

പതിനാലാം കേരള നിയമസഭ

പത്താം സമ്മേളനം

നക്ഷത്ര ചിഹ്നമിടാത്ത നിയമസഭാ ചോദ്യം
നം. 6379

03.04.2018-ൽ മറുപടിയ്ക്ക്

സ്വന്തമായി വെച്ചു പിടിപ്പിച്ച മരം മുറിക്കുന്നതിന് അനുമതി

ചോദ്യം
ശ്രീ. പി.സി. ജോർജ്ജ്

ഉത്തരം
അഡ്വ.കെ.രാജ്
(വനവും മൃഗസംരക്ഷണവും മൃഗശാലകളും
വകുപ്പു മന്ത്രി)

(എ) ഇടുക്കി ജില്ലയിൽ സി.എച്ച്.ആർ. (എ) മേഖലയിലുള്ള ആളുകളുടെ കൈവശമുള്ള പട്ടയം കിട്ടിയതും കിട്ടാത്തതുമായ സ്ഥലത്ത് ഇവർ തന്നെ വെച്ചു പിടിപ്പിച്ച പ്ലാവ്, ആഞ്ഞിലി, തേക്ക്, മഹാഗണി തുടങ്ങിയ മരങ്ങൾ മുറിക്കുന്നതിന് എന്തെങ്കിലും തടസ്സമുണ്ടോ; വിശദമാക്കുമോ;

പൊതുവെ പട്ടയഭൂമികളിൽ കർഷകർ നട്ടുവളർത്തിയ ചന്ദനം ഒഴികെയുള്ള മരങ്ങൾ മുറിക്കുന്നതിന് വനം വകുപ്പിന്റെ ഭാഗത്തുനിന്നും നിരോധനം ഏർപ്പെടുത്തിയിട്ടില്ലാത്തതാണ്. എന്നാൽ, 1986-ലെ വൃക്ഷസംരക്ഷണ നിയമത്തിലെ 5-ാം വകുപ്പ് പ്രകാരം വിജ്ഞാപനം ചെയ്യപ്പെട്ടിട്ടുള്ള കാർഡമം ഹിൽ റിസർവ്വ് (CHR) മേഖലയിൽപ്പെടുന്ന ഏലപ്പട്ടയത്തിലും, ഏലപ്പാട്ട ഭൂമികളിലും ഉൾപ്പെടുന്ന മരങ്ങൾ മുറിക്കുന്നതിന് ചില നിയന്ത്രണങ്ങൾ ഉള്ളതാണ്. തേക്ക് മരങ്ങൾ മുറിക്കുന്നത് സംബന്ധിച്ച് അതാത് ഭൂമിക്ക് ലഭിച്ച പട്ടയങ്ങളിലെ വ്യവസ്ഥകൾ ബാധകമായിരിക്കും. പട്ടയം ഇല്ലാത്ത ഭൂമികളിലെ മരങ്ങൾക്ക് കൈവശക്കാരന് അവകാശം വരുന്നതല്ല.

(ബി) സ്വന്തമായി വെച്ചു പിടിപ്പിച്ച മരങ്ങൾ കൃഷിക്കാർ മുറിക്കുന്നതിന് എതിരെ വനംവകുപ്പ് ഉദ്യോഗസ്ഥർ കേസ് എടുക്കുകയും കൃഷിക്കാരെ ഭീഷണിപ്പെടുത്തുകയും ചെയ്യുന്നത് ശ്രദ്ധയിൽപ്പെട്ടിട്ടുണ്ടോ; ഇക്കാര്യത്തിൽ കൃഷിക്കാരെ സഹായിക്കാൻ എന്തൊക്കെ നടപടി സ്വീകരിക്കുമെന്ന് വിശദമാക്കുമോ;

(ബി) നിലവിലുള്ള നിയമങ്ങൾക്കും ചട്ടങ്ങൾക്കും വിരുദ്ധമായി മരം മുറിക്കുന്ന സന്ദർഭങ്ങളിലല്ലാതെ വനം വകുപ്പ് ഉദ്യോഗസ്ഥർ ഏതെങ്കിലും കൃഷിക്കാർക്കെതിരെ കേസ് എടുക്കുന്നതായി ശ്രദ്ധയിൽപ്പെട്ടിട്ടില്ല. ഈ വിഷയത്തിൽ കർഷകരെ ഭീഷണിപ്പെടുത്തുന്നതായും ശ്രദ്ധയിൽപ്പെട്ടിട്ടില്ല. CHR ലെതന്നെ ഭൂമിപതിവ് ചട്ടങ്ങൾ പ്രകാരം പതിച്ചു കൊടുക്കുന്ന

ഭൂമിയിലെ മരങ്ങൾക്ക് വൃക്ഷസംരക്ഷണ നിയമത്തിലെ 5-ാം വകുപ്പ് ബാധകമല്ല. ആയതിനാൽ നിലവിൽ ഇത് കൃഷിക്കാർക്ക് സഹായകരമായ വിധത്തിലാണുള്ളത്.

(സി) 1986-ലെ വൃക്ഷപരിപാലന നിയമ-
ത്തിന്റെ അഞ്ചാം വകുപ്പ്, കാർഡമം
റൂൾസ് എന്നിവയിലെ വ്യവസ്ഥകൾക്ക്
വിധേയമായിട്ടാണോ ഏലപ്പാട്ട
ഭൂമികളിൽ മരംമുറിക്കുന്നതിന് അനുമതി
നൽകുന്നത്; എങ്കിൽ പ്രസ്തുത
വ്യവസ്ഥകൾ എന്താണെന്ന് വിശദമാ-
ക്കാമോ; പകർപ്പ് ലഭ്യമാക്കാമോ?

(സി) അതെ. ഏലപ്പാട്ടയ, ഏലപ്പാട്ട ഭൂമികളിൽ
1986 ലെ വൃക്ഷ സംരക്ഷണ
നിയമത്തിലെ സെക്ഷൻ 5-ഉം കാർഡമം
റൂൾസ് പ്രകാരവുമുള്ള നിബന്ധനകൾക്കും
വിധേയമായ മരംമുറിയാണ്
അനുവദിച്ചിട്ടുള്ളത്. വൃക്ഷ സംരക്ഷണ
നിയമത്തിലെ 5-ാം വകുപ്പ് പ്രകാരം,
ജീവനും സ്വത്തിനും ഭീഷണിയായതോ
ഉണങ്ങിയതോ കേട് വന്നതോ കാറ്റത്ത്
പിഴുത് വീണതോ സാധാരണ കൃഷി/
ഹോർട്ടികൾച്ചർ ആവശ്യത്തിന് നടത്തുന്ന
പ്രൂണിംഗിനോ അല്ലാതെ വിജ്ഞാപനം
ചെയ്ത സ്ഥലത്തെ യാതൊരു മരവും
മുറിക്കാൻ അനുമതിയില്ല. ഇത്തരം
സാഹചര്യങ്ങളിൽ അധികാരപ്പെടുത്തിയ
ഉദ്യോഗസ്ഥന്റെ അനുമതിയോടെ
വൃക്ഷങ്ങൾ മുറിക്കാവുന്നതാണ്. 1935 ലെ
കാർഡമം റൂൾസിലെ 28 മുതൽ 31
വരെയുള്ള ചട്ടങ്ങളും ഇവിടങ്ങളിലെ മരം
മുറിയ്ക്കുവാൻ ബാധകമായിരിക്കും (പകർപ്പ്
ഉള്ളടക്കം ചെയ്യുന്നു)

V Beena
സെക്ഷൻ ഓഫീസർ

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THE KERALA PRESERVATION OF TREES ACT, 1986

(Act 35 of 1986)

An Act to provide for the preservation of trees in the State of Kerala

Preamble.— WHEREAS there has been indiscriminate felling and destruction of trees in the State of Kerala resulting in considerable soil erosion and destruction and loss of the timber wealth of the State;

AND WHEREAS with a view to prevent soil erosion and destruction and loss of the timber wealth in the State, it is necessary to regulate the felling and destruction of trees in the State;

BE it enacted in the Thirty-seventh Year of the Republic of India as follows:—

1. Short title, extent and commencement.— (1) This Act may be called the Kerala Preservation of Trees Act, 1986.

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

(3) It shall be deemed to have come into force on the 18th day of June, 1983.

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

(a) "appellate authority" means an appellate authority appointed under subsection (2) of Section 3;

* Published under Notification No. 12984/Leg. B1/86/Law in K.G. No. 1091 dt. 01/12/1986 and received the assent of the President on 01/12/1986 (w.e.f. 18/06/1983).

Statement of Objects and Reasons (Act 35 of 1986)

Indiscriminate felling and destruction of trees in the State have been brought to the notice of Government and it is feared that it may result in quick denudation of the forest growth and consequent soil erosion, land slides, flood etc. This is also detrimental to ecological balance. Of late, felling of trees and destruction of flora and fauna are reported to be on the increase. As there was no effective law to prevent this tendency, it was decided to enact a law for imposing restrictions on the cutting of trees in the State and regulating cultivation in the hill areas of the State. As the Legislative Assembly was not in session and as the matter was of an urgent nature, the Kerala Preservation of Trees and Regulation of Cultivation in Hill Areas Ordinance, 1983 (21 of 1983) was promulgated by the Governor on the 17th day of June, 1983.

2. A Bill to replace the said Ordinance by an Act of the Legislature, though published, could not be introduced in, and passed by, the Legislative Assembly during its session which commenced on the 20th day of June, 1983 and ended on the 4th day of August, 1983. In order to keep alive the provisions of the said Ordinance, the Kerala Preservation of Trees and Regulation of Cultivation in Hill Areas Ordinance, 1983 (29 of 1983) was promulgated by the Governor on the 29th day of August, 1983.

