land owner and the intermediary, if any, to the Government within such period as may be prescribed and if the land owner or intermediary makes default in the payment of such amount on or before the date fixed for refund, the same shall be recoverable from him under the provisions of the Kerala Revenue Recovery Act, 1968, as if it were an arrear of public revenue due on land;

(b) any amount paid by the cultivating tenant in excess of the amount payable by him under the said order shall be refunded to him within such period as may be prescribed.

18. Repeal and saving.- (1) The Kerala Land Reforms (Amendment) Ordinance, 1979 (8 of 1979), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance or under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under this Act, or, as the case may be, under the principal Act as amended by this Act.

THE KERALA LAND REFORMS (AMENDMENT) ACT, 1981 [\[1\]](#)

(Act 19 of 1981)

An Act further to amend the Kerala Land Reforms Act, 1963 .

Preamble .- WHEREAS it is expedient further to amend the Kerala Land Reforms Act, 1963, for the purposes hereinafter appearing;

BE it enacted in the Thirty-second Year of the Republic of India as follows:-

1. *Short title and commencement .-*(1) This Act may be called the Kerala Land Reforms (Amendment) Act, 1981.

(2) Sections 2 to 5 (both inclusive) shall be deemed to have come into force on the 1 st day of January, 1970 and the remaining provisions of this Act shall be deemed to have come into force on the 22 nd day of June, 1981.

2. *Insertion of new section 72QQ .-*After section 72Q of the Kerala Land Reforms Act, 1963 (1 of 1964) (hereinafter referred to as the principal Act), the following section shall be inserted, namely:-

“72QQ.- *Cultivating tenant not liable to pay rent if resumption application is rejected.* -Notwithstanding anything contained in any law for the time being in force, or in any contract, custom or usage, or in any judgment, decree or order of any court or Land Tribunal, in the case of a holding or part of a holding in respect of which an application for resumption under the provisions of this Act is rejected, the cultivating tenant shall not be liable to pay any rent for such holding or part of the holding, as the case may be, with effect on and from the date notified under subsection (1) of section 72.”.

3. *Amendment of Section 72 S .-*Section 72S of the principal Act shall be re-numbered as subsection (1) of that section and, after subsection (1) as so re-numbered, the following subsection shall be inserted, namely:-

“(2) In the case of a holding or part of a holding in respect of which an application for resumption under the provisions of this Act is rejected, the cultivating tenant shall be liable to pay the basic tax and other taxes and cesses in respect of such holding or part of the holding, as the case may be, with effect on and from the date notified under subsection (1) of section 72.”.

4. *Amendment of section 84 .-*In section 84 of the principal Act after the proviso to subsection (1A), the following *Explanation shall be inserted, namely :-*

“ *Explanation .-* For the purposes of clause (b), a land shall be deemed to have been assigned on registry if the purchase price payable for the assignment of that land or

the first instalment thereof has been deposited as required by the rules made under this Act.”.

5. *Amendment of section 85* .-In section 85 of the principal Act, after sub-section (6), the following sub-section shall be inserted, namely:-

“(6A) For the removal of doubts it is hereby declared that proceedings for the determination of the extent and other particulars of any land, the ownership or possession or both of which is or are to be surrendered by an adult unmarried person or a family, shall not abate on the death of that adult unmarried person or, as the case may be, the sole surviving member of that family where it consists of only one person, or the member of that family who filed the statement under this section or under section 85A in the case of any other family, but shall be continued against the legal representatives of such adult unmarried person or sole surviving member or the remaining member or members of such family as the case may be, and such legal representatives or remaining member or members shall be bound to surrender the same extent of land as such adult unmarried person or sole surviving member or such family would have been liable to surrender, if such adult unmarried person or sole surviving member or the person who filed such statement, as the case may be, were alive on the date of determination of the extent and other particulars of the land.”.

