

Twelfth Kerala Legislative Assembly

Bill No. 350

**THE KANNAN DEVAN HILLS (TAKING OVER BY
RESUMPTION OF CERTAIN LANDS) BILL, 2010**

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A

BILL

to provide for taking over by resumption of certain extent of land in the Kannan Devan Hills Village in the Devikulam Taluk of the Idukki District by the Government of Kerala.

Preamble.—WHEREAS, the lands comprising the entire revenue village of Kannan Devan Hills in the Devikulam Taluk of Idukki District had been conveyed on lease by the then Poonjar Chief to the late John Daniel Monroe, on the 11th day of July, 1877 for coffee cultivation ;

AND WHEREAS, the right, title and interest of the lessor had been assumed by the former Government of Travancore;

AND WHEREAS, by such assumption the lands have become the property of the former Government of Travancore;

AND WHEREAS, the Government of Kerala have become the successor to the former Government of Travancore;

AND WHEREAS, by virtue of the Kannan Devan Hills (Resumption of Lands) Act, 1971 (5 of 1971), the possession of the lands situate in the Kannan Devan Hills village except the lands exempted or restored to the then lessee by virtue of the provisions of that Act, stood transferred to and vested in the Government of Kerala free from all encumbrances and the right, title and interest of the lessees and all other persons including rights of mortgagees and holders of encumbrances in respect of such lands stood extinguished;

AND WHEREAS, the scheduled land, the possession of which stood restored to the lessee, namely, the Kannan Devan Hills Produce Company Limited by virtue of Act 5 of 1971, now remains in the possession of Tata Tea company and the Government of Kerala are still the owner holding title to the said land;

AND WHEREAS, the scheduled land situated in Munnar is required by the Government of Kerala to be utilised for the public purposes of the local inhabitants for the development of tourism in the area and to set up a tourism zone;

AND WHEREAS, it is expedient in the public interest to ensure that the interest of the general public is served by taking over possession of the said land by resumption by the Government of Kerala;

BE it enacted in the Sixty-First Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kannan Devan Hills (Taking Over by Resumption of Certain Lands) Act, 2010.

(2) It shall be deemed to have come into force on the 14th day of June, 2010.

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

(a) “Collector” means the District Collector of Idukki or any other officer whom the Government may, by notification in the Gazette, appoint to exercise the powers and perform the functions of the Collector under this Act;

(b) “Commissioner” means the Commissioner of payment of compensation appointed under section 6;

(c) “Government” means the Government of Kerala;

(d) “lessee” means a person in possession of the scheduled land immediately before the date of commencement of this Act, who has derived the right to such possession by means of a document executed by late John Daniel Munroe or any person claiming through him or any person claiming under or through any of his successors-in-interest;

(e) “prescribed” means prescribed by rules made under this Act;

(f) “scheduled land” means the land situated in the Kannan Devan Hills village in the Devikulam Taluk in Idukki District, specifically described in the Schedule attached to this Act.

3. *Taking over by resumption of the scheduled land.*—Notwithstanding anything contained in any other law for the time being in force or in any judgment, decree or order of any court or in any contract or other document, with effect on and from the date of commencement of this Act, the possession of the scheduled land shall stand transferred to and vest in the Government free from all encumbrances and the right, title and interest of the lessee and all other persons, including rights of mortgagees and holders of encumbrances, in respect of such lands shall stand extinguished.

4. *General effect of vesting.*—(1) Any provision contained in any other law for the time being in force or in any judgment, decree or order of any court

or in any contract whether express or implied or other arrangement in so far as it relates to the scheduled land immediately before the commencement of this Act, shall be deemed to have been ceased to exist on such commencement.

(2) All persons in charge of the scheduled land who had managed its affairs immediately before the commencement of this Act shall be deemed to have vacated their charge of management on such commencement.

(3) The scheduled land shall, for all purposes, be treated as Government land with effect on and from the date of commencement of this Act which shall be used for common purposes.

5. Payment of compensation.—(1) For any improvements made to the scheduled land by the lessee and for the value of any interest which may have accrued in favour of any person from the date on which the lessee had assumed possession to the date of resumption by taking over by the Government under section 3, the Government shall pay to such person an amount by way of compensation by following the principles specified in sub section (2).