3. A Bill to replace Ordinance No. 29 of 1983 by an Act of the Legislature though published, could not be introduced in, and passed by, the Legislative Assembly during its session which commenced on the 25th day of November, 1983 and ended on the 20th day of December, 1983.

4. On a review of the implementation of the provisions of the above Ordinances, it was found unnecessary to impose regulation on the cultivation in hill areas. Therefore, the Kerala Preservation of Trees Ordinance, 1984 (15 of 1984) was promulgated by the Governor on the 15th day of February, 1984 to keep alive the provisions in Ordinance 29 of 1983 for the preservation of trees. The Bill seeks to replace Ordinance 15 of 1984 by an Act of the State Legislature.

(Published in K.G. Ext. No. 239 dt. 24/03/1984.)

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(b) "authorised officer" means an officer appointed in writing by the Government under Section 3;

(c) "owner" in relation to any land includes a mortgagee, lessee or other person having right to possession and enjoyment of that land;

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

(e) "tree" means any of the following species of trees, namely:—

Sandalwood (*Santalum album*), Teak (*Tectona grandis*), Rosewood (*Dalbergia latifolia*), Irul (*Xylia Xylocarpa*), Thempavu (*Terminalia tomentosa*), Kumbakam (*Hopea parviflora*), Chempakam (*Michelia chempaca*), Chadachi (*Grewia thalictifolia*), Chandana vempu (*Cedrela toona*), Cheeni (*Tetrameles nudiflora*).

Comments and Case Law

This is the culmination of earlier ordinances starting with the Kerala Preservation of Trees and Regulation of cultivation in Hill Areas Ordinance, 1983 (21 of 1983), which was a pioneering attempt in the line of soil and moisture conservation and the protection of trees. The provisions relating to the soil and moisture conservation by way of regulation of cultivation in hill areas were rescinded by the agricultural communities and the political parties without fully realizing the benefits from them. Unfortunately those provisions had to go for the sake of protection of trees. But of late, this is also under criticism. Even, the external lending agencies have found this as a harsh law. Definition of tree under the Act has restrictive meaning rather than the exhaustive definition in Kerala Forest Act, 1961.

The Kerala Preservation of Trees Act, 1986 does not apply to lands, which is not a Private Forest. *Kottal Ayishumma v. State* — ILR 1998 (3) Ker. SN P. 1.

If trees are cut indiscriminately apart from trees mentioned in S.2(e) that will lead to soil erosion and would cause large scale destruction and loss of timber wealth in the private forests as well as the cardamom Hills Reserve. *Mathew v. DFO* — 1997 (1) KLT 61 : 1996 (2) KLJ 461.

As far as S.2 (e) is concerned the legislature has used the expression mean to make the definition restrictive to the species mentioned in that Section. *Mathew v. DFO* — 1997 (1) KLT 61: 1996 (2) KLJ 461.

3. Authorised officers and appellate authorities.— (1) The Government may, by notification in the Gazette, appoint such officers not below the rank of a Ranger as they think fit to be authorised officers for the purposes of this Act and may assign to them such local limits as the Government think fit.

(2) The Government may, by notification in the Gazette, appoint such officers as they think fit to be appellate authorities for the purposes of this Act and may assign to them such local limits as the Government think fit.

Comments

This section empowers the Government to appoint authorized officers and appellate authorities by notification in the Gazette.

4. Restriction regarding cutting, etc., of trees.— (1) No person shall, without the previous permission in writing of the authorised officer, cut, uproot or burn, or cause to be cut, uprooted or burnt, any tree.

(2) The permission under sub-section (1) shall not be refused if—

- (a) the tree constitutes a danger to life or property; or
- (b) the tree is dead, diseased or windfallen:

Provided that where permission to cut a tree is granted on the ground specified in clause (a) or clause (b), the authorised officer shall impose as a condition for the grant of such permission the effective regeneration of an equal number of the same or other suitable species of trees; or

(2) such cutting is to enable the owner of the land in which the tree stands to use the area cleared of the timber cut for the construction of a building for his own use.

(3) No person shall cut or otherwise damage, or cause to be cut or otherwise damaged, the branch of any tree.

Provided that the provisions of this sub-section shall not be deemed to prevent the pruning of any tree as required by ordinary agricultural or horticultural practices.

(4) No person shall, without the previous permission in writing of the authorised officer, destroy any plant of any tree or do any act which diminishes the value of any such plant.

(5) Nothing contained in sub-section (1) or sub-section (2) or sub-section (3) or sub-section (4) shall apply in respect of any tree or plant in the compound of any residential building.

[(6) Notwithstanding anything contained in this section or in any judgement, decree or order of any Court, the owner of any land shall have the right to cut or cause to be cut any tree, other than a tree as defined in clause (e) of Section 2, standing on such land, without obtaining a permission under this section.]

Provided that where such compound exceeds one hectare in extent, the provisions of this sub-section shall apply only in respect of an extent of one hectare immediately surrounding the residential building.

Comments and Case Law

This section places the restriction on the cutting etc. of the trees and also the instances when trees can be cut under permission.

The Government has issued G.O.(MS). No. 85/99/F&WLD. dated 28/09/1999 in this regard:

While considering the contempt of cases, CCC 318/98 and 337/98, a Division Bench of the High Court found that though Sections 4 and 5 of the Kerala Preservation of Trees Act, 1986 contained reference to the term 'diseased trees', there was no foolproof method to assess the diseased trees. The High Court, therefore directed Government to issue a set of guidelines which would satisfy scientific requirements for assessing 'dead and diseased' trees under Sections 4 and 5 of the Kerala Preservation of Trees Act, 1986.

2. Government, therefore, after consulting the scientific community in the Kerala Forest Research Institute, Peechi, issued the following guidelines for granting permission by Authorised Officers for cutting 'Dead Trees' and 'Diseased Trees' under Sections 4 and 5 of Kerala Preservation of Trees Act, 1986.

I. Dead Tree:

- i) Definition: A tree which has no sign of life.
- ii) Criteria for determination of a dead tree:
 - A tree may be classified as dead if there is
 - a) Natural absence of bark, or
 - b) Absence of all the following conditions:
 - 1) Green (live) leaves,
 - 2) Buds,
 - 3) Live tissues

Note.— The presence of live tissues can be examined at the base of the tree by blazing with a knife.

II. Diseased Tree:

- i) Definition: A tree which is disturbed or abnormal in structure or physiological action in the living organisms as a whole or in any of its parts and no chance to recover or survive in the ordinary course of nature.

1. Inserted by Act 28 of 2003, published in K. G. Ext. No. 1711 dt. 05/09/2003 (w.e.f. 05/09/2003).

- Criteria for identification of a diseased tree for the purpose of cutting
- A tree having any of the following conditions:
 - a) Top drying of main trunk at least down to half the height of the tree.
 - b) Multiple borer holes throughout the tree.
 - c) Severe decay of bole and roots indicated by extensive cavities, abnormally swollen bole and presence of bracket fungi.

The Principal Chief Conservator of Forests (General) will have to give necessary instructions to the concerned to see that the above guidelines are strictly followed while granting permission for cutting 'Dead Trees' and 'Diseased Trees'.

Government has issued order No. സ.ഉ.(സാ) നം.64/2000/വനം. തിരുവനന്തപുരം, തീയതി 05/02/2000 - Clarifying the danger petitions for felling of trees. It is as follows:

1986-ലെ കേരള വൃക്ഷസംരക്ഷണനിയമത്തിലെ സെക്ഷൻ 4(2)(എ) അനുസരിച്ച് ജീവനോ, സ്വത്തിനോ ഭീഷണിയായി നിൽക്കുന്ന മരം മുറിക്കാൻ അനുമതി നൽകാതെ വ്യവസ്ഥയുടെ മറവിൽ പാലക്കാട്, ഇടുക്കി ലില്ലുകളിൽ ഡെയിഞ്ചർ പെറ്റീഷൻ മുഖേന വില കൂടിയ മരങ്ങൾ ബന്ധപ്പെട്ട ഉദ്യോഗസ്ഥരുടെ മൗനാനുവാദത്തോടെ മുറിച്ചുമാറ്റുന്നതായി ഇക്കാര്യം പരിശോധിച്ച കേരള നിയമസഭയുടെ ഉറപ്പുകൾ സംബന്ധിച്ച സമിതി (1996-98) ക്ക്ക്കു ബോധ്യമായതിനെത്തുടർന്ന് ഡെയിഞ്ചർ പെറ്റീഷൻ പരിഗണിക്കുമ്പോൾ ബന്ധപ്പെട്ട റവന്യൂ, ഫോറസ്റ്റ് ഉദ്യോഗസ്ഥർ സ്ഥലത്തു പോയി പരിശോധന നടത്തിയ ശേഷമേ ഇത്തരം അപേക്ഷകൾ പരിഗണിക്കാവൂ എന്നും പഞ്ചായത്തു വകുപ്പ് വീട്ടു നമ്പർ റഫർ ചെയ്തു സമീരതാമസത്തിന് നിർമ്മിച്ചിട്ടുള്ള വീടാണെന്ന് സർട്ടിഫൈ ചെയ്യണമെന്നും അപാകത ബോധ്യപ്പെട്ടാൽ ശുപാർശ ചെയ്ത ഉദ്യോഗസ്ഥരുടെ പേരിൽ ശിക്ഷണനടപടികൾ സ്വീകരിക്കുന്നതോടൊപ്പം തടിയുടെ കമ്പോള നിരക്കിലുള്ള വില കണക്കാക്കി നഷ്ടം അവരിൽനിന്നും ഈടാക്കുവാനും നടപടി സ്വീകരിക്കണമെന്നും സമിതി ശുപാർശ ചെയ്യുകയുണ്ടായി.