6. *Amendment of section 109A* .-In subsection (1) of section 109A of the principal Act,-

(a) in the first proviso, for the words “five hundred rupees”, the words “one thousand five hundred rupees” shall be substituted;

(b) in the second proviso, in clause (a), for the words “two thousand rupees”, the words “five thousand rupees” shall be substituted.

7. *Transitory provisions* .- Notwithstanding anything contained in any judgment, decree or order of any court or other authority, where any proceeding under the principal Act for the determination of the extent and other particulars of any land, the ownership or possession or both of which is or are to be surrendered by an adult unmarried person or a family, has been discontinued on the ground that such adult unmarried person, or the sole surviving member of the family in the case of a family having only one member, or the person who filed the statement under section 85 or under section 85A of the principal Act in the case of any other family, has died before such determination, the Land Board or the Taluk Land Board, as the case may be, shall within a period of one year from the date of publication of the Kerala Land Reforms (Amendment) Ordinance, 1981, in the Gazette, restore to file such proceeding and continue the same impleading the legal representatives of such adult unmarried person or sole surviving member or the remaining member or member of that family, as the case may be, and such legal representatives or as the case may be, the remaining member or members shall be bound to surrender the same extent of land as such adult unmarried person or sole surviving member or the family, as the case may be, would have been liable to surrender if such adult unmarried person or sole

surviving member or the person who filed such statement, as the case may be, were alive on the date of determination of the extent and other particulars of the land:

Provided that nothing contained in this section shall be deemed to affect a *bona fide* purchaser for consideration of and land from such legal representatives or the remaining member or members of such family.

8. *Repeal and saving* .- (1) The Kerala Land Reforms (Amendment) Ordinance, 1981 (5 of 1981), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance or under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under this Act or, as the case may be, under the principal Act as amended by this Act.

THE KERALA LAND REFORMS (AMENDMENT)

ACT, 1989 [\[1\]](#)

(ACT 16 OF 1989)

An Act further to amend the Kerala Land Reforms Act, 1963.

Preamble .—WHEREAS it is expedient further to amend the Kerala Land Reforms Act, 1963, for the purposes hereinafter appearing;

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

1. *Short title and commencement* . — (1) This Act may be called the Kerala Land Reforms (Amendment) Act, 1989.

(2) It shall come into force at once.

2. *Amendment of section 2* . — In section 2 of the Kerala Land Reforms Act, 1963 (1 of 1964) (hereinafter referred to as the principal Act), to clause (23A), the following *Explanation* shall be added, namely: —

“ *Explanation* . — For the purpose of this clause, so much of the land appurtenant to the land under Karaima belonging to the landlord or any person claiming through him and in the possession and beneficial enjoyment of the Karaima holder or his legal representative or any other person claiming through him as on the 24 th day of January, 1989 shall, subject to a maximum of three cents in Corporation area, five cents in Municipal area and ten cents in Panchayath area, inclusive of the land under the Karaima, be deemed to be Karaima:

Provided that where the extend of the land appurtenant in the possession and beneficial enjoyment is in excess of the extend specified above as on the 24 th day of January, 1989, such land shall also be deemed to be Karaima;”.

3. *Amendment of section 3* . — For the first proviso to clause (vi) of sub-section (1) of section 3 of the principal Act, the following proviso shall be substituted, namely: —

“Provided that this clause shall not apply to a tenancy created by any person who was governed by the Madras Aliyasanthana Act, 1949:”.

4. *Amendment of section 7B* . — After sub-section (2) of section 7B of the principal Act, the following sub-section shall be added; namely: —

“(3) Notwithstanding anything to the contrary contained in this Act or in any other law or in any contract, custom or usage or in any judgment, decree or order of any court, any person in occupation of land on the basis of an oral permission or a deed purporting

to be lease deed, granted by a person governed by the Madras Aliyasanthana Act, 1949 shall be deemed to be tenant, if he or his predecessor-in-interest was in occupation of such land at the commencement of the Kerala Land Reforms (Amendment) Act, 1969”

5. *Amendment of section 72D.* — In section 72D of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely: —

“(1A) Where the total extent of land held as tenant by a cultivating tenant is one hectare or below, he shall not be liable to pay purchase price under sub-section (1)

Explanation.— For the removal of doubt it is hereby clarified that the benefit conferred to a cultivating tenant under this sub-section shall not affect the eligibility of the land owner or intermediary, if any, to receive compensation to which he is entitled under the Act.”.

