THE KERALA LAND CONSERVANCY RULES, 1958

In exercise of the powers conferred by Section 13 of the Kerala Land Conservancy Act, 1957 the Government hereby make the following rules, the same have been previously published as required by the said section.

RULES

1. (a) These rules may be called the Kerala Land Conservancy Rules, 1958.
   (b) They extend to the whole of the State of Kerala.

2. These rules shall come into force at once.

3. Definitions.— In these rules unless the context otherwise requires:—
   (a) "The Act" means the Kerala Land Conservancy Act, 1957.
   (b) "Collector" includes any officer who is authorised under Section 15 of the Act with all or any of the powers conferred on a Collector under the Act.
   (c) "Village Officer" includes Village Assistant.

4. (i) All officers of the Land Revenue Department shall have it as their primary duty to prevent unauthorised occupation of lands which fall under any of the descriptions given in the definitions of 'property of Government' and 'Porambokes' in Section 3 and Section 4 of the Act.
   (ii) The Village Officer, shall report to the Collector promptly all cases of encroachments on porambokes and on lands which are the property of Government other than porambokes, in Form A appended to these rules. The report shall be accompanied by a plotted sketch drawn to scale of the encroachment and a Mahazar containing full particulars of the land encroached upon, such as period of occupation, nature and value of improvements, if any, made on the land, the position of the land with reference to adjoining lands etc.

'Explanation.— For the purpose of these rules the erection of any wall, fence or building or the putting up of any overhanging structure or projection (whether on a temporary or permanent basis) on or over any land aforesaid without permission shall be deemed to be an encroachment;

[(iii) If any officer of the Land Revenue Department of and above the rank of Village Officer detects timber, earth, metal, laterite, sand, lime-shell or such other article of value, involved in unauthorised removal from Government land, such article shall be seized by him and taken under Government custody to be disposed of under the orders of the Collector. In such cases he shall prepare a mahazar giving the full particulars of the article so seized and shall as soon as may be, make a report of such seizure to the Tahsildar or the Taluk accompanied by a statement in Form 'AA' appended to these rules. The articles so seized shall be kept in custody or handed over for safe custody to a reliable third person and a receipt obtained therefor.]

5. Departments other than the Land Revenue Department which are in charge of porambokes, shall intimate to the Collector all cases of unauthorised occupation of such lands. On receipt of the intimation the Collector shall arrange for statements in Form A appended to these rules being prepared in respect of such encroachments.
6. When reports in Form A under Rules 4 and 5 are received, the Collector shall inspect the land and satisfy himself that there is encroachment, before proceeding to deal with the case under the Act:

Provided that if on personal inspection the Collector is satisfied that there has been encroachment, it shall not be necessary to obtain report in Form 'A' to deal with the case of unauthorised occupation under the Act.

7. Recourse may be had to the provisions of Sections 6, 7, 8, 10 & 11 of the Act in dealing with cases of unauthorised occupation of Government lands and also to those of Section 9 where found necessary.

Exception.— If however, the land encroached upon is available for assignment and the unauthorised occupant is eligible to have the land in issue on assignment under the law relating to the assignment of Government lands for the time being in force, without auction, orders need not be passed under the sections of the Act referred to in this rule provided the occupant agrees to take up the registry or lease of the land and puts in a formal application for the same.

Note.— In the event of eviction of the unauthorised occupant under the provisions of the Act, he shall not be entitled to any compensation from the Government for trees planted or other improvements effected by him on such land.

8. (a) Assessment shall be imposed in all cases of unauthorised occupation of Government land.

(b) Where the land unauthorisedly occupied is the property of Government other than poramboke, assessment shall be made at the rate of 5 naye paise per cent of land.

(c) Where the land unauthorisedly occupied is poramboke, the assessment to be levied shall be prohibitory which shall be a multiple of the assessment under clause (b). The multiple may be determined in each case by the Collector but it shall not in any case exceed ten times the assessment.

(d) Arrears of assessment shall be charged for the whole period of unauthorised occupation.

Note.— Notwithstanding anything contained in this rule, in the case of objectionable encroachments on Cardamom lands under the Rules for lease of Government lands for Cardamom Cultivation, 1961, the prohibitory assessment to be levied shall be not less than Rs. 35 per acre (40.47 Ares) for every year of occupation.

