

**FIFTEENTH KERALA LEGISLATIVE ASSEMBLY**

**COMMITTEE  
ON  
PUBLIC ACCOUNTS  
(2021-2023)**

**THIRTY SECOND REPORT**

(Presented on 10<sup>th</sup> August, 2023)



**SECRETARIAT OF THE KERALA LEGISLATURE  
THIRUVANANTHAPURAM  
2024**

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ON  
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Paragraphs relating to Various Departments contained in the Report of the Comptroller and Auditor General of India on Land Management by the Government of Kerala with special focus on for Aranmula Airport and smart city, Kochi for the year ended on 31<sup>st</sup> March 2014.

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## **COMMITTEE ON PUBLIC ACCOUNTS (2021-2023)**

### **COMPOSITION**

Chairman :

Shri Sunny Joseph

Members :

Shri Manjalamkuzhi Ali

Shri M. V. Govindan Master.

DR K. T. Jaleel

Shri C. H. Kunhambu

Shri Mathew T. Thomas

Shri M. Rajagopalan

Shri P. S. Supal

Shri Thomas K. Thomas

Shri K. N. Unnikrishnan

Shri M. Vincent.

Legislature Secretariat:

Shri A. M. Basheer, Secretary

Shri P. S. Selvarajan, Joint Secretary

Shri Jomy K. Joseph , Deputy Secretary

Smt. Mable Antony, Under Secretary.

## INTRODUCTION

I, the Chairman, Committee on Public Accounts, having been authorised by the Committee to present this Report, on their behalf present the 32<sup>nd</sup> Report on paragraphs relating to Various Departments contained in the Report of the Comptroller and Auditor General of India on Land Management by the Government of Kerala with special focus on land for Aranmula Airport and smart city, Kochi for the year ended on 31<sup>st</sup> March 2014.

The Report of the Comptroller and Auditor General of India on Land Management by the Government of Kerala with special focus on land for Aranmula Airport and smart city, Kochi for the year ended on 31<sup>st</sup> March 2014 was laid on the Table of the House on 8<sup>th</sup> July 2014.

The Committee considered and finalised this Report at the meeting held on 12<sup>th</sup> July, 2023.

The Committee place on records their appreciation of the assistance rendered to them by the Accountant General in the examination of the Audit Report.

SUNNY JOSEPH

*Chairman,*

*Committee on Public Accounts.*

Thiruvananthapuram,  
10<sup>th</sup> August, 2023.

## REPORT

**[Audit paragraphs 2.1 to 2.7.2 contained in the 6<sup>th</sup> Report of the C & AG of India on Land Management by the Government of Kerala with special focus on land for Aranmula Airport and Smart City, Kochi for the year ended on 31<sup>st</sup> March 2014]**

### **2.1 Introduction**

Government land may be assigned<sup>1</sup> by the Government or by any prescribed authority either absolutely or subject to such restrictions, limitations and conditions as may be prescribed. Over the years considerable extent of Government Poramboke land has been assigned to individuals/institutions under different schemes. Land was also leased out to different institutions/individuals under different tenures, conditions of lease, Kuthakappattam license etc. on payment of nominal rent without any periodical revisions with reference to the current market conditions. Added to that, there are cases of encroachments on Government land by private parties enjoying the benefit of unauthorised occupation without paying any amount to Government. Now the situation is such that the land is really not available even for public purposes and Government has to resort to land acquisition making huge payments to private owners of land. Terms and conditions for assignment on registry/lease of government land for different purpose are given in Annexure III.

### **2.2 Organisational set up**

The Revenue and Disaster Management (R&DM) department is headed by Secretary (R&DM) at the Government level. At Departmental level it is headed by Commissioner of Land Revenue; assisted by Additional Commissioner/Joint Commissioner and Assistant Commissioners at State level and field officers from district level to village level viz., District Collectors, Revenue Divisional Officers, Tahsildars and Village officers.

Commissioner of Land Revenue is also the sole member of State Land Board<sup>2</sup> constituted for disposal of land ceiling cases under Kerala Land Reforms Act, 1963. Every Taluk has Taluk Land Boards headed by Revenue Divisional Officer/Deputy Collector.

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1 Section 3(1) of Government Land Assignment Act, 1960

2 Constituted under Section 100 of Kerala Land Reforms Act, 1963.

### 2.3 Objectives of audit

The broad objectives of audit were to assess whether:

- Government has a sound land management policy.
- rules framed were adequate for the management and disposal of government land.
- a well defined mechanism exists to assign government land on lease as well as on registry.
- system to check the encroachment of government land exists.
- an effective internal control mechanism was available in R&DM department.

### 2.4 Methodology of audit

Seven out of 14 districts<sup>3</sup> and sixteen out of 63 taluks<sup>4</sup> were selected by simple random sampling method using IDEA for audit. The selected village offices and the related offices were visited during February 2013 to June 2013. An Entry meeting in respect of the R&DM Department was conducted on 12 February 2013. Their views were considered while conducting audit.

Audit collected data/information by test check of records such as files, registers etc., maintained at Land Revenue Commissionerate, State Land Board, selected District Collectorates, Taluk Offices and