6. *Amendment of section 80 A.* — In section 80 A of the principal Act, for sub-section (8) and the proviso there under, the following sub-section shall be substituted, namely: —

“(8) The purchase price payable by the kudikidappukaran shall be met from the Kudikidappukar's benefit. Fund constituted under section 109.”.

7. *Amendment of section 80 C.*— (1) In section 80C of the principal Act, sub-section (1), (5) and (6) shall be omitted.

8. *Omission of section 80 D.*— Section 80 D of the principal Act shall be omitted.

9. *Amendment of section 80G* —In section 80 G of the principal Act, the proviso under sub-section (1) shall be omitted.

10. *Amendment of section 85 .*—In section 85 of the principal Act, —

(a) in the second proviso to sub-section (9), for the words “after the expiry of three years “, the words “after the expiry of seven years” shall be substituted;

(b) after sub-section (9), the following sub-section shall be inserted, namely: —

“(9A) *Power of Taluk Land Board to review its decision.*— Notwithstanding anything contained in this Act or in the Limitation Act, 1963, (Central Act 36 of 1963), or in any other law for the time being in force, or in any judgement, decree or order of any Court or other authority, the Taluk Land Board may, if it is satisfied that its decision under sub-section (5) or sub-section (7) or sub-section (9) requires to be reviewed on the ground that such decision has been made due to the failure to produce relevant data or other particulars relating to ownership or possession before it, or by collusion or fraud or any suppression of material facts the Taluk Land Board may review such decision after

giving an opportunity to the parties of being heard and pass such orders as it may think fit:

Provided that the Taluk Land Board shall not reopen any such case after the expiry of three years from the date of coming into force of the Kerala Land Reforms (Amendment) Act, 1989.”.

11 . *Substitution of new section for section 92.*—(1) For section 92 of the principal Act, the following section shall be substituted, namely: —

“92. *Payment of compensation and amount of encumbrance.*— (1) The compensation or amount of encumbrance, as the case may be, shall be paid, —

(a) where the person entitled to receive the compensation or the amount of encumbrance is not a private trust or endowment or a body corporate, the compensation or the amount of encumbrance shall be paid either in cash or in negotiable bonds redeemable after the expiry or sixteen years and carrying simple interest at the rate of four and a half percent per annum with effect from the date on which the ownership or possession or both of the land has or have vested in the Government under section 86 or section 87 or partly in cash and partly in such bond, in such manner as may be prescribed;

(b) where the person entitled to receive the compensation or the amount of encumbrance is a private trust or endowment or a body corporate, the compensation or the amount of encumbrance shall be paid in cash or in treasury certificate to be encashed after the expiry of sixteen years and carrying simple interest at the rate of four and a half percent per annum with effect from the date on which the ownership or possession or both of the land has or have vested in the Government under section 86 or section 87 or partly in cash and partly in such treasury certificate, in such manner as may be prescribed.

(2) Where the person entitled to receive the compensation or the amount of encumbrance is a minor or a person suffering from some legal disability or a limited owner, the compensation or the amount of encumbrance, either in cash or in negotiable bond or partly in cash and partly in such bond as may be payable under sub-section (1), shall, notwithstanding anything contained in any law, but subject to any general directions that the Government may give, be deposited for and on behalf of the person with such authority or bank as may be prescribed.

(3) Where a person entitled to the compensation or the amount of encumbrance under sub-section (1) dies before it is paid to him, it shall be paid to his legal representatives:

Provided that if such person has, in accordance with the rules made in this behalf, nominated any member of his family to receive the amount, the same shall be paid to such nominee.