9. Separate notices under Section 12 shall be served on each of the occupants in case of joint occupation by more occupants than one before passing an order under the Act. The notice, shall be in Form 'B' appended to these rules. The notice shall be served by delivering a copy to the person reported to be in unauthorised occupation of the land, or to his authorised agent, or some adult member of his family residing with him, who shall be required to sign an acknowledgement of service endorsed on the original notice. If such person refuses to acknowledge service of the notice as aforesaid, or if such person cannot be found and there is no other person on whom the service can be made, the serving officer shall affix a copy of the notice on the outer door of the house in which such person ordinarily resides or on some conspicuous part of the land unauthorisedly occupied, and return the original with an endorsement attested by two responsible witnesses stating that he has so affixed a copy and the circumstances under which he did so.

10. If the party appears in person or through authorised agent, a statement of the person so appearing may be recorded, any evidence adduced by him accepted and any documents filed as exhibits by him marked, dated and initiated by the Collector.

11. The final order of the Collector shall be in writing in his own hand, and shall contain the reasons for the decision. The decision shall be communicated to the party in writing and

simultaneously a notice in Form ‘C’ appended to these rules shall be served on him requiring him to vacate the land within specified period. The notice shall also contain a direction that every thing, found on the land encroached upon shall be forfeited to the Government in the event of the encroacher failing to vacate the land within that period specified.

12. If while executing the order, any unauthorised occupant offers resistance or obstruction to the removal of encroachment, the Collector shall summarily enquire into the matter and if he is satisfied that there is resistance or obstruction may issue a warrant in Form ‘D’ appended to these rules, for the arrest and production before him of such person. On such production the Collector shall hold a further summary enquiry under Section 11(2) of the Act and commit him to the Civil Jail, if found necessary.

13. Persons so committed to the Civil jail shall be paid subsistence allowance at the rates fixed by the Government under Section 57 of the Code of Civil Procedure, 1908 (Act V of 1908). The expenditure on this account shall be met by the Government in the first instance and then recovered as arrears of Land Revenue from the persons concerned.

5[13A. Notwithstanding anything contained in the foregoing rules, where the Collector is of opinion that it is expedient in the public interest to remove an unauthorised occupation, he may, after recording the reasons therefor, serve or cause to serve a notice in Form ‘CC’ appended to these rules on the person in occupation directing him to vacate the land within such period as may be specified therein, and if the land is not so vacated within the said period, any officer authorised by the Collector may enter upon the land and take possession of the same, if necessary by using such force as the circumstances of the case may justify.]

Case Law

Threat of eviction: Puramboke land: Notwithstanding the provisions contained in the Rules, when survey is conducted, the aggrieved will have to be communicated about the details of the property covered by the alleged encroachment. Principles of natural justice have to be complied. Muhammed Kutty P. A. v. Tahsildar and Others — 2013 (1) KHC 158 : 2013 (1) KLT 133.

14. Application for permission to quarry from any land which is the property of Government whether a poramboke or not shall be made to the Tahsildar of the Taluk in which the land is situated. The application shall describe the name of the Village, the survey number of the land and variety and approximate quantity of article required.

Exception.— In respect of lands vested in Municipal Councils and Corporations or in respect of rivers, estuaries, canals or backwaters within such Municipal or Corporation limits, the permits in respect of petty unobjectionable encroachments and also for the removal of the articles to be quarried may be granted by the Executive Authorities of the Local Bodies concerned subject to the provisions of the Municipal Act for the time being in force in the area.

15. The Tahsildar shall, on receipt of the application, inspect the land and see whether the application can be granted without prejudice to the interests of the Government. He shall also satisfy himself, if necessary in consultation with the Public Works Department, that the article is not required for any Government works.

16. If the land to which the application relates adjoins any public road under the control of the P.W.D. the application shall be forwarded to the local P.W.D. Sub Division Officer for his opinion and to mark out the road limit beyond which quarrying may be done.