സർക്കാർ ഈ വിഷയം വിശദമായി പരിശോധിച്ചു സ്വകാര്യവനത്തിൽ ജീവനോ, സ്വത്തിനോ അപകടമായി നിൽക്കുന്ന മരങ്ങൾ മുറിച്ചു മാറ്റണമെന്ന് കാണിച്ച് വനം വകുപ്പിൽ ലഭിക്കുന്ന അപേക്ഷകൾ പരിഗണിക്കുമ്പോൾ താൽക്കാലികമായി താമസിക്കുന്നവരല്ലെന്നും വീടുവെച്ച് സ്ഥിരമായി താമസിക്കുന്നവരാണ് അപേക്ഷകരെന്നും ഉറപ്പു വരുത്തേണ്ടത് ഈ സൗജന്യത്തിന്റെ പേരിൽ കൂടുതൽ മരം മുറി നടക്കാതിരിക്കുവാൻ ആവശ്യമാണെന്നും കണ്ടെത്തിയതിന്റെ അടിസ്ഥാനത്തിൽ ഇക്കാര്യത്തിൽ പരാമർശം രണ്ട് പ്രകാരമുള്ള ചീഫ് ഫോറസ്റ്റർ കൺസർവേറ്ററുടെ അഭിപ്രായം കൂടി കണക്കിലെടുത്ത് 1986-ലെ കേരള വൃക്ഷസംരക്ഷണ നിയമത്തിലെ സെക്ഷൻ 4(2)(എ) അനുസരിച്ച് സ്വകാര്യവനത്തിൽ ജീവനോ, സ്വത്തിനോ ഭീഷണിയായി നിൽക്കുന്ന മരം മുറിക്കാൻ അനുമതി ആവശ്യപ്പെട്ട് ലഭിക്കുന്ന ഡെയിഞ്ചർ പെറ്റീഷൻ പരിഗണിക്കുമ്പോൾ പാലിക്കേണ്ട നടപടികളെങ്കിലും സംബന്ധിച്ച് താഴെപ്പറയും പ്രകാരമുള്ള മാർഗ്ഗനിർദ്ദേശങ്ങൾ പുറപ്പെടുവിച്ച് ഉത്തരവാകുന്നു:

1. അപേക്ഷയിൽ പഞ്ചായത്ത് വകുപ്പിൽനിന്ന് നൽകിയ വീട്ടു നമ്പർ ഉണ്ടായിരിക്കണം.
2. സമീരതാമസത്തിന് നിർമ്മിച്ചിട്ടുള്ള വീടാണെന്നും പെറ്റീഷൻ ആസ്പദമായ മരം ജീവനും സ്വത്തിനും അപകടകരമായ നിലയിൽ നിൽക്കുകയാണെന്നും ബന്ധപ്പെട്ട റെയിഞ്ചാഫീസറും, തഹസീൽദാറും സ്ഥലത്ത് പോയി പരിശോധിച്ച് സാക്ഷ്യപ്പെടുത്തണം.
3. സാക്ഷ്യപ്പെടുത്തലിൽ അപാകതകളെന്തെങ്കിലും കണ്ടെത്തിയാൽ ബന്ധപ്പെട്ട ഉദ്യോഗസ്ഥരുടെ പേരിൽ ശിക്ഷണനടപടികൾ സ്വീകരിക്കുന്നതോടൊപ്പം മരങ്ങളുടെ ഷെഡ്യൂൾ നിരക്കിലുള്ള വില കണക്കാക്കി നഷ്ടം അവരിൽനിന്നും ഈടാക്കുന്നതാണ്.
4. ഇപ്രകാരം മുറിക്കുന്ന മരങ്ങൾക്ക് ബന്ധപ്പെട്ട നമ്പർ കൊടുക്കുകയും അതിനായി ഒരു പ്രത്യേക രജിസ്റ്റർ റെയിഞ്ചാഫീസിൽ സൂക്ഷിക്കുകയും വേണം.

Case Law

Cutting and removing of teak trees from residential compound: There is no restriction in cutting and removing of trees from residential compound having an extent of less than one hectare. No prosecution can be initiated in that regard. *Augustine Mathew and Another v. State of Kerala* — 2009 (3) KHC 179.

5. Prohibition of cutting of tree in notified areas.— (1) Notwithstanding anything contained in any law for the time being in force, or in any judgment, decree or order of any Court, tribunal or other authority, or in any agreement or other arrangement, the Government may, with a view to preserving the tree growth in private forests or in the Cardamom Hills Reserve or in any other areas cultivated with cardamom, by notification in the Gazette, direct that no tree standing in any such area specified in the notification shall be cut, uprooted, burnt or otherwise destroyed except on the ground that—

- (a) the tree constitutes a danger to life or property; or
- (b) the tree is dead, diseased or windfallen:

Provided that the provisions of this sub-section shall not be deemed to prevent the pruning of any tree as required by ordinary agricultural or horticultural practices.

(2) No person shall, without the previous permission in writing of the authorised officer, cut, uproot, burn or otherwise destroy or cause to be cut, uprooted, burnt or otherwise destroyed any tree in any area specified in the notification under sub-section (1) on any of the grounds specified therein.

Explanation I.— For the purposes of this section, the term "tree" shall include any species of tree.

Explanation II.— For the purposes of sub-section (1), the expression "private forest" means any land which immediately before the 10th day of May, 1971, was a private forest as defined in the Kerala Private Forests (Vesting and Assignment) Act, 1971.

Comments and Case Law

This section prohibits cutting of trees in notified areas and the term trees here has wider meaning as brought out in the Explanation I to the section.

Cutting of trees violating the provisions of the Act: Even if the place where trees were cut is not Cardamom Hills Reserve or an area cultivated with Cardamom, if it is a private forest and trees were cut without the permission, sub-section (1) of S.5 of the Act will apply. *James Joseph v. Deputy Range Officer, Palakkad and Another* — 2010 (1) KHC 548.

Since the land is not a private forest within the meaning of the act and not a Cardamom Hill Reserve and that the area in question is not cultivated with Cardamom, held, S.5(1) would not apply to the land in question. *Managing Trustee, Arya Vaidya Sala, Kottakkal v. State of Kerala and Others* — ILR 2006 (2) Ker. 511 : 2006 (2) KLJ 438 : 2006 (2) KLT SN 118 : AIR 2006 Ker. 300.

Term "tree" shall include any species of tree. For the purposes of S.5 trees as explained in Explanation.1 would apply and not the definition of "tree" under S.2 (e). S.5 is intended at prohibition of cutting of tree growth in private forests. Cardamom Hills Reserve and other areas cultivated with cardamom, for the purpose of which section the legislature has chosen to incorporate an inclusive definition as including any species of trees. On the other hand, S.4 prohibits trees in other areas in the State, without written permission of the authorised officer, for which and other purposes elsewhere in the Act excluding S.5 alone the definition in S.2(e) would be applicable. The non-obstante clause, by which S.5 starts, would put this beyond any shadow of doubt. For the purposes of S.5 of the Act trees as explained in Explanation I would apply and not the definition of "tree" under S.2 (e), which would apply only for the purposes of S.4. *Joseph v. State of Kerala* — 2005 (4) KLT 504 : 2006 (1) KLJ 603.

This section of the Act will have an over riding effect on any of the provisions in the Kerala Private Forests (Vesting and Assignment) Act. Exemption granted from vesting under the Kerala Private Forests Act. It has no relevance in deciding the validity of notification. The Kerala Private Forests (Vesting and Assignment) Act was enacted in 1971. As such, the Kerala Preservation of Trees Act is a later Act. In view of the said fact and the non-obstante clause in S.5 of the said Act. S.5 of the Act will have an over riding effect on any of the provisions in the Kerala Private Forests (Vesting and Assignment) Act. Therefore, there is no merit in the contention of the appellant that the provisions of the Act in so far as they run counter to the Private Forests (Vesting and Assignment) Act, 1971 is invalid and unenforceable. The fact that the appellant's father was granted exemption from vesting under the Kerala Private Forests (Vesting and Assignment) Act, 1971, is of absolutely no relevance in deciding the validity of Ext. P9 notification issued under S.5 of the Act. *Joseph v. State of Kerala* — 2005 (4) KLT 504 : 2006 (1) KLJ 603.

Tree growth. Interpretation. The expression tree growth would take in the trees specified the notification. Notification has to be issued by the Government in exercise of powers under S.5(1) of the Act to preserve tree growth which takes in all trees specified in the notification. We are of the view that is the only interpretation possible. *Balakrishnan Nair v. Government of Kerala* — 2005 (2) KLT 485 : 2005 (1) KLJ 760 : AIR 2005 Ker. 223.

S.5 is attracted if the land concerned is within the area where cardamom is cultivated. The land concerned need not be cultivated with cardamom as such. *Raja Sekharan Nair v. Assistant Settlement Officer* — 1998 (2) KLT 721.

Non-obstante clause in the section does not have any relevance if the area is not Private Forest. If the area is not Private Forest, Government cannot issue notification prohibiting cutting of trees. *Kottam Ayishumma v. State* — 1993 (2) KLJ 651 : AIR 1997 SC 1228.