Explanation .—For the purposes of the preceding proviso, “member of family” means wife or husband, son or daughter of such person.

(4) Where before any court or authority any suit or proceeding is pending which directly or indirectly affects or is likely to affect the right of any person to receive the whole or part of the compensation or the amount of encumbrance, the court or authority may require the Land Board to place at its disposal the amount so payable and thereupon the same shall be disposed of in accordance with the orders of the court or authority.”.

12. *Amendment of section 109* .—In section 109 of the principal Act, in clause (b) of sub-section (4), the words “one half of” shall be omitted.

THE KERALA LAND REFORMS (SECOND AMENDMENT) .

ACT, 1989 [\[1\]](#)

(Act 2 of 1990)

An Act further to amend the Kerala Land Reforms Act, 1963.

Preamble.—WHEREAS it is expedient further to amend the Kerala Land Reforms Act, 1963, for the purposes hereinafter appearing;

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

1. *Short title and commencement.*—This Act may be called the Kerala Land Reforms (Second Amendment) Act, 1989.

(2) It shall come into force on such date as the Government may by notification in the Gazette appoint:

Provided that different dates may be appointed for different provisions of this Act, and any reference in any such provision to the commencement of this Act, shall be construed as a reference to the coming into force of that provision.

2. *Substitution of new sections for section 103.*—For section 103 of the Kerala, Land Reforms Act, 1963 (1 of 1964), the following sections shall be substituted, namely:—

"103. *Establishment of State Land Reforms Tribunal.*—The Government may, by notification in the Gazette, establish a State Land Reforms Tribunal to exercise the jurisdiction, powers and authority conferred on the State Land Reforms Tribunal by or under this Act.

103A. *Jurisdiction, powers and authority of State Land Reforms Tribunal.*—(1) Save as otherwise expressly provided in this Act, the State Land Reforms Tribunal shall exercise, all the jurisdiction, powers and authority exercisable by all courts (except the Supreme Court under article 32 and article 136 of the Constitution) in relation to the matters enumerated in sub-section (2) to (6).

(2) Any person aggrieved by—

(i) any final order passed in an appeal against the order of the Land Tribunal; or

(ii) any final order passed by the Land Board under this Act; or

(iii) any final order of the Taluk Land Board under this Act; may, within such time as may be prescribed, prefer a petition to the State Land Reforms Tribunal against the order on the ground that the appellate authority or the Land Board or the Taluk Land Board, as the case may be, has either decided erroneously, or failed to decide any question of law.

(3) In any petition for revision preferred under sub-section (2), the Government shall be made a party.

(4) The Government may, within such time limit as may be prescribed, prefer a petition for revision to the State Land Reforms Tribunal against any final order referred to in sub-section (2) on any of the grounds mentioned in that sub-section.

(5) The State Land Reforms Tribunal may, after giving an opportunity to the parties to be heard, pass such orders as it deems fit and the orders of the appellate authority or the Land Board or the Taluk Land Board, as the case may be, shall wherever necessary, be modified accordingly.

(6) The State Land Reforms Tribunal may, for the purpose of satisfying itself that an order made by the Land Tribunal under section 26 in case where the amount of arrears of rent claimed does not exceed five hundred rupees was according to law, call for the records and pass such order with respect thereto as it thinks fit.

103B. *Composition of the State Land Reforms Tribunal.*—(1) The State Land Reforms Tribunal shall consist of a Chairman, who shall be a Judge of a High Court and two other members, of whom one shall be a person who is, or has been, or is qualified to be, a Judge of the High Court and the other shall be a person who is, or has been, an officer of the Government not below the rank of a Secretary to the State Government as the Government may think to appoint to perform the functions assigned to the State Land Reforms Tribunal by or under this Act:

Provided that appointment of Chairman and other members shall be made in consultation with the Chief Justice of the High Court of Kerala.