17. If the Tahsildar finds on enquiry that the application can be granted, he shall issue a permit in Form ‘E’ appended to these rules, to the applicant on recovery of the prescribed seigniorage fee and on such special conditions as he may deem fit to impose.

18. When a permit under Rule 17 is issued the Tahsildar shall forward a copy of the permit to the Village Officer who shall point out to the holder of the permit the spot or place at

which the quarrying or removal is permitted. A sketch of the site should be prepared in which the approximate location or dimensions of the proposed quarry should be specified and got signed by the permit holder.

19. The permit holder may quarry and remove the article from the land pointed out by the Village Officer under Rule 18 strictly according to the specifications made in the sketch and any unauthorised quarrying shall render the party liable for action under the Act and for the seigniorage for the article quarried in excess of the quantity allowed in the permit.

20. Quarrying by contractors engaged by the Government Departments will be free of seigniorage fee if the cost of such articles has not been taken into account in working out the date for the valuation of work covered by the contract. The contractors shall, for this purpose, produce a certificate to that effect from any Gazetted Officer of the Department under whose control the work is to be executed.

Note.—It may be necessary for the Government Departments, in emergent cases to allow contractors engaged for works to commence quarrying before obtaining the formal sanction of the Tahsildar concerned. In such cases an officer competent to sanction estimates or accept the tenders should intimate to the Tahsildar of the Taluk within 7 days of the issue of sanction particulars about—

(1) The name and address of the contractor and the time allowed for quarrying;
(2) The name of Village and Survey number of the lands where from quarrying is to be made;
(3) Nature and approximate quantity proposed to be quarried; and
(4) Whether any deduction of quarrying fee has been made from the rates allowed to the contractors. A formal application should also be obtained from the Contractor and forwarded to the Tahsildar for disposal in due course.

21. Quarrying and removal of clay or sand for bonafide agricultural purposes shall be free of compensation prescribed under sub-section (2) of Section 6 of the Act.

22. Quarrying from any land which is the property of Government is prohibited within a radius of 10 feet from any Survey mark.

23. If, as a result of quarrying operations, and any survey mark on the land is found to have been interfered with, or placed out of position, it shall be competent for the Tahsildar to have the survey mark repaired or renewed by the person responsible. If he fails to do so, the Tahsildar shall have the survey mark renewed and all incidental charges together with a penalty of Re.1 for survey mark recovered from such person.

24. Compensation prescribed under sub-section (2) of Section 6 of the Act repair and renewal charges of survey marks, penalty and all incidental charges levied under these rules shall be recovered in the same manner as arrears of Land Revenue.

25. A permit issued under these rules shall be valid only for six months from the date of issue, provided however that the Tahsildar shall have powers to renew the permit on the application of the permit holder, for a further period of six months, if sufficient grounds exist.

26. After the expiry of the period of the permit the Village Officer shall return the sketch under Rule 18 and the copy of the permit to the Tahsildar adding a certificate of the removal of the article and of the amount realised as compensation prescribed under sub-section (2) of Section 6 of the Act.

27. It shall be, competent for the Tahsildar, during the currency of the permit, to cancel the permit if the holder of the permit violates any of the conditions therein specified or provisions of the Act or these rules.

28. A register of applications for the issue of permits under these rules shall be maintained in all Taluk offices in Form appended to these rules.
29. Appeals against all decisions or orders by the Tahsildar or Deputy Tahsildar relating to quarrying shall be presented within 30 days from the date of the decision or order appealed against before the Revenue Divisional Officer. In computing the period of 30 days, the date of the order or decision or the date of communication thereof whichever is later, and the time taken for granting a copy of it shall be excluded. The appellate authority may admit an appeal after the expiry of the prescribed period of 30 days, if it is satisfied that the appellant had good and sufficient cause for not preferring the appeal within the period.

30. No appeal shall be admitted unless accompanied by a true copy of the decision or order appealed against. No officer shall decide a case in appeal without giving notice to the parties concerned.

31. It shall be competent to the District Collector, at the request of the party concerned, to revise an order passed in appeal by the Revenue Divisional Officer, provided the revision is filed within 30 days of the date of issue of the appellate decision. The provisions contained in Rules 31 and 32 shall also apply to the revision petitions presented before the Collector.

