

Copy of letter No.G2.31040/80 dt.26-7-1980 from Chief Conservator of Forests, Trivandrum to All CFs & All DFOs

Sub: The Kerala Grants and rent leases (Modification of Rights) Ordinance 1980.

I am forwarding herewith a copy of the above ordinance for your information and attention.

Yours faithfully,
Sd/-
for Chief Conservator of Forests.

Government of Kerala
1980

Reg. No.KL/TV

K E R A L A G A Z E T T E
E X T R A O R D I N A R Y

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25th June 1980
4th Ashada 1902

GOVERNMENT OF KERALA
Law (eg.B) Department

NOTIFICATION

No.8756/Leg.B1/80/Law

Dt. Trivandrum, 25th June, 1980. 4th Ashada 1902.

The following Ordinance promulgated by the Governor on the 25th day of June, 1980 is hereby published for General information.

By Order of the Governor,

K. Viswanathan Nair,
Spl. Secretary (Law)

ORDINANCE No.4 of 1980
THE KERALA GRANTS AND LEASES (MODIFICATION OF RIGHTS)
ORDINANCE, 1980

Promulgated by the Governor of Kerala in the Thirty-first Year of the Republic of India.

AN
ORDINANCE

to provide for the modification of rights under grants and leases of lands made or granted by or on behalf of the former States of Travancore and Cochin for cultivation.

Preamble:- WHEREAS the former State of Travancore and Cochin made grants and granted leases of land etc certain persons on nominal assessment or rent;

AND WHEREAS under such grants and leases the grantees and lessees had been given right to appropriate trees standings on the lands granted or leased with obligation to pay nominal value or without any obligation for payment of any value;

AND WHEREAS THE ASSESSMENTS AND RENTS CHARGED on the grantees and lessees are only nominal;

AND WHEREAS such grants and leases, if allowed to operate without modifications, will result in heavy loss to the Government and huge un-earned profits to the grantees and lessees;

AND WHEREAS the effect of such grants and lessee is that the ownership and control of large extents of lands and many valuable trees belonging to the Government are vested in a few persons without any liability to pay reasonable assessment or rent or value of trees.,

AND WHEREAS for the purpose of securing the principals laid down in clauses (b) and (c) of article 39 of the constitution of India, it is necessary in the public interest that such undue profits to a few persons are utilized for the common benefit of the general public;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exit which render it necessary for here to take immediate action.

AND WHEREAS instructions from the President have been obtained in pursuance of the provision of clause (1) of article 213 of the Constitution of India;

NOW THEREFORE; in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:-

1. Short title, extent and commencement-
 - (1) This Ordinance may be called the Kerala Grants and leases (Modification of Rights) Ordinance, 1980.
 - (2) It extends to the whole of the State of Kerala.
 - (3) It shall come into force at once.
 2. It extends to the whole of the State of Kerala.
 3. It shall come into force at once.
2. Definitions: In this Ordinance, unless the context otherwise requires;
- a) 'Collector' means the Collector of the district;
 - b) 'rent' means any grant to which this Ordinance applies;
 - c) 'grantee' means the person in whose favour a grant has been made and includes his heirs, successors and assigns;
 - d) 'lease' means any lease to which this Ordinance applies;
 - e) 'lessee' means the person in whose favour a lease deed has been executed and includes his heirs, successors and assigns;
 - f) 'lease deed' means the document evidencing a lease;
 - g) 'Prescribed' means prescribed by rules made under this ordinance.
3. Grants and leases to which Ordinance applies – This Ordinance shall apply to all grants and leases of lands made or granted by or on behalf of the former State of Travancore or Cochin for cultivation, which contain all or any of the following terms and conditions, namely:-
- a) the grantees or lessees may appropriate for their own use all trees standing on the land except teak, black wood, ebony, Karumthali and sandal wood or any two or more of those categories subject to payment of seigniorage at the rates specified in the grant of lease deed in respect of the timber taken out of the land;
 - b) a fine shall be paid when timber is extracted in violation of the grant or lease deed;
 - c) no timber rights are reserved for the Government and the grantees or lessees can appropriate the timber standing on the land without any restriction of limitation;
 - d) certain categories of trees like ebony, teak and black wood may be felled and removed by the Govt. within a specified period failing which they

shall become the property of the grantee or lessee on payment or royalty, Kuzhikanam or fee at a nominal rate specified in the grant or lease deed;

- e) rights of the Government to the trees standing on the land are fully reserved, the lessees are prohibited from cutting those trees without prior permission of the Government and they are liable for payment of the value of the timber when the trees are cut and removed;
- f) trees value at a nominal rate has to be paid when the land is cleared; and
- g) the grantee or lessee is not liable to pay any assessment or rent or he is liable to pay only nominal assessment or rent for the grant or the lease, as the case may be.