(2) Any vacancy in the office of a member of the State Land Reforms Tribunal shall be filled by the Government.

(3) (a) Subject to the provisions of clause (b), the functions of the State Land Reforms Tribunal may be performed—

(i) by a Bench consisting of the Chairman and any other member; or

(ii) by a Bench consisting of the Chairman and two other members; or

(iii) by a Bench consisting of two members other than the Chairman.

(b) The powers of the State Land Reforms Tribunal under this Act may be exercised by a Bench consisting of the Chairman or a single member.

(4) If any case which comes up before a Bench consisting of a single member other than the Chairman, or a Bench consisting of more than one member, of which the Chairman is not a member, involves a question of law, the Bench may, in its discretion, reserve such case for decision by the Chairman or by a Bench to be constituted under sub-section (5), of which the Chairman shall be a member.

(5) The Bench or Benches of the State Land Reforms Tribunal shall be constituted by the Chairman in accordance with the provisions of this Act or the rules made thereunder.

(6) If the members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, and if the members are equally divided, they shall state the point or points on which they differ and such point or points shall be heard—

- (i) when the Chairman is not a member of that Bench, either by the Chairman or by the Chairman and any other member as the Chairman may direct; and
- (ii) when the Chairman is a member of that Bench, by any other member to whom the case is referred by the Chairman and such point or points shall be decided according to the opinion of the majority of the members of the Tribunal who have heard the case, including those who first heard the case.

(7) Any member who has previously dealt with any case coming up before the State Land Reforms Tribunal, in any other capacity or is personally interested in any case coming up before the State Land Reforms Tribunal shall be disqualified to hear that case.

(8) Where any case is heard by a Bench consisting of two members and the members are divided in their opinion on any point and the other member or members of the State Land Reforms Tribunal are disqualified under sub-section (7) to hear the case, the Government may appoint a person who is or has been a judge of a High Court to be an additional member of the Tribunal and the point shall be decided in accordance with the opinion of the majority of the members of the State Land Reforms Tribunal who have heard the case including those who first heard it.

(9) The additional member appointed under sub-section (8) shall cease to hold office on the disposal of the case for which he was appointed.

(10) The State Land Reforms Tribunal shall, with the previous sanction of the Government, make regulations consistent with the provisions of this Act and the rules made thereunder, for regulating its procedure and the disposal of its business.

(11) The regulations made under sub-section (10) shall be published in the Gazette.

103C. *Term of office.*—The Chairman or other member shall hold office as such or a term of three years from the date on which he enters upon his office or until he attains the age of sixty-five years.

103D. *Salaries and other terms and conditions of services of the Chairman and other members.*—The salaries and allowances payable to, and the other terms and conditions of service of, the Chairman and other members shall be such as may be prescribed by the Government.

103E. *Financial and Administrative powers of Chairman.*—The Chairman shall exercise such financial and administrative powers as may be vested in him under the rules made by the Government.

103F. *Staff of the Tribunal.*—(1) The Government shall determine the nature and categories of the officers and other employees required to assist the State Land Reforms Tribunal in the discharge of its functions and provide the Tribunal with such officers and other employees as it may think fit.

(2) The salaries and allowances and the method of appointment and other conditions of service of the officers and other employees of the Tribunal shall be such as may be specified by rules made by the Government.

103G. *Transfer of pending cases.*—Every revision petition pending before the High Court of Kerala filed under the provisions of this Act immediately before the establishment of the State Land Reforms Tribunal under this Act shall stand transferred to and will be decided by the State Land Reforms Tribunal constituted under this Act.