32. Application for permission to erect or cause to erect any wall, fence or building or to put up or cause to put up any overhanging structure or projection whether on a temporary or permanent basis on or over any land which is the property of Government, whether a Poramboke or not, shall be made in Form ‘G’ appended to these Rules, to the Tahsildar of the Taluk in which the land is situated, with plan (in triplicate).

33. The Tahsildar shall, on receipt of the application, inspect the land and satisfy himself in consultation with the Public Works Department that the application can be granted without prejudice to the interests of the Government.

34. If the Tahsildar finds that application can be granted, he shall issue a permit to the applicant in Form ‘H’ appended to these rules on receipt of the prescribed fee and on such conditions as he may deem fit to impose.

35. A permit issued under these rules shall be valid only for three months from the date of issue, provided however that the Tahsildar shall have powers to renew the permit on the application of the permit holder for a further period of three months if sufficient grounds exist. If the permit holder fails to carry out the work within the prescribed period, the permit shall stand cancelled. It shall be competent for the Tahsildar during the currency of the permit, to cancel the permit in case the holder of the permit violates any of the conditions specified therein or provisions of the Act or these rules.

36. All sums found due from the permit holder under these rules shall be recovered from him in the same manner as if they are arrears of public revenue due on lands under the Kerala Revenue Recovery Act for the time being in force.

37. A register of applications for the issue of permits under these rules shall be maintained in all Taluk Offices in Form I appended to these rules.

FORMA

[Rule 4]

Report of unauthorised occupation of land which is poramboke/the Property of Government other than poramboke in the Village of.............. in the Taluk of..................

1. Survey number of poramboke or the Survey number of property of Government other than poramboke with the whole extent.

2. Description of the land, whether unassessed or poramboke, if poramboke, its nature.
3. Extent of encroachment.
4. Name and address of the occupant, state whether he is poor, an ex-service man, a Harijan etc.
5. No. of holding and the total of wet and dry lands owned by the occupant.
6. How occupied by cultivation or erection of houses etc. If there are trees, their description.
7. Period of occupation.
8. Prohibitory assessment, if any, previously imposed.
9. Village Officer's remarks with the signature and date.
10. Revenue Supervisor's or Revenue Inspector's remarks.
11. Tahsildar's opinion on inspection.
12. Plotted sketch drawn to scale of the encroachment.
(Note.— Items 12 and 13 may be prepared separately).

FORM 'AA'
[See Rule 4]

Report on unauthorised cutting of trees or removal of timber, earth, metal, laterite, sand, lime-shell or such other articles of value from any Government land.
1. Taluk.
2. Village.
4. Mode and nature of the act, and the date of commission of the act.
5. Name and address of the person or persons who committed the act.
6. Details of the articles removed.
7. Value of the articles removed.
8. Details of the items if any seized, their value and name and address of the person to whom the article has been entrusted for safe custody (if they are kept by the officer himself, state so).
9. Signature and designation of the officer who makes the report.
10. Date of report.
11. Inspecting Officer's remarks.

Note.— A mahazar showing the details etc., of the article and a sketch showing the location of the site of action should be prepared separately and enclosed with this form.

FORM B
[Rule 9]

Notice under Section 12 of the Kerala Land Conservancy Act, 1957.

To (insert name or names of occupiers) residing in ....................... Village ..................... Taluk.

Whereas you are reported to be in unauthorised occupation of the land specified in the schedule below which is a poramboke/the property of Government other than poramboke, you are hereby given notice that if you so desire, you may before ..................19............. show cause before me, why, proceedings should not be taken and orders passed under the provisions of the said Act.

FORM CC
THE KERALA LAND CONSERVANCY RULES, 1958

SCHEDULE

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Place:
Date: (Seal) Collector.

FORM C
[Rule 11]

To

…………………………………………………residing in……………………………Village……………………………Taluk

Whereas you are found to be in unauthorised occupation of the land specified in the schedule below, which is poramboke/the property of Government other than poramboke you are hereby required to vacate the land within ................ days from the date of service of this notice, failing which you will be summarily evicted from the land and any crop or other product raised on the land and any building or other construction erected or anything deposited thereon shall be held liable to forfeiture.