Explanation I to S.5 explains the term tree as to include any species of trees for the purpose of that

section. So for the purpose of other sections, the term tree may not include any species of trees which applies to only those lands covered by the Government notification. For other lands whether it be a private forest or cultivated with cardamom not covered by the notification, S.4 of the act applies. Explanation to a section is not a substantive provision by itself. It is entitled to explain the meaning of the words. Contained in the section or clarify ambiguities or clear them up. It becomes a part and parcel of section. Its meaning must depend upon its terms. Sometimes it would be, added to include something it or to exclude from the ambit of the main provision or condition or some words occurring in it. Indian Forest Act 1927 as well as Kerala Forest Act, 1961 define tree as to include Bamboos as well as when both Acts give particular meaning to tree there is no justification in importing dictionary meaning so as to understand what is Bamboo. It is not possible to accept the contention that Bamboo will not come within the expression of tree in explanation I to S.5 of the 1986 Act. *Mathew v. DFO.* — 1997 KHC 16 : 1997 (1) KLT 61 : 1996 (2) KLJ 461.

6. Application for permission.— (1) Every application for permission under Section 4 or Section 5 shall be in such form and shall contain such particulars as may be prescribed and shall be made to the authorised officer.

(2) The procedure to be followed by the authorised officer in granting or refusing permission under Section 4 or Section 5 shall be such as may be prescribed.

Comments

This section lays down that the application for cutting trees under S.4 or 5 shall be in the prescribed form and in disposing of such application the authorized officer shall comply with the procedure prescribed. The form of application and the procedure to be adopted by the authorized officer are prescribed in the Kerala Preservation of Trees and Regulation of Cultivation in Hill Areas Rules, 1983.

7. Appeal.— (1) Any person aggrieved by an order refusing to grant permission under Section 4 or Section 5 may, within ninety days of the receipt of such order, prefer an appeal to the appellate authority:

Provided that the appellate authority may admit an appeal preferred after the expiry of the said period of ninety days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period.

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

(3) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of being heard, pass such order thereon as it thinks fit.

Comments

This section provides for appeal. Any person aggrieved by an order of the authorized officer refusing to grant permission may file an appeal to the appellate authority appointed under subsection (2) of section 3. The appeal has to be filled within ninety days of the receipts of the order. The appellate authority has discretionary power to admit belated appeals. The appeal must be filled in the prescribed form and containing such particulars as prescribed in Kerala Preservation of Trees and regulation of cultivation in Hill Areas Rules, 1983.

8. Revision.— (1) The Government may, either suo motu or on application by any person aggrieved by an order of the appellate authority under Section 7, call for and examine the record of any order passed by the appellate authority for the purpose of satisfying themselves as to the legality, propriety or regularity of such order and pass such order thereon as they think fit.

(2) The Government shall not of their own motion revise any order under sub-section (1) if that order has been passed more than three months previously.

(3) An application under sub-section (1) by an aggrieved person shall be made

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within a period of sixty days from the date on which the order was communicated to him.

Provided that the Government may admit an application made after the expiry of the said period of sixty days, if they are satisfied that the applicant had sufficient cause for not making the application within that period.

(4) An order prejudicial to a person shall not be passed under sub-section (1) unless that person has been given a reasonable opportunity of showing cause against such order.

Explanation.— An order declining to interfere shall, for the purposes of this sub-section, be deemed to be an order prejudicial to a person.

Comments

This section elucidates the revisionary powers of the Government

9. Penalties.— Whoever contravenes any of the provisions of Section 4 or sub-section (2) of Section 5 or a direction contained in a notification under sub-section (1) of Section 5 or any of the terms and conditions subject to which a permission has been granted under this Act shall be punishable,—

(a) in the case of first offence, with imprisonment for a term which shall not be less than six months but which may extend to two years, and with fine which shall not be less than five hundred rupees but which may extend to two thousand rupees; and

(b) in the case of a second or subsequent offence, with imprisonment for a term which shall not be less than one year but which may extend to three years, and with fine which shall not be less than one thousand rupees but which may extend to five thousand rupees.

Comments

This provision is a negation on the people's attitude to tree planting. This provision makes people wary of planting trees in their homesteads. This is in contrast to the large scale tree planting promotional attempts on the farm forestry and social forestry sectors by the Government and has resulted in severe criticism from the external funding agencies.

10. 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 its business, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing in this sub-section shall render any person liable to 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 firm, society or other association of individuals; and

(b) "director".—

- (i) in relation to a firm, means a partner in the firm;
- (ii) in relation to a society or other association of individuals means the person who is entrusted, under the rules of the society or other association, with the management of the affairs of the society or other association, as the case may be.

Comments

This section deals with offences by companies. The Explanation to the section gives various definitions. (4)

11. Powers of authorised officers and appellate authorities.— Every authorised officer and appellate authority shall, for the purpose of performing his or its functions under this Act, 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 on affidavit; and
- (d) such other matters as may be prescribed.

Comments

This section confers on the authorised officer and the appellate authority the powers of a Civil Court, enumerated therein for the purpose of exercising their powers under the Act.

12. Powers of entry and inspection.— The authorised officer or any other officer generally or specially authorised by the Government in this behalf may, with such assistants, if any, being persons in the service of the Government, as he thinks fit, at all reasonable times enter upon any land for the purpose of ascertaining whether any of the provisions of this Act or any of the terms and conditions subject to which any permission has been granted under this Act has been contravened.

Comments

This section confers on the authorised officer and those officers specifically or generally authorised and their assistants, the powers of entry and inspection.

13. Power to seize timber and other articles involved in commission of offence.— (1) Where any officer of the Forest Department not below the rank of Forester or any Police Officer not below the rank of Sub-Inspector has reason to believe that any tree has been cut in contravention of Section 4 or sub-section (2) of Section 5 or a direction contained in a notification under sub-section (1) of Section 5, he may seize the timber of such tree together with all tools, ropes, chains and other articles used in the commission of such offence and all boats, vehicles and animals used for carrying such timber.

Explanation.— The terms "boat" and "vehicle" in this section, Section 14 and Section 15 shall include all the articles and machinery kept in the boat or vehicle, as the case may be, whether fixed to the same or not.

(2) Every officer seizing any timber under sub-section (1) shall place on such timber a mark indicating that the same has been so seized and shall, as soon as may be, make a report of such seizure to the authorised officer.

(3) On receipt of a report under sub-section (2), the authorised officer shall,—

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- (a) if he is satisfied that the timber mentioned in such report is or at, the result of a contravention of Section 4 or sub-section (2) of Section 5 or a direction contained in a notification under sub-section (1) of Section 5, make a report of such seizure to the Judicial Magistrate of the First Class having jurisdiction over the area in which such seizure has been made,
- (b) if he is not so satisfied, make a report of such seizure to such authority as may be prescribed.

(4) The authority to which a report is made under clause (b) of sub-section (3) shall,—

- (a) if it is satisfied that the timber mentioned in such report is of any tree cut in contravention of Section 4, or sub-section (2) of Section 5, make a report of the seizure of such timber to the Judicial Magistrate of the First Class having jurisdiction over the area in which such seizure has been made;
- (b) if it is not so satisfied, order that such timber and any tool, rope, chain or other article or any boat, vehicle or animal seized along with it shall be returned to the person from whom they were seized.

Comments and Case Law

This section empowers Foresters and Sub-inspectors and above the rank to seize timber and all tools and vehicles involved in contravening provisions in sections 4, or 5. Every officer after placing the seizure mark on the property has to make a report of such seizure to the authorised officer and who in turn has to report such seizure to the Judicial Magistrate of the First Class.

Cutting of trees violating the provisions of the Act: Only an authorised officer is entitled to submit a report of seizure before the Magistrate. Report filed by Deputy Range Officer who is not an authorised officer, as notified under S.13, is bad in law. *James Joseph v. Deputy Range Officer, Palakkad and Another* — 2010 (1) KHC 548.

14. Power to release property seized under Section 13.— The authorised officer may release any tool, rope, chain or other article or any boat, vehicle or animal seized under Section 13 and in respect of which a report has been made to the Judicial Magistrate of the First Class under clause (a) of sub-section (3) or clause (a) of sub-section (4) of that section, on the execution by the owner thereof of a bond for the production of the property so released, if and when so required, before such Magistrate.

Comments

This section empowers the authorised officer to release the articles seized on getting a bond from the owner thereof for the production of the same before a Magistrate when so required.

15. Procedure by Magistrate.— Upon the receipt of a report under clause (a) of sub-section (3) or clause (a) of sub-section (4) of Section 13, the Magistrate shall take such measures as may be necessary for the trial of the accused and the disposal of the timber and any tool, rope, chain or other article or any boat, vehicle or animal seized along with it, according to law.

Comments

This section details the procedure to be followed by the Magistrate.

16. Procedure as to perishable property seized under Section 13.— (1) Notwithstanding anything herein before contained,—

- (a) the Magistrate to whom a report is made under Section 13 may direct the sale of any property seized under that section, which is subject to speedy and natural decay; and

(b) If, in the opinion of the authorised Officer, it is necessary to dispose of the property, which is subject to speedy and natural decay, such officer shall immediately after, and in any case not later than one month from, the date of report under Section 13 make an application to the Magistrate referred to in clause (a) for permission to sell the property by such officer himself and on getting such permission, may sell the property himself, remit the sale proceeds into the nearest Government Treasury and make a report of such sale and remittance to that Magistrate and thereupon such Magistrate shall take such measures as may be necessary for the trial of the accused.