103H. *Proceedings before the State Land Reforms Tribunal to be judicial Proceedings.*—All proceedings before the State Land Reforms Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

103I. *Members and staff of the State Land Reforms Tribunal to be Public Servants.*—The Chairman and other members and officers and other employees provided under section 103F to the State Land Reforms Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

103J. *Exclusion of jurisdiction of Civil Courts and High Court.*— On and from the date from which any jurisdiction, powers and authority becomes exercisable under this Act by the State Land Reforms Tribunal in relation to any of the matters covered by this Act, no civil court including the High Court (except the Supreme Court under article 32 and article 136 of the Constitution) shall have, or be entitled to exercise any jurisdiction to settle, decide or deal with any question or determine any matter which is by or under this Act required to be settled, decided or dealt with or to be determined by the Land Tribunal or the appellate authority or the Land Board or the Taluk Land Board or the State Land Reforms Tribunal or the Government or an officer of the Government."

THE KERALA LAND REFORMS (AMENDMENT) ACT, 2005 [\[1\]](#)

(ACT 21 OF 2006)

An Act further to amend the Kerala Land Reforms Act, 1963.

Preamble.- WHEREAS, it is expedient further to amend the Kerala Land Reforms Act, 1963 (1 of 1964), for the purposes hereinafter appearing;

BE it enacted in the Fifty-sixth Year of the Republic of India as follows:-

1. *Short title and commencement.*- (1) This Act may be called the Kerala land Reforms (Amendment) Act, 2005

(2) It shall come into force at once.

2. *Amendment of section 2.*- In section 2 of the Kerala Land Reforms Act, 1963 (1 of 1964) (hereinafter referred to as the principal Act), in clause (57), in items (j), after the word, figure and letter “section 7D”, the word, figure and letter “section 7E” shall be inserted.

3. *Insertion of new section 7E.*--After section 7D of the principal Act, the following section shall be inserted, namely:-

“7E. *Certain persons who acquired lands to be deemed tenants.*- Notwithstanding anything to the contrary contained in section 74 or section 84 or in any other provisions of this Act, or in any other law for the time being in force or in any contract, custom or usage, or in any judgment decree or order of any court, tribunal or other authority, a person who at the commencement of the Kerala Land Reforms (Amendment) Act, 2005, is in possession of any land, not exceeding four hectares in extent acquired by him or his predecessor in interest by way of purchase or otherwise on payment of consideration from any persons holding land in excess of the ceiling area, during the period between the date of the commencement of the Kerala Land Reforms Act, 1963 (1 of 1964), and the date of commencement of the Kerala Land Reforms (Amendment) Act, 2005, shall be deemed to be a tenant.”.

4. *Amendment of section 84.*- In section 84 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:-

“(4) Notwithstanding anything contained in sub-sections (1), (1A) or (2), or in any judgment, decree, or order of any court, tribunal or other authority, no acquisition of land referred to in section 7E shall be deemed to be invalid or ever to have been invalid by reasons only of the fact that the land so acquired was found included as, or forming part of, the land liable to be surrendered by the transferor as excess land under the provisions

of this Act and no suit or other proceedings including proceedings for eviction relating to the said land shall be instituted, maintained or continued in any court or tribunal against any person who is a deemed tenant under section 7E and every such suit or proceedings pending shall stand abated:

Provided that no ceiling cases wherein excess land has been physically taken over and distributed to landless labourers or reserved for public purposes as provided in this Act shall be reopened:

Provided further that if the Taluk Land Board is satisfied that the transfer of land made by a person, in possession of excess land is calculated to defeat the ceiling provisions, it may take into account the land so transferred in determining his ceiling area, and may direct him to surrender such extent of land held or possessed by him.

Provided also that no ceiling cases or proceedings in which any land has already been surrendered by or assumed from a person as excess land before the commencement of the Kerala Land Reforms (Amendment) Act, 2005, shall be reopened.”.

5. *Insertion of new section 106B.*- After section 106A of the principal Act, the following section shall be inserted, namely:-

“106B. *Special provision for issue of certificate of title.*- (1) Notwithstanding anything to the contrary contained in any other provisions of this Act or in any other law for the time being in force, a person claiming to be a deemed tenant under section 7E may apply, within such time and in such manner as may be prescribed, to the Land Tribunal having jurisdiction over the area, for a certificate of title in respect of the land held by him.