SCHEDULE

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Amount of fine
Amount of assessment
Period for which arrears of assessment is charged
Amount of arrears
Total amount due

Take notice also that the ………………………………Village officer is hereby authorised to carry out the eviction and to take possession of, land retain in proper custody, anything on the land which is liable to forfeiture pending the Collector’s order as to its disposal.

FORM ‘CC’
[Rule 13A]

To

…………………………………………………

Whereas you are found to be in unauthorised occupation of the land described in the Schedule below which is a poramboke/property of Government other than poramboke and whereas I am satisfied that in the public interest, to wit……………………………(here explain the reason) it is expedient to take urgent action for the removal of such occupation, you are hereby required to vacate the land within ................ days from the date of receipt of this notice, failing which you will be summarily evicted from the land by, using force, if necessary and any crop or other product raised on the land, any building or other construction created or anything deposited thereon shall be liable to forfeiture.

SCHEDULE

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Amount of fine
Amount of assessment
Period for which arrears for assessment is charged
Amount of arrears
Total amount due

Take notice also that the Village Officer/Deputy Tahsildar...........is hereby authorised to carryout the eviction and to take possession of, and retain in proper custody anything in the land which is liable to forfeiture pending my order as to its disposal.

Place:
Date:

(Seal)

FORM D
[Rule 12]
WARRANT OF ARREST IN EXECUTION

To

Whereas ..................is found guilty of the offence of being in unauthorised occupation of ............... acres........................ cents of porambke/Government land which is the property of Government other than porambke comprised in S. No ........ of ............... Village and whereas is reported to have offered resistance to the removal of the aforesaid encroachment, this is to command you to arrest the said ................... and to bring him before the undersigned with all convenient speed. You are further commanded to return this warrant on or before ..........day of......... 19........... with an endorsement certifying the day on which and the manner in which it has been executed or the reason why it has not been executed.

Given under my hand and the seal of this office, this .......... day of......... 19..........

Date:
Place:

(Seal)

Collector.

FORM E
[Rule 17]

No. of permit
Date of issue
Particulars of the article
Nature
C. Ft.
Compensation rate per
Rs. np.
Chalan No.
Particulars of land
Taluk
Village
Survey No.
Date of expiry of permit
Special conditions if any

This permit is issued to..............

Tahsildar.

FORM F
[Rule 28]
REGISTER OF PERMITS

Serial Number of application
Name and address of applicant
FORM H
THE KERALA LAND CONSERVANCY RULES, 1958

Particulars of land
Village
Survey Number
Nature of article
Name
Quality
Compensation amount realised
Date of issue
Remarks.

FORM 'G'
[Rule 32]
APPLICATION FOR LICENCE FOR ERECTION OF WALL, FENCE, BUILDING ETC.

1. Name of applicant and address
2. Taluk, Village and Survey No. of the land where the erection of structure is proposed to be made
3. Extent of land
4. Boundaries
5. Nature of erection proposed to be made
6. Whether temporary or permanent if temporary the duration for which the licence is sought
7. If the land is already occupied the month and the year from which it was occupied
8. Annual income of the applicant (in figures and words)

Place:
Date:
Signature of applicant.

(Note.— This application should be accompanied by three copies of the plans of the structure proposed to be erected.)

FORM 'H'
[Rule 34]
The land specified in the schedule below is hereby granted to ......................... (name and address of grantee) for the erection of a wall/Fence/Building or for the putting up of an overhanging structure or projection for permanent/ temporary occupation for a period of ........... year/months commencing from ................. (date, month and year) subject to the following conditions to which the grantee has agreed:

(1) The grantee may erect .................................................. in accordance with the plants hereby annexed.

(2) The grantee shall not, except as provided in condition (1), erect any building, fence or structure of a permanent or temporary character on the land without the previous written sanction of the assigning authority.

(3) The grantee shall maintain the said land in a clean and sanitary condition to the satisfaction of the assigning authority and shall also maintain the structures, if any, erected thereon as aforesaid in good and substantial repair to the satisfaction of the assigning authority.