(2) The Magistrate may deal with the proceeds of the sale of any property sold under clause (a) or clause (b) or sub-section (1) in the same manner as he might have dealt with the property if it had not been sold.

Comments

This section empowers the magistrate to direct the sale of perishable articles.

17. Saving of power to release property seized.— Nothing hereinbefore contained shall be deemed to prevent the authorised officer from directing at any time the immediate release of any property seized under Section 13 and the withdrawal of any charge made in respect of such property:

Provided that the powers under this section shall be exercised by the authorised officer only for good and sufficient reasons to be recorded in writing and with the previous approval in writing of the Divisional Forest Officer concerned.

Comments

This section empowers the authorised officer to release, at any time, any property seized under Section 13 and also to withdraw any charge made in relation to such property. But the proviso stipulates that such power should be exercised only if there is valid and adequate reason to be recorded in writing. Besides, the prior approval of the D.F.O is also necessary.

18. Institution of prosecution.— No prosecution shall be instituted against any person without the sanction of the authorised officer.

Comments

This is a formal requirement and for want of the same, prosecution has failed many times. The prosecuting officers have failed to understand this mandatory requirement.

19. Cognizance of offences.— No Court inferior to that of a Judicial Magistrate of the First Class shall try any offence under this Act.

Comments

This section prohibits trial by any court inferior to Judicial Magistrate of First Class of offences under the Act. But after the amendment to the Criminal Procedure Code, no court inferior to Judicial Magistrate of First Class exist in our state.

20. Bar of jurisdiction of Civil Courts.— 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 any officer or authority or the Government.

Comments

This section prohibits interference by civil courts.

21. Indemnity.— No suit, prosecution or other legal proceedings shall lie against the Government or any officer or authority or any other person for anything which is in good faith done or purporting to have been done under this Act or any rule or order made thereunder.

Comments

This section provides a legal protection for the authorities for acts done in good faith, any acts not done in good faith will receive no protection under this section.

22. Restriction regarding cutting etc., of trees in future assignments.— Notwithstanding anything contained in any law for the time being in force, any assignment after the commencement of this Act, of land belonging to the Government, under any law for the time being in force shall be subject to the condition that the assignee shall not, without the previous permission in writing of the authorised officer, cut, uproot or burn, or cause to be cut, uprooted or burnt, any tree standing on such land at the time of such assignment, and the provisions of this Act shall apply in relation to such permission as if they apply in relation to a permission under Section 4.

Comments

This section prohibits all assignees from cutting etc of trees in the lands assigned to them after the commencement of the Act, without the permission of the authorised officer.

23. Power to make rules.— (1) The Government may, by notification in the Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the girth of trees which may be permitted to be cut;
- (b) the terms and conditions subject to which permission may be granted;
- (c) the procedure to be followed by the authorised officer before granting or refusing permission;
- (d) the procedure to be followed by the appellate authority in the disposal of an appeal under Section 7;
- (e) any other matter which has to be, or may be, prescribed.

Comments

This section confers powers to Govt. for making rules for the specific purposes mentioned therein.

24. Laying of notifications and rules before Legislative Assembly.— Every notification issued under sub-section (1) of Section 5 and every rule made under Section 23 shall be laid, as soon as may be after it is issued or 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 notification or rule or decides that the notification or rule should not be issued or made, the notification or 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 notification or rule.

Comments

This section makes mandatory to have all the notifications and rules issued to be laid before the Legislative Assembly.

25. Power to remove difficulties.— (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Gazette make such provisions not inconsistent with the provisions of this Act, which appear to them necessary for the purpose of removing the difficulty.

(2) Every such order made under this section shall, as soon as may be after it is made, be laid before the Legislative Assembly.

Comments

This section empowers the government to remove difficulties and thus keeps the statute responsive to proactive situations.

26. Repeal and saving.— (1) The Kerala Restriction on Cutting and Destruction of Valuable Trees Act, 1974 (7 of 1974), and the Kerala Preservation of Trees Ordinance, 1986 (65 of 1986) are hereby repealed.

(2) Notwithstanding the repeal of the Kerala Preservation of Trees Ordinance, 1986 (65 of 1986) anything done or deemed to have been done or any action taken or deemed to have been taken under the said Ordinance shall be deemed to have been done or taken under this Act:

Provided that no person convicted of an offence with respect to anything so deemed to have been done under this Act, shall be subjected to a penalty greater than that which might have been inflicted under the law applicable to such offence, in force at the time of the commission of such offence:

Provided further that nothing contained in this section shall render any person liable to be convicted of an offence in respect of anything done or omitted to be done by him after the 1st day of August, 1983 and before the 30th day of August, 1983 and after the 6th day of January, 1984 and before the 15th day of February, 1984.

Comments

This section deals with the repeal of the divergent legislation in force on the subject in the state at the time of commencement of this Act. Subsection (2) saves anything done or any action taken under the replaced ordinance.

NOTIFICATIONS

I

**Preservation of Trees and Regulation of Cultivation in Hill Areas
Ordinance – Notn. commencement**

S.R.O. No. 772/83.— In exercise of the powers conferred by sub-section (3) of Section 1 of the Kerala Preservation of Trees and Regulation of Cultivation in Hill Areas Ordinance, 1983 (21 of 1983), the Government of Kerala hereby appoint the 18th day in June, 1983 as the date on which all the provisions of the said Ordinance shall come into force.

(Published in K. G. Ext. No. 635 dt. 18/06/1983)

II

**Preservation of Trees and Regulation of Cultivation in Hill Areas
Ordinance, 1983 Notn. under S.3(1) appointing Authorised Officers**

No.48225 FS AI/83/AD

Dated, Trivandrum, 29th July, 1983.

S.R.O. No. 972/83.— In exercise of the powers conferred by sub-section (1) of Section 3 of the Kerala preservation of Trees and Regulation of Cultivation in Hill Areas Ordinance, 1983 (21 of 1983), the Government of Kerala hereby appoint the Range Officers in charge of the Territorial Forest Ranges, Range Officers in charge of Special Ranges for vested forests in the Malabar district referred to in sub-section (2) of Section 5 of the State Reorganisation Act, 1956 (Central Act 37 of 1956), and Assistant Wildlife Preservation Officers in the Periyar and Neyyar Sanctuaries, to be authorised officers for the purposes of the said Ordinance within their respective jurisdictions.

(Published in K. G. Ext. No. 820 dt. 30/07/1983)

S.25

III

Kerala Preservation of Trees and Regulation of Cultivation in Hill Areas Ordinance, 1983 - Notn. under S.3 (2) appointing appellate authorities

S.R.O. No. 973/83.— In exercise of the powers conferred by sub-section (2) of Section 3 of the Kerala Preservation of Trees and Regulation of Cultivation in Hill Areas Ordinance, 1983 (21 of 1983), the Government of Kerala hereby appoint the Divisional Forest Officers in charge of Territorial Divisions, Divisional Forest Officers in charge of Special Divisions for vested forests in the Malabar district referred to in sub-section (2) of Section 5 of the State Re-organisation Act, 1956, (Central Act 37 of 1956), the Wildlife Preservation Officer Thekkady and the Wildlife Warden, Neyyar to be appellate authorities for the purposes of the said Ordinance, within their respective jurisdictions.

(Published in K. G. Ext. No. 820 dt. 30/07/1983)

IV

Notn. under S.3(1) of Preservation of Trees and Regulation of Cultivation in Hill Areas Ordinance, 1983 appointing Authorised Officers

S.R.O. No. 1108/83.— In exercise of the powers conferred by sub-section (1) of Section 3 of the Kerala Preservation of Trees and Regulation of Cultivation in Hill Areas Ordinance, 1983 (29 of 1983), the Government of Kerala hereby appoint the Range Officers in charge of the Territorial Forest Ranges, Range Officers in charge of Special Ranges for vested forests in the Malabar district referred to in sub-section (2) of Section 5 of the States Re-organisation Act, 1956 (Central Act 37 of 1956), and Assistant Wildlife Preservation Officers in the Periyar and Neyyar Sanctuaries, to be authorised officers for the purposes of the said Ordinance within their respective jurisdictions.

(Published in K. G. Ext. No. 956 dt. 05/09/1983)

V

S.R.O. No. 1109/83.— In exercise of the powers conferred by sub-section (2) of Section 3 of the Kerala Preservation of Trees and Regulation of Cultivation in Hill Areas Ordinance, 1983 (29 of 1983), the Government of Kerala hereby appoint the Divisional Forest Officers in charge of the Territorial Divisions, Divisional Forest Officers in charge of Special Divisions for vested forests in the Malabar district referred to in sub-section (2) of Section 5 of the States Re-organisation Act, 1956 (Central Act 37 of 1956), the Wildlife Preservation Officer, Thekkady and the Wildlife Warden, Neyyar to be appellate authorities for the purposes of the said Ordinance, within their respective jurisdictions.

VI

S. R. O. No. 143/89.— In exercise of the powers conferred by sub-section (1) of Section 3 of the Kerala Preservation of Trees Act, 1986 (35 of 1986), the Government of Kerala hereby appoint all Range Officers in charge of the Territorial Forest Ranges, all Range Officers in charge of Special Ranges for Vested Forests in the Malabar Districts referred to in sub-section (2) of Section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956) and the Assistant Wildlife Wardens and Assistant Wildlife Preservation Officers specified in the Schedule below, to be the authorised officers for the purposes of the said Act within their respective jurisdiction:—

SCHEDULE

1. Assistant Wildlife Warden, Aralam Wildlife Sanctuary.
2. Assistant Wildlife Warden, Kurichiyatt Range, Kuppady.
3. Assistant Wildlife Warden, Batherry Range, Sultan Battery.
4. Assistant Wildlife Warden, Muthanga Range, Muthanga.
5. Assistant Wildlife Warden, Tholpetty Range, Begur.
6. Assistant Wildlife Warden, Silent Valley National Park, Mukkaly.
7. Assistant Wildlife Warden, Sumgam Range, Sumgam.
8. Assistant Wildlife Warden, Parambikulam Range, Parambikulam.
9. Assistant Wildlife Warden, Orukompan Range, Orukompankutty.
10. Assistant Wildlife Warden, Karimala Range, Parambikulam.