(2) The principles to be followed in the payment of compensation shall be the following:—

(a) in respect of any improvement made to the land or any building situated therein, the value of such improvement shall be at the rate prevalent at that time;

(b) depreciation at the rate of five percent per annum subject to a maximum of fifty percent towards cost of the buildings;

(c) for any interest which may have accrued, its value may be computed in such manner as may be prescribed.

6. Commissioner of Payment of Compensation.—The Government shall, for the purpose of payment of compensation under section 5, by notification in the Gazette, appoint an officer not below the rank of the Deputy Commissioner of Land Revenue as the Commissioner of Payment of Compensation.

7. Claims to be made to the Commissioner.—(1) Any person having a right to compensation under section 5 shall prefer a claim before the Commissioner within a period of one month from the date of commencement of this Act or such extended period as may be fixed by the Government, but not exceeding two months.

(2) The Commissioner shall examine such claim with relevant details and after giving the affected person an opportunity of being heard and by

applying the principles for payment of compensation, determine the amount payable and such payment shall be made in such manner as may be prescribed.

(3) The Commissioner shall have the powers to regulate his own procedure in all matters arising out of the exercise of his powers in payment of compensation and for the purpose of making any investigation under this Act and shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) while trying a suit in respect of the following matters, namely:—

(a) the summoning and enforcing the attendance of any witness an examining him on oath;

(b) the discovery and production of any document or other material object producible as evidence;

(c) the issuing of any commission for the examination of witnesses;
(d) such other matters as may be prescribed.

8. *Appeal against the order of the Commissioner.*—Any claimant who feels aggrieved by the order of the Commissioner under section 7 may prefer an appeal within thirty days from the date of receipt of a copy of such order against such order before the Government.

9. *Eviction of persons in occupation on the date of commencement of the Act.*—(1) The Collector or any officer authorised by him in that behalf may summarily evict any person in occupation of the Scheduled land which has been vested with the Government under section 3.

(2) Notwithstanding anything contained in any other law for the time being in force, the Collector or the officer authorised under sub section (1) may, for the purpose of such eviction, use such force as he deems necessary.

10. *Act to have overriding effect.*—The provisions of this Act or any rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law other than this Act or in any instrument having effect by virtue of any law other than this Act or in any decree or order of any Court or other authority.

11. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding shall lie against the Government or any of its officers or employees for any act or omission which is in good faith done or intended to be done or omitted to be done under this Act.

12. *Bar of jurisdiction of Civil Court.*—No civil court shall have jurisdiction to decide or deal with any question or to determine any matter which is by or under this Act, required to be decided or dealt with or to be determined by the Government or any other officer of the Government.

13. *Power to remove difficulties.*—If any difficulty arises in giving effect to the provisions of this Act, the Government may by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

14. *Power to make rules.*—(1) The Government may, by notification in the Official Gazette, make rules either prospectively or retrospectively to carry out the purposes of this Act.

(2) Every rule made under this Act 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 annulment shall be without prejudice to the validity of anything previously done under that rule.

15. *Repeal and Saving.*—(1) The Kannan Devan Hills (Taking Over by Resumption of Certain Lands) Ordinance, 2010 (30 of 2010) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have done or taken under this Act.

SCHEDULE

[See section 2 (f) and section 3]

<i>Survey Detail</i>		<i>Boundaries</i>				
<i>Sl. No.</i>	<i>Survey No. & Sub Divn. No.</i>	<i>Extent (Acre)</i>	<i>East</i>	<i>South</i>	<i>West</i>	<i>North</i>
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	339 2 part	58.30	Sy.No.898	Thodu	Government Land Kuttiar Valley House Site	Road
2	487	51.31	Ka Block Sy.No.1114	Road	Sy.No.893	Ka Block Sy.No.1114
3	488	3.60	Sy.No.487	Road	Sy.No.487	Sy.No.487
4	527			Government	Thodu	Grass land and Thodu
	Part	183.55	Sy.Nos.938, 319,528,936	Land Kuttiar Valley House site	Sy.No.628	Thodu
5	604	96.34	Sy.Nos.628, 609	Sy.Nos.572,109 and 108	Sy.No.55	Thodu
6	622 Part	64.45	Tea Plantation	Munnar-Silent Valley Road	Government Land	Sy.No.527