(4) The grantee shall not use the land or cause it to be used except for the purposes of .................. which are the following:

(1) ..........................
The grantee shall not, without the previous written sanction of the assigning authority permit any person to use the land or any structure thereon or any portion of the land or structure except as provided in condition (1).

The grantee shall, on the termination or revocation of this grant restore the said land to the assigning authority in as good a condition as is consistent with the foregoing conditions.

The grantee shall be answerable to the Government for all or any injury or damage done to the said land and other Government property thereon except as is permitted by the foregoing conditions.

The grantee shall not transfer to any other person the rights hereby conveyed to him.

The grant is liable to cancellation if it was grossly inequitable or was made under mistake of fact or owing to misrepresentation or in excess of the limits of authority delegated to the officer granting the land or that there was an irregularity in the procedure. Cancellation on any of these grounds may be ordered by any authority to whom the assigning authority is administratively subordinate.

In the event of such cancellation of the grant the grantee shall not be entitled to compensation for any loss caused to him by such cancellation.

The assigning authority may revoke the grant wholly or in part, if the charge specified in condition (1) or any part thereof shall remain unpaid for fifteen days after it has become payable, whether, formally demanded or not, or if the grantee, shall have violated any of the conditions of the grant herein contained and the assigning authority may assume control or otherwise dispose of all or any part of the land, any building, fence and structure thereon and the grantee shall not be entitled to any compensation therefor.

The grant hereby given may be revoked by the assigning authority after giving sixty days' notice in writing and by the Government or the Board of Revenue without notice for emergent reasons, the Government or the Board of Revenue being the sole judge in this regard and shall also be terminable by the grantee by giving to the assigning authority sixty days' notice in writing but without prejudice to any right of action or remedy of the assigning authority in respect of any antecedent breach of any of the foregoing conditions. The grantee shall not in case of such revocation or termination, be entitled to any compensation in respect of any buildings, fences and structures erected on the land or of any other improvements effected by the grantee to the land but he may, before the revocation or termination of the grant takes effect or if the grant is revoked without notice, within such time as may be allowed by the assigning authority in that behalf remove such buildings, fences and structures.

The grantee shall remove immediately any unauthorised building fence or structure on receiving notice from the assigning authority and in default of immediate compliance with any such notice, the assigning authority shall have power to remove the same and the grantee shall, upon demand made by or on behalf of the assigning authority, pay the cost of removal and the cost of storing the materials removed and take delivery of the same. The grantee shall have no claim to any materials removed under this condition which are not taken delivery of or the cost of the removal and storage of which has not been paid by the grantee on demand made as aforesaid.

The grantee shall pay the fee of Rs. .......... so long as the grant be in force, as security for the fulfilment and observance by him of the conditions contained in the grant. The sum so deposited shall be liable to be forfeited to Government under the order of the Collector in the event of failure by the grantee to fulfil or observe any of the conditions of the grant.

If the grantee fails to pay to the Government any sums payable under the grant on the respective rates on which they are made payable, he shall pay interest at 12 percent per annum on such amounts from the date on which they were so payable until the date of payment of recovery.

If the amount specified or any part thereof falls in arrear, it shall also be competent for the assigning authority to recover the same from the grantee as if they are arrears of public revenue due on land under the Kerala Revenue Recovery Act for the time being in force.

In deciding what sum of money is due to the Government, the decision of the Government shall be final and shall be binding on the occupant or the grantee as the case may be.
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In witness whereof I, (name and designation) acting for and on behalf of the Governor of Kerala have hereunto set my hand this day of 19.

Place: .......................................................... Signature and Designation of Assigning Authority

Date: ..........................................................

DECLARATION

I declare that I shall hold the lease subject to conditions given above. I also declare that I shall abide by the rules which are now in force or which may, hereafter be made by the Government in regard to the grant.

Signature of the grantee.

FORM I

[Rule 37]

REGISTER OF PERMITS

1. Sl. No. of application ...
2. Name and address of applicant ...
3. Particulars of land ...
   (a) Village and survey No. ...
   (b) Boundaries ...
4. Nature of construction ...
5. Amount of fee realised ...
6. Date of issue of permit ...
7. Remarks ...

(For Notifications see end of the book)