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11. Assistant Wildlife Warden, Chimmaly Wildlife Sanctuary, Echippara, Chimmaly.
 12. Assistant Wildlife Warden, Peechi- Vazhani Wildlife Sancturay, Peechi.
 13. Assistant Wildlife Warden, Chinnar Wildlife Sanctuary, Marayoor.
 14. Assistant Wildlife Warden, Eravikulam National Park, Eravikulam.
 15. Assistant Wildlife Warden, Idukki Wildlife Sanctuary, Idduki.
 16. Assistant Wildlife Warden, Thattekkode Birds Sanctuary, Thattekkode.
 17. Assistant Wildlife Preservation Officer, Thekkady.
 18. Assistant Wildlife Warden, Vallakkadavu Range, Vallakkadavu.
 19. Assistant Wildlife Warden, Wildlife Sanctuary, Neyyar Dam, Neyyar.
 20. Assistant Wildlife Warden, Peppara Wildlife Sanctuary, Peppara.
 21. Assistant Wildlife Warden, Chenthurny Wildlife Sanctuary, Thenmala.
- (Notification No. 6468/B1/87/F&WLD dt. 21/01/1989, published in K.G. No.91 dt. 27/01/1989)

VII

S. R. O. No. 144/89.— In exercise of the powers conferred by sub-section (2) of Section 3 of the Kerala Preservation of Trees Act, 1986 (35 of 1986), the Government of Kerala hereby appoint all Divisional Forest Officers in charge of the Territorial Divisions, all Divisional Forest Officers in charge of Special Divisions, for Vested Forests in the Malabar Districts referred to in sub-section (2) of Section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956) and the Wildlife Wardens and Wildlife Preservation Officer in charge of Wildlife Divisions specified in the Schedule below to be appellate authorities for the purposes of the said Act within their respective jurisdiction:—

1. Wildlife Warden—Wayanad, Sulthanbatterry
2. Wildlife Warden—Silent Valley National Park, Mukkaly.
3. Wildlife Warden—Parambikulam
4. Wildlife Warden—Idukki
5. Wildlife Preservation Officer—Thekkady
6. Wildlife Warden—Wildlife Division, Trivandrum.

Explanatory Note

(This is not part of the notification, but is intended to indicate its general purport.)

Government have decided to empower Range Officers of the Forest Department (Territorial and Special Ranges) and the Assistant Wildlife Wardens and Assistant Wildlife Preservation Officer of Thekkady in charge of the ranges of the respective sanctuaries to be authorised Officers for the purposes of the Kerala Preservation of Trees Act, 1986 (35 of 1986) within their respective jurisdiction.

Government have also decided to appoint the Divisional Forest Officers in charge of Territorial and Special Divisions, Wildlife Preservation Officer and the Wildlife Wardens specified in the schedule to Notification II to be appellate authorities for the purposes of the Kerala Preservation of Trees Act, 1986 (35 of 1986) within their respective jurisdictions. These notifications are intended for the above purposes.

VIII

G.O.(1) No. 15/98 F&WLD

Dated, Thiruvananthapuram, 20/02/1998

S.R.O. No.98.— In exercise of the powers conferred by sub-section (1) of Section 3 of the Kerala Preservation of Trees Act, 1986 (35 of 1986), and in supersession of Notification No. 48225/FS-A1/83/AD dated the 29th July, 1983 published as SRO. No. 972/83 in the Kerala Gazette Extraordinary No. 820 dated 30-7-1983 and in supersession of Notification No. 65874/FS-A1/83/AD dated the 5th September, 1983, published as SRO. No. 1108/83 in the Kerala Gazette Extraordinary No. 956 dated 5-9-1983, the Government of Kerala hereby appoint the following officers to be the Authorised Officers for the purposes of the said Act in respect of the category of lands and species of trees noted against each, within their respective jurisdiction.

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Authorised Officers	Category of Land	Species of Trees
Conservators of Forests of Territorial Circles	Forest land or any other Government land under lease outside Sanctuaries and National Parks	All Species
Conservators of Forests of Wildlife Circles	Forest land or any other Government land under lease within Sanctuaries and National Parks	All Species
Divisional Forest Officers of Territorial Divisions	Private lands outside Sanctuaries and National Parks	Rosewood, Teak, Sandal, Ebony and Chenkurinjy
Wildlife Wardens and Wildlife Preservation Officer	Private lands in the enclosures within Sanctuaries and National Parks	Rosewood, Teak, Sandal, Ebony and Chenkurinjy
Range Officers of Territorial Ranges	Private land outside Sanctuaries and National Parks	Species other than Rosewood, Teak, Sandal, Ebony and Chenkurinjy
Assistant Wildlife Wardens and Assistant Officer	Private lands in the enclosures within Sanctuaries and National Parks	Species other than Rosewood, Teak, Wildlife Preservation Sandal, Ebony and Chenkurinjy

IX

S.R.O. No. 236/98.— In exercise of the powers conferred by sub-section (2) of Section 3 of the Kerala Preservation of Trees Act, 1986 (35 of 1986); and in supersession of notification No. 48225/ES-A1/83/AD dated the 29th July, 1983, published as SRO. No. 973/83 in the Kerala Gazette Extraordinary No. 820 dated 30-7-1983 and in supersession of Notification No. 65874/FS-A1/83/AD dated the 5th September, 1983 published as SRO. No. 1109/83 in the Kerala Gazette Extraordinary No. 956 dated 5-9-1983, the Government of Kerala hereby appoint the following officers to be the Appellate Authorities for the purposes of the said Act in respect of the category of lands and species of trees noted against each within their respective jurisdictions.

Appellate Authorities	Category of Land	Species of Trees
(1)	(2)	(3)
Chief Conservator of Forests (Protection)	Forest Land or any other Government land under lease outside Sanctuaries and National Parks	All Species
Chief Conservator of Forests (Wildlife)	Forest Land or any other Government land under lease within Sanctuaries and National Parks	All Species
Conservator of Forests of Territorial Circles	Private lands outside Sanctuaries and National Parks	Rose wood, Teak, Sandal, Ebony and Chenkurinjy.
Conservator of Forests of Wildlife Circles	Private lands in the enclosures within Sanctuaries and National Parks	Rose wood, Teak, Sandal, Ebony and Chenkurinjy
Divisional Forest Officers of Territorial Divisions	Private lands outside Sanctuaries and National Parks	Species other than Rose wood, Teak, Sandal, Ebony and Chenkurinjy.
Wildlife Wardens and Wildlife Preservation Officer	Private lands in the enclosures within Sanctuaries and National Parks	Species other than Rose wood, Teak, Sandal, Ebony and Chenkurinjy.

V. Beena
Section Officer

91 dt. 27/01/1989

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CARDAMOM RULES

(R. O. C. No. 4153/29/Rev.)

Under Section 7 of the Land Assignment Regulation, III of 1097, the following Rules for the Assignment of Government lands for the cultivation of cardamoms are passed by the Government of His Highness the Maha Raja of Travancore under date the 30th September, 1935.

1. These Rules supersede the Rules, dated the 12th August, 1905 28th Karkatakam 1080, and shall come into force from the date of their publication in the Gazette.

PART I ASSESSMENT

2. (i) By virtue of the powers vested in Government under Rule XIII of the Rules, dated the 28th Karkatakam 1080, the assessment in cardamom lands assigned under the said Rule is revised and fixed at Bh. Rs. 3 per acre from the 1st Chingam 1111.

(ii) Cardamom lands paying an assessment of Bh. Re.1 per acre for the first four years and liable to an assessment of Bh. Rs. 2 per acre thereafter, under Rule V of the Rules hereby superseded, shall pay Bh. Rs. 1½ per acre from the 1st Chingam 1111 till the four years period is over and Bh. Rs. 3 per acre thereafter.

(iii) The annual assessment on cardamom lands to be assigned under these Rules shall be Bh. Rs. 3 per acre. In the case of new lands to be granted, if the applicant enters on the land with the permission of the Commissioner, Devicolam, the assessment shall be Bh. Rs. 1½ per acre for the first four years and Bh. Rs. 3 per acre from the fifth year. But where the lands are entered upon without such permission, the full assessment of Bh. Rs. 3 per acre shall be levied from the year of occupation irrespective of the month in which the entry is made.

3. The assessment on cardamom lands shall be recovered in two instalments viz., on the 15th of Vrischikam and the 15th of Makaram of every year. If the first instalment is not paid on the due date, the whole assessment will become payable immediately.

PART II REGISTRY OF LAND WITHOUT AUCTION

4. All applications for the assignment of new lands for cardamom cultivation shall be made to the Commissioner, Devicolam. Every such application shall be presented in Form A appended to these Rules furnishing the full particulars therein specified, together with a sketch of the land showing its situation and boundaries and shall be accompanied by a deposit of Bh. Rs. 5 per acre.