(2) On receipt of an application under sub-section (1) the Land Tribunal shall, within a period of six months from the date of application, pass orders thereon after verifying the records as it may deem fit and where the application is allowed, issue a certificate of title in such manner as may be prescribed.”.

©
Government of Kerala
കേരള സർക്കാർ
2012



Reg. No. രജി. നമ്പർ
KL/TV(N)/12/12-14

KERALA GAZETTE
കേരള ഗസറ്റ്
EXTRAORDINARY

അസാധാരണം

PUBLISHED BY AUTHORITY

ആധികാരികമായി പ്രസിദ്ധപ്പെടുത്തുന്നത്

	Thiruvananthapuram,	19th June 2012	
Vol. LVII	Tuesday	2012 ജൂൺ 19	No. } 1296
വാല്യം 57	തിരുവനന്തപുരം,	29th Jyaishta 1934	നമ്പർ }
	ചൊവ്വ	1934 ജ്യേഷ്ഠം 29	

GOVERNMENT OF KERALA

Law (Legislation-B) Department

NOTIFICATION

No. 9207/Leg.B2/2010/Law. *Dated, Thiruvananthapuram, 19th June, 2012*
29th Jyaishta, 1934.

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the President on the 4th day of June, 2012.

By order of the Governor,
C. K. PADMAKARAN,
Special Secretary (Law).

ACT 6 OF 2012

THE KERALA LAND REFORMS (SECOND AMENDMENT) ACT, 2005

An Act further to amend the Kerala Land Reforms Act, 1963.

Preamble.—WHEREAS, it is expedient further to amend the Kerala Land Reforms Act, 1963 for the purposes hereinafter appearing;

BE it enacted in the Fifty-sixth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Land Reforms (Second Amendment) Act, 2005.

(2) It shall come into force at once.

2. *Amendment of section 81.*—In section 81 of the Kerala Land Reforms Act, 1963 (1 of 1964) (hereinafter referred to as the principal Act),—

(a) in sub-section (1), after clause (e), the following clause shall be inserted, namely:—

“(f) cashew estate

Explanation: For the purpose of this clause “cashew estate” shall mean any land principally cultivated with not less than 150 cashew trees per hectare.”;

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) Notwithstanding anything contained in this Act or in any other law for the time being in force or in any contract or other documents or in any judgement, decree or order of any Court or Tribunal or Taluk Land Board or Land Board or other authority, a person holding plantation and lands ancillary thereto or interspersed within such plantation, may use not exceeding five per cent of the extent of such holding for floriculture or for the cultivation of Vanilla or medicinal plants or other agricultural crops or for establishing hotels or resorts or other tourism projects and for purposes ancillary or connected therewith.”.

3. *Amendment of section 82.*—In section 82 of the principal Act, to sub-section (4), the following proviso shall be added, namely:—

“Provided that nothing contained in this section shall apply to the conversion of any land into cashew estate.”.



കേരള ഗസറ്റ് KERALA GAZETTE

അസാധാരണം
EXTRAORDINARY

ആധികാരികമായി പ്രസിദ്ധപ്പെടുത്തുന്നത്
PUBLISHED BY AUTHORITY

വാല്യം 12
Vol. XII

തിരുവനന്തപുരം,
ശനി
Thiruvananthapuram,
Saturday

2023 ജനുവരി 07
07th January 2023

1198 ധനു 23
23rd Dhanu 1198

1944 പൗഷം 17
17th Pousha 1944

നമ്പർ
No.

59

GOVERNMENT OF KERALA
Law (Legislation-B) Department
NOTIFICATION

No. 20680/Leg.B2/2021/Law.

Dated, Thiruvananthapuram, 6th January, 2023
22nd Dhanu, 1198
16th Pousha, 1944.

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the Governor on the 5th day of January, 2023.

By order of the Governor,

V. HARI NAIR,
Law Secretary.



ACT 5 OF 2023**THE KERALA LAND REFORMS (AMENDMENT) ACT, 2021**

An Act further to amend the Kerala Land Reforms Act, 1963.