4. Grantees and lessees to pay current seigniorage rates

- 1. Notwithstanding anything contained in any law for the time being in force or in any grant, lease, deed, contract or agreement, or in any judgement, decree or order of any court, with effect from the commencement of this Ordinance, every grantee and every lessee shall be bound to pay to the Government the seigniorage rates in force for the time being for the timber cut and removed from any land held by him under the grant or lease.
- 2. If any dispute arises as to the seigniorage rates for the time being in force, such dispute shall be decided by the Collector.

5. Power of Collector to revise assessment, or rent:-

- 1. Notwithstanding anything contained in any law for the time being in force, or in any grant, lease deed, contract or agreement, or in any judgement, decree or order of any court, the Collector may revise, from time to time, the assessment or rent stipulated in any grant or lease deed.
 - 2. Before revising any assessment or rent under sub-section (1), the Collector shall give the grantee or lessee, as the case may be, an opportunity of being heard and shall make such further inquiry as he deems fit.
- d Any revision of assessment or rent under sub-section(1) shall be in accordance with such principles as may be prescribed.
6. Appeal (1) any person aggrieved by any decision of the Collector under sub-section (2) of section 4 or under sub-section (1) of section 5 may, within sixty days from the date on which the decision was communicated to him, appeal against such decision to the Govt.

Provided that the Government may admit an appeal preferred after the said period of sixty days if they are satisfied that the appellant had sufficient cause for not preferring the appeal within that period.

2. An appeal under sub-section (1) shall be in such form and shall contain such particulars and shall be accompanied by such fee, as may be prescribed.
 3. On receipt of an appeal under sub-section (1), the Govt. shall, after giving the appellant an opportunity of being heard and after such further inquiry as may be prescribed, confirm or modify the decision or set aside the decision and direct the Collector to decide the matter afresh.
 4. The decision of the Government under sub-section (3) shall be final.
7. No compensation to be payable for modification of rights-

Notwithstanding anything contained in any law for the time being in force, or in any grant, lease, deed, contract or in any judgement, decree or order of any court, no compensation shall be payable for the modification of the rights of any grantee or lessee under this Ordinance.

8. Powers of Collector: The Collector shall, for the purpose of exercising any power conferred by or under this Ordinance, 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;
 - c) receiving evidence or affidavit;
 - d) issuing commissions for the examination of witness or for local investigation;
 - e) inspecting any property or thing concerning which any decision has to be taken; and
 - f) any other matter which may be prescribed.
9. Bar of Suits: No civil court shall have jurisdiction to decide or deal with any question or to determine any matter which is by or under this Ordinance, required to be decided or dealt with or to be determined by the Government or the Collector or any other officer.
10. Indemnity: No suit, prosecution or other legal proceedings shall lie against the Government or the Collector or any other person for anything which in good faith done or intended to be done under this Ordinance or any rule made thereunder.

11. Power to remove difficulties: If any difficulty arises in giving effect to the provisions of this Ordinance, the Government may, as occasion may require, by order do anything not inconsistent with such provisions, which appears to them necessary for the purpose of removing the difficulty.

12. Power to make rules:

1. The Government may, by notification in the Gazette, make rules to carry out the purposes of this Ordinance.
2. In particulars, and without prejudice to the Generality of the foregoing power, such rules may provide for
 - a) The principles to be followed for the revision of assessment or rent stipulated in any grant or lease deed;
 - b) the form, of and the particulars to be contained in, any appeal under sub-section 6 and the fee for such appeal;
 - c) any other matter which has to be, or may, be prescribed.
3. Every rule made under this section shall be laid, as soon as may be after it is made, before the legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one 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 decides that the rule should not be made, the rule 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 annual statement shall be without prejudice to the validity of anything previously done under that rule.

JYOTHI VENGATACHELLUM,
GOVERNOR

Endt. on G2,11131/80dt.

Copy with copy of ordinance No.4 of 1980 forwarded to Sections CH, KT, MR, ML and TR guidance.

for Conservator of Forests,

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