5. On receipt of the application, the Commissioner, Devicolam, shall himself inspect the site or cause it to be inspected by the Tahsildar and he shall also enquire into the financial position of the applicant. He shall satisfy himself that the application is *bona fide*, that it comes from a person of competence, that it is not made for purposes of speculation and that the land applied for is one which can be granted for such cultivation without detriment to Government or public interests. He shall then record the results of his enquiry and pass orders admitting or rejecting the application. If the application is rejected, the fact shall be communicated to the applicant with the reasons for the same.

6. If as a result of the enquiry, the Commissioner, Devicolam, is satisfied that the land applied for is assignable, he shall publish a notice over his signature in accordance with the provisions contained in Rule 10 of the Revised Puduval Rules, dated 19th April 1935, and also direct the issue by the Tahsildars concerned of notice as laid down in Rule 11 to the adjoining land

holders. The claims and objections, if any, received as per the notices shall be enquired into and disposed of by the Commissioner.

7. (i) After the disposal of the objection and claim petitions referred to in Rule 6, if the land is deemed assignable without auction, the list of royal and reserved trees standing thereon shall be got prepared by the Proverthicar or Revenue Inspector and verified by the Tahsildar, if the land applied for is surveyed land.

(ii) (a) If the land applied for is unsurveyed waste, it shall first be demarcated and surveyed by the Survey Department and its survey connected with that of adjoining surveyed area, if possible.

(b) In the course of such survey, lists showing the number and particulars of the royal and reserved trees on the plot applied for shall be prepared by the Surveyor and the list verified on the spot by the Superintendent of Survey or his Assistant.

(c) Convenient paths or cart-tracks shall be provided for each block in the course of the survey.

Note.— A list showing the names of the reserved trees for purposes of this Rule is given in Schedule I under the Revised Puduval Rules.

8. On receipt of the plotted sketch in respect of the land, the Commissioner, Devicolam, may, if necessary, inspect of the land and verify the tree lists. The tree lists shall be got signed by the applicant before orders are passed sanctioning the assignment in his favour. The Commissioner, Devicolam, shall pass the preliminary order of registry if the area applied for is 25 acres or below or forward the records to the Land Revenue and Income Tax Commissioner in other cases with his recommendation. The Land Revenue and Income Tax Commissioner shall pass the order in case the land applied for is 50 acres or below and submit the records for the orders of Government in respect of all other applications.

9. (a) The minimum rate of Tharavila of lands assigned for cardamom cultivation from the Cardamom Hills and the Periyar Reserves shall be Bh. Rs. 85 per acre and it shall be recovered as follows:

Bh. Rs. 5 with the application, Bh. Rs. 10 per acre within 30 days from the date of receipt of the notice sanctioning the assignment, and the balance in seven annual instalments of Bh. Rs. 10 each.

(b) The minimum rate of Tharavila for the lands round about Chinnakanal Thavalam and the lands in the Pallivasal Pakuthi assignable under these Rules shall be Bh. Rs. 60 per acre and the same shall be recovered as follows:

Bh. Rs. 5 with the application, Bh. Rs. 5 within 30 days of the date of receipt of the notice of assignment and the balance in five annual instalments of Bh. Rs. 10 each.

Note.— Tharavila specified above includes survey and demarcation charges.

10. When the preliminary order of registry in favour of the applicant is passed by the Commissioner, Devicolam, or when orders passed by the higher authorities are received by him, he shall issue a notice to the applicant directing him to pay the first instalment of Tharavila as per Rule 9 within 30 days of the receipt of the notice, and execute an agreement for the payment of the remaining instalments subject to the conditions laid down in Rule 49 of the Revised Puduval Rules. The Commissioner may also sanction the extension of the period for the payment of the first instalment and the execution of the agreement by 15 days on the application of the party. When all the instalments are paid, the Commissioner shall pass the final order of registry directing the Tahsildar to issue a Patta to the assignee. If the amount is not paid or the agreement is not executed within the time specified above, the Commissioner shall cancel the preliminary order of registry if it was passed by him, or recommend the cancellation of the same if it was passed by a higher authority. If the preliminary order for registry is cancelled, the deposit made with the application shall be forfeited to Government.

Case Law

Cancellation of patta/lease: Issuance of notice: Whether vital: Held, patta or lease issued to a person cannot be cancelled without notice to the party or legal heirs. *Munnar Woods Partnership Firm v. State of Kerala and Others* — 2009 (3) KHC 412 : ILR 2009 (3) Ker. 426.

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PART III
CONCESSIONAL REGISTRY

11. Lands may be assigned for cardamom cultivation to Hillmen (within the meaning of the term explained in Rule 1 of the Rules relating to the treatment of Hillmen passed under the Forest Regulation) without auction and without payment of Tharavila or survey or demarcation charges, subject to the following conditions:

- (a) The Commissioner, Devicolam, is competent to sanction the assignment of three acres of land under these rules to a single family.

Note.— The expression 'single family' includes one's self, his wife or her husband and children living together and dependent on the parent. Those sons who live separate with their wives and children constitute a separate family, even though their parents may be alive. Living together and depending on the parents for livelihood are the conditions which constitute 'single family'.

- (b) Assessment at the prevailing rate may be imposed on the lands thus assigned as per Rule 2(iii) *supra*.
- (c) Back arrears of assessment shall not be levied.
- (d) Assignments made under this Rule are subject to the other general conditions regarding concessional assignment of lands specified in Rules 26 to 31 of the Revised Puduval Rules.

Note.— In respect of concessional assignments also, the list of royal and reserved trees standing on the land should be signed by the assignee who shall be responsible for their safe preservation. The Patta to be issued to the assignee should specify the conditions of assignment.

PART IV
AUCTION SALE OF LANDS

12. Registry of land for cardamom cultivation shall be made by public auction under the following circumstances:—

- (a) when there is no application for a particular land, or
- (b) when the applicant withdraws his application after it is admitted under Rule 5, or fails to pay the first instalment of Tharavila under Rule 10, and the preliminary order is cancelled or when the land comes into the possession of Government by purchase in auction consequent on default of payment of tax or instalment of Tharavila or when the order of registry is cancelled by Government under Rule 28; or
- (c) when there are more than one applicant for the same land.

13. Auction sale of lands for cardamom cultivation shall be made only after the issue of notices inviting objections and claims and the disposal of objection and claim petitions as provided for in Rule 6 *supra*. The land shall then be advertised for sale. The advertisement shall be in English, Malayalam and Tamil and shall specify the situation, extent and boundaries of the land, the annual assessment, and the place, time and conditions of sale. It shall ordinarily be posted for 30 days on the land itself and in the Village Office of the Pakuthy in which the land is situate as well as in the Taluk Office, and shall also be published in the Government Gazette. The Commissioner, Devicolam, will fix the time and place of auction. He shall conduct the auction himself or direct the Tahsildar to conduct the auction and submit the records to him, in cases where the extent sold in a compact area at a time is 50 acres or less. The Commissioner may alter the time and place of auction, if necessary, provided that not less than 15 days' further notice is given for every such alteration.

14. The Tahsildar of the taluk in which the land is situate shall be directed to send a written notice of the place and time of sale as also any alteration thereof under Rule 13 to the applicant, if any, but no party shall have the sale cancelled in consequence of the non-appearance of the applicant.

15. The upset price shall be Bh. Rs. 85 per acre including survey and demarcation charges.

16. The sale shall be conducted subject to the following conditions:—
- (a) All intending bidders shall furnish a deposit of Bh. Rs. (5) five per acre unless they have previously applied for the land with the necessary deposit under Rule 4 and such applications are kept pending. The deposit furnished by the unsuccessful bidders will be returned after the auction is over.
 - (b) The highest bidder above the upset price shall be declared to be the purchaser of the land and if any dispute arises between two or more bidders at the same price, the land shall be immediately put up to auction again at the last preceding undisputed bid and resold.
 - (c) The person declared to be the purchaser shall pay immediately after such declaration a deposit of 20 per cent of the purchase money less the amount already deposited with the officer conducting the sale or produced with the application kept pending. In default of such deposit, the land shall be put up to auction again and resold and the defaulting bidder shall be liable for the deficiency, but will not be entitled to the excess, if any, in the price that may be secured at the resale. Such deficiency shall be recoverable from the defaulting purchaser with all the expenses attending such resale under the provisions of the Revenue Recovery Regulation and he shall forfeit all claims to the land sold. The list of royal and reserved trees standing on the land should be got signed by the person declared to be the purchaser at the time on his depositing the 20 per cent deposit.
 - (d) Auction sale of land shall be confirmed only 60 days after the date of the sale.
17. No officer or other persons having any duty to perform in connection with any sale shall directly or indirectly bid for, acquire or attempt to acquire any interest in the land sold.
18. It shall be competent to the Commissioner, Devicolam, to confirm the auction when the entire extent of the land sold in a compact area does not exceed 25 acres. When the extent exceeds 25 acres but does not exceed 50 acres it shall be competent to the Land Revenue and Income Tax Commissioner to confirm the sale. In all other cases, the sanction of Government should be obtained.
19. The whole of the balance of purchase money shall ordinarily be recovered in one lump sum. The officer confirming the sale may, however, order the recovery, in annual instalments, of the amount due from a person in respect of auctions conducted at a time where the balance of purchase money is Bh. Rs. 500 or more, such instalments not exceeding four in number. The bidder shall in such cases execute an agreement for the payment of the remaining instalments subject to the conditions laid down in Rule 49 of the Revised Puduval Rules. When the whole of the balance of purchase money or all the instalments in which this amount is agreed to be paid, the Commissioner, Devicolam, shall pass the final order of registry, directing the Tahsildar to issue a Patta to the assignee.