Preamble.—WHEREAS, it is expedient further to amend the Kerala Land Reforms Act, 1963, for the purposes hereinafter appearing;

BE it enacted in the Seventy-third Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Land Reforms (Amendment) Act, 2021.

(2) It shall come into force at once.

2. *Amendment of section 102.*—In sub-section (1) of section 102 of the Kerala Land Reforms Act, 1963 (1 of 1964), for the words, figures and letter “Section 106 or Section 106A”, the words, figures and letters “Section 106, Section 106A or Section 106B” shall be substituted.



കേരള സർക്കാർ
നിയമ (നിയമനിർമ്മാണ-ബി) വകുപ്പ്
വിജ്ഞാപനം

നമ്പർ 20680/ലെറ്.ബി2/2021/നിയമം.

തിരുവനന്തപുരം, 2023 ജനുവരി 6
1198 ധനു 22
1944 പെരഷം 16.

കേരള സംസ്ഥാന നിയമസഭയുടെ താഴെപ്പറയുന്ന ആക്റ്റ് പൊതുജനങ്ങളുടെ അറിവിലേക്കായി ഇതിനാൽ പ്രസിദ്ധപ്പെടുത്തുന്നു. നിയമസഭ പാസ്സാക്കിയ പ്രകാരമുള്ള ബില്ലിന് 2023 ജനുവരി 5-ാം തീയതി ഗവർണ്ണറുടെ അനുമതി ലഭിച്ചു.

ഗവർണ്ണറുടെ ഉത്തരവിൻപ്രകാരം,

വി. ഹരി നായർ,
നിയമ സെക്രട്ടറി.



2023-ലെ 5-ാം ആക്റ്റ്

2021-ലെ കേരള ഭൂപരിഷ്കരണ (ഭേദഗതി) ആക്റ്റ്

1963-ലെ കേരള ഭൂപരിഷ്കരണ ആക്റ്റ് വീണ്ടും ഭേദഗതി ചെയ്യുന്നതിനുള്ള

ഒരു

ആക്റ്റ്

പീഠിക.—1963-ലെ കേരള ഭൂപരിഷ്കരണ ആക്റ്റ് ഇതിനുശേഷം കാണുന്ന ആവശ്യങ്ങൾക്കായി വീണ്ടും ഭേദഗതി ചെയ്യുന്നത് യുക്തമായിരിക്കുകയാൽ;

ഭാരത റിപ്പബ്ലിക്കിന്റെ എഴുപത്തിമൂന്നാം സംവത്സരത്തിൽ താഴെപ്പറയും പ്രകാരം നിയമമുണ്ടാക്കുന്നു:—

1. ചുരുക്കപ്പേരും പ്രാരംഭവും.—(1) ഈ ആക്റ്റിന് 2021-ലെ കേരള ഭൂപരിഷ്കരണ (ഭേദഗതി) ആക്റ്റ് എന്ന് പേര് പറയാം.

(2) ഇത് ഉടൻ പ്രാബല്യത്തിൽ വരുന്നതാണ്.

2. 102-ാം വകുപ്പിന്റെ ഭേദഗതി.—1963-ലെ കേരള ഭൂപരിഷ്കരണ ആക്റ്റിന്റെ (1964-ലെ 1) 102-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പിൽ “106-ാം വകുപ്പോ അല്ലെങ്കിൽ 106എ എന്ന വകുപ്പോ” എന്ന വാക്കുകൾക്കും അക്കങ്ങൾക്കും അക്ഷരത്തിനും പകരം “106-ാം വകുപ്പോ 106എ എന്ന വകുപ്പോ 106ബി എന്ന വകുപ്പോ” എന്ന വാക്കുകളും അക്കങ്ങളും അക്ഷരങ്ങളും ചേർക്കേണ്ടതാണ്.

(ശരിത്തർജ്ജമ)