7	628	103.98	Sy.No.527	Sy.Nos.609 and 622	Sy.Nos.604 and 686 and 1023	Sy.Nos.686 and 1023
8	893	12.50	Sy.Nos.894 and 487	Road	Road	Sy.No.932
9	894	8.20	Sy.No.487	Road	Sy.No.893	Sy.No.487
10	898	64.20	Sy.No.495	Thodu	Sy.No.339/2	Road
11	336	1.87	Sy.No.527 Part	Sy.No.527 Part 62/7	Sy.No.527 Part	Government Land
12	609	76.09	Sy.No.622 and 615	Munnar-Silent Valley Road	Sy.No.614, 572 and 604	Sy.No.628
13	615	2.92	Sy.No.609	Government Land	Sy.No.609	Sy.No.609
14	572 Part	29.05	Sy.No.609	Sy.No.613 and 609	Tea Plantation	Sy.No.604
15	613	9.84	Sy.No.614	Munnar-Silent Valley Road	Tea Plantation	Tea Plantation
16	629	94.80	Government Land	Munnar-Devikulam Road (NH 49)	Munnar-Devikulam Road (NH 49)	Munnar-Silent Valley Road
17	1022	2.60	Sy. No. 527	Sy.No.527	Sy.No.1023	Grass Land
18	1023	13.90	Sy.No.527 and 1022	Sy.No.628	Sy.No.685	Mattupetty Road

(1)	(2)	(3)	(4)	(5)	(6)	(7)
19	611	2.70	Sy.No.629	Sy.No.629	Tea Plantation	Munnar-Silent Valley Road
20	614	1.53	Sy.No.609	Munnar-Silent Valley Road	Sy.No.613	Sy.No.609
21	248 Part	37.00	Sy.No.62/6 and 160	Shops and Residence	Shops and Residence	Sy.No.248 Part, 151 and 161
22	160 Part	11.00	Munnar Marayoor Road	Mosque	Sy.No.248	Sy.No.160 Part
23	62 6	16.65	Munnar Marayoor Road	Mosque	Sy.No.248	Sy. No.248 and 160
24	55 13 Part	57.85	Sy.No.916	Sy.No.63,842 and 841	River	Sy.No.555 Part
25	61 6 Part	5.00	NH 49	61/7	61/3	62/1A
26	62/5A2	0.1179	62/7	62/5A1	62/5A3 Munnar-Nallathanni Road	62/7
27	62/5A3	0.1504	62/5A1	62/3A Part 11/4 62/5A3	64/4	62/5A1

28	62/3A Part	62/5A3	62/3A Part	62/5A3		
29	62/12B3	7.30	13A	62/12A	62/10A and 62/12A	Munnar-Devikulam Road
30	62/13A	4.53	62/12B/2	62/12B and 62/12A	62/12B4	Munnar-Devikulam Road
31	62/12B4	12.00	62/14/A and 62/12B	62/12B and 62/12A	62/13A Road and 62/123	Munnar-Devikulam
32	62/11A	2.43	62/12A	63/12A	62/12/A	62/12/B3
33	62/3C	1.46 Acres	Nallathanni Road(62/5A6)	62/3B	Nallathanni Road(62/5A6)	62/1A
34.	61/18	11.84 Acres	61/19	Munnar River	62/12A	61/19 part
35	62/4	50 cents (excluding road)	Road (62/5A1)	Govt. land in 62/4	Nallathanni River	Buildings on the southern side of Munnar General Hospital Road Munnar-Nallathanni Road
36	62/6 Part	16 Acres (Excluding Mosque area)	Munnar-Marayoor Road	Sy. No.248	62/6 part	Munnar-Nallathanni Road

(1)	(2)	(3)	(4)	(5)	(6)	(7)
37	61/6 part	4 Acres (Football ground)	National Highway (61/6 part)	Road	Cinema House (61/6 part)	Highrange Public School and Office of Estate Staff Union of South India (61/6 part)
38	61/6 part	3.7 Acres	Road	61/6 and 61/3 part	61/6 Head Master's Quarter	61/6 part
Total			1073.50 Acres			

STATEMENT OF OBJECTS AND REASONS

The land comprising the entire revenue village of Kannan Devan Hills in the Devikulam Taluk of Idukki District had been conveyed on lease by the then Poonjar Chief to late John Daniel Manroe, on the 11th day of July, 1877 for coffee cultivation. The right, title and interest of the lessor was assumed by the former Government of Travancore and thereby the said land became the property of the former Government of Travancore and later the Government of Kerala, who became the successor of the former Government of Travancore.

By virtue of the Kannan Devan Hills (Resumption of Lands) Act, 1971 (5 of 1971), the possession of the lands in the Kannan Devan Hills village, except the lands exempted or restored to, the then lessee by virtue of the provisions of that Act, stood transferred to and vested in the Government of Kerala free from all encumbrances and the right, title and interest of the lessees and all other persons including the right of mortgagees and holders of encumbrances in respect of such lands stood extinguished.

Though the right of possession of the said land restored to the Kannan Devan Hills Produce Company Ltd. as per Act 5 of 1971 now remains in the possession of the Tata Tea Company, the ownership of said land is still vested in the Government of Kerala.

The Government consider that it is necessary to develop the tourism facilities of Moonnar area since the existing area cannot withstand the pressure of tourists. Therefore, the Government intend to prepare a detailed master plan relating to the land so resumed by giving emphasis to tourism and tourism related activities. Moreover, the Hon'ble High Court of Kerala has also observed in its Order in W.P No. 1601 of 2010, that the Government have the obligation to regulate the utilisation of the said land. In this circumstance, the Government consider it is necessary to take over by resumption of a portion of the said land, having an extent of 1073.50 acres in the possession of the Tata Tea Company situated at Moonnar.

As the Legislative Assembly was not in session and as the above proposal had to be given effect immediately, the Kannan Devan Hills (Taking Over by Resumption of Certain Lands) Ordinance, 2010 (30 of 2010) was promulgated by the Governor of Kerala on the 12th day of June, 2010 and the same was published in the Kerala Gazette Extraordinary No. 1343 dated the 14th June, 2010.

The Bill seeks to replace the said Ordinance by an Act of the State Legislature.

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides that the Government shall pay to the lessee an amount by way of compensation for any improvements made to the scheduled land by him and for the value of any interest which have accrued in favour of any person from the date on which the lessee had assumed possession to the date of resumption by taking over by the Government.

There are buildings, constructions and plantations in 1073.50 acres of land in Kannan Devan Hills village intended to be taken over by resumption by the Government. The exact value cannot be estimated at this stage. However, an approximate amount of rupees five crores is estimated as expenditure from the Consolidated Fund of the State for payment of compensation.

MEMORANDUM REGARDING DELEGATED LEGISLATION

1. Clause 2 (a) of the Bill seeks to empower the Government to appoint any other officer, by notification in the Gazette, to exercise the powers and perform the functions of the District Collector.

2. Sub-clause (2) (c) of clause 5 of the Bill seeks to empower the Government to prescribe the manner in which the value of any interest which may have accrued in favour of any person in the land included in the Schedule is to be computed.

3. Clause 6 of the Bill seeks to empower the Government to appoint, by notification in the Gazette, an officer not below the rank of the Deputy Commissioner of Land Revenue as the Commissioner of Payment of Compensation.

4. Sub-clause (2) of clause 7 of the Bill seeks to empower the Government to prescribe the manner in which the compensation is to be paid under clause 7.

5. Sub-clause (3) of clause 7 of the Bill seeks to empower the Government to prescribe the matters other than those specified in item (a) to (c) of clause 7(3) in respect of which the Commissioner shall have the powers of a civil court.

6. Clause 13 of the Bill seeks to empower the Government to remove, by order, not inconsistent with the provision of this Act, any difficulty arising in giving effect to the provisions of this Act, within two years from the date of commencement of the Act.

7. Clause 14 of the Bill seeks to empower the Government, to make rules, by notification in the Gazette, to carry out the purposes of this Act.

8. The matters in respect of which rules are to be made and orders and notifications are to be issued are relating to matters of procedure and are either routine or administrative in nature. Further, the rules after they are made, will be subject to the scrutiny of the Legislative Assembly. The delegation of Legislative power, is thus of a normal character provided that after making rules it shall be subject to the scrutiny of the Legislative Assembly.

K. P. RAJENDRAN.

(True Translation)