PART V GENERAL PROVISIONS

20. No land shall be assigned under these Rules to any person who is not a born son of His Highness the Maha Raja except with the special sanction of Government.
21. No land granted for cardamom cultivation shall be less than three acres in extent. Provided that application for lands to square off a holding may be entertained for less than 3 acres and granted at the discretion of the Commissioner, Devicolam. This Rule does not apply to concessional registry.
22. An applicant withdrawing his application after it has been admitted under Rule 4 shall be entitled to a refund of so much of his deposit as may not have been expended for the survey and demarcation of the land applied for.
23. All persons desirous of becoming purchasers shall satisfy themselves as to the identity, correct description, measurements and the boundaries of the land previous to its registration.

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complaints in respect of the land after the completion of the sale, such as portions being unfit for cultivation, incorrect description of property etc., will not be taken notice of.

24. In cases where there is competition for lands between a prior applicant and an unauthorised occupant, the prior applicant shall ordinarily be given preference to the unauthorised occupant.

25. When the assignment has been completed, as per Rule 10 or Rule 19, the Tahsildar of the taluk concerned shall issue a Patta in Form B appended and obtain the signature of the assignee in the duplicate Patta. The assignment shall be subject to the general conditions specified in the Patta.

Note.— Patta issued under these Rules are not chargeable with stamp duty under Regulation of 1080.

26. Joint registries are as a rule to be discouraged. But where such registries are sanctioned in rare cases, on account of exceptional circumstances, all the registry holders shall be held jointly and severally liable for the balance of Tharavila, as well as assessment and other dues recoverable under these Rules.

27. The average value allowed to be paid in instalments and assessment on the land, as well as damages recoverable by Government under the provisions of these Rules shall be recoverable under the Revenue Recovery Regulation for the time being in force.

28. Holders of cardamom land may remove the undergrowth and fell such trees as it is necessary to clear in order to admit sufficient sunlight for the cultivation of cardamom but they shall not fell any tree exceeding 4 feet in girth at a height of 3 feet from the ground before getting sanction from the Commissioner, Devicolam. All applications for felling such trees should in the first instance be made to the Forest Ranger having jurisdiction over the area, who, after inspecting the gardens from which the trees have to be removed, should forward his report on each application to the Division Forest Officer of the Division, who shall in turn forward it to the Commissioner, Devicolam, for final decision. The Commissioner, Devicolam, shall then grant or refuse permission in writing. If any tree is felled in contravention of this Rule, double the value of the timber as assessed by the Commissioner shall be levied by way of damages. It shall also be open to the Commissioner, Devicolam, when fellings have been extensive to recommend that the land be resumed by the Government. Government will, however, pass orders on his recommendation only after giving an opportunity to the assignee for preferring his objections against its acceptance. If wanton destruction of the tree growth is established, Government may order the resumption of the land from the assignee without any liability to refund Tharavila paid by him at the time of assignment. Government may also order the recovery of any amount by way of damages, as they may deem fit.

29. Holders of cardamom lands may utilise trees left for shade for growing pepper, vanilla and rubber vines and with the sanction of the Commissioner, Devicolam, may grow such other crops which, in the opinion of the Commissioner, Devicolam, will not interfere with the cultivation of cardamoms.

30. The Commissioner, Devicolam, may permit the burning of the undergrowth in a new clearing, provided the undergrowth is heaped and carefully removed from the surrounding jungle. The holder shall be held responsible in damages should such fire cause any damage to the trees left for shade in the clearing or to the surrounding forests or gardens, the amount of such damages due to Government being assessed by the Commissioner.

31. Holders may collect dead trees, including those other than royal or reserved trees uprooted by storms, as fuel, free of charge but no tree shall be purposely uprooted for including it among dead trees and thereby using it for fuel. With the permission of the Division Forest Officer concerned, any holder may fell trees, except royal or reserved trees, growing on his own holdings for the construction of buildings necessary for the cultivation of such holding provided that such felling does not interfere with the trees left for shade. The trees so felled may be removed to adjacent Thavalams under a free pass from the Forest Department. Should any holder wish to remove timber of the reserved species from his holding, he shall pay the seigniorage due to

Government according to the Forest Rules in force. The Cardamom ryots are also allowed to collect from the Cardamom Hills thatching grass free of charge for their use in the holdings.

32. Lands for dry and wet cultivation will not ordinarily be granted within the Cardamom Hills and the Periyar Reserves. Grass lands lying within the Cardamom Hills Reserve may, however, be registered under the Puduval or Waste Land Rules for such cultivation as coffee, tea, etc., at a Tharavila of Rs. 55 per acre, Rs. 5 to be paid with the application and the balance in 5 instalments of Rs. 10 each.

33. Should any land be opened on the Cardamom Hills and Periyar Reserves without special permission of the Commissioner, Devicolam, proceedings may be taken under the Land Conservancy Regulation, IV of 1091, for the eviction of the trespasser.

34. The Cardamom Hills and the Periyar Reserves are reserved under the Forest Regulation II of 1068, and any act in contravention of that Regulation or of the Rules framed thereunder, will unless permitted by these Rules, be dealt with under the said Regulation and Rules.

35. Hunting and shooting in a Reserved Forest without a permit, and the poisoning and dynamiting of fish are offences under the Forest Regulation. The use of fishing nets of less than half an inch mesh is strictly prohibited. Hunting and fishing even in registered holdings which are treated as enclosures within the Cardamom Hills and the Periyar Reserves are also prohibited.

36. These Rules do not convey any right to mines or minerals in the lands granted or water power.

37. The disposal of cardamom lands should be in strict accordance with these Rules. Any departure from these Rules requires the sanction of the Government.

PART VI

APPEAL AND REVISION

38. (i) Appeals from the original decisions or orders passed by the Commissioner, Devicolam shall lie to the Land Revenue and Income Tax Commissioner and those from the decision or orders of the Land Revenue and Income Tax Commissioner to the Dewan. There shall be no second appeal. All appeals shall be presented within 60 days from the date of the decision or order appealed against or the date of communication thereof as the case may be. In computing the period, the day on which the decision or order appealed against was pronounced or communicated and the time required for obtaining a copy of it shall be excluded. On all copies issued shall be entered the date of the application for copy, the date fixed for receiving the copy and the date on which the copy was ready for delivery and the date on which the copy was delivered. Any person interested may appeal.

(ii) The Land Revenue and Income Tax Commissioner or the Dewan may admit an appeal after the expiry of the period of limitation, provided he is satisfied that the applicant had good and sufficient cause for not presenting the appeal within the prescribed period. The fact of condonation of the delay should be recorded in such cases.

(iii) The appellate authority may confirm, vary or cancel the decision or order appealed against.

39. If, at any time within 2 years of any decision, original or appellate, made under the Rules, the Dewan is satisfied that there has been any material irregularity or violation of rules or the procedure adopted by the deciding officer or the appellate authority or that the decision was in excess of the authority which the deciding officer has under these rules or that it was passed under a mistake of fact or owing to fraud or misrepresentation having been practised or that the interests of Government or the public are prejudicially affected thereby, he may set aside, cancel or in any way modify the decision.

40. Whenever the order of an officer declining to assign a piece of land is set aside by a superior officer the latter shall merely direct that the land shall be assigned under these Rules. The case shall then be re-entertained on the file and disposed of under the Rules.

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41. No appeal or revision shall be admitted unless accompanied by a certified copy of the decision or order appealed against. No officer shall decide a case in appeal or revision without giving all the interested parties notice to appear and an opportunity to be heard.

42. All decisions or orders, original, appellate or revisional, shall be incorporated with the records of the case and shall be communicated to the parties who happen to be present and the balance in 5 instalments noted at the foot of the decision or order; but to those who are absent their substance shall be communicated in writing, free of charge.

43. No decision under these Rules shall be given effect to until the period prescribed for appeal has expired or until an appeal or revision preferred has been disposed of.

FORM A

Application for registry of land under the Cardamom Rules

Name and Address of applicant	Taluk	Pakuthi	Thavalam	S. No.	Boundaries	Extent		Amount of deposit made	Remarks
						Acre.	Cent.		

FORM B

.....Pakuthi.....Taluk.....No. and name of the Pattadar

Sl. No.	No. of Tharam	Thavalam	Survey	Area		Assessment at the rate of Bh. Rs. per acre			Remarks
			S. No. (letter)	Acre	Cent.	Rs.	Chs.	C.	
(1)	(2)	(3)	(4)	(5)		(6)			(7)
									The tax to be paid in two equal installments on the 15th of Vrishchikam and the 15th of Makaram of every year to the Proverthicar or the Accountant of the Pakuthy and a receipt obtained from him.

Deputy Tahsildar

Tahsildar

Conditions:— 1. The full right over all royal and reserved trees within the grant vests in the Government and the assignee is bound to take care of the royal trees standing on the land at the time of assignment.

2. The assignee is bound to afford all facilities to officers of Government in the matter of inspecting the land periodically for checking the royal reserved trees and removing them.

3. All established rights of way and other easement rights shall be respected by the assignee.

4. In the case of concessional grants, should the lands be alienated at any future date in contravention of these Rules, it is open to the Government to resume the portion of land alienated.

5. The assessment of the land will be liable to alteration at any general revision of the Land Revenue Settlement.

6. The balance of Tharavila and all amount due to Government by way of damages under the Rules are recoverable under the provisions of the Revenue Recovery Regulation.

T. G. G. dt. 15/10/1935 Pt. 1 p. 243 to 248.

W. Prasad
Section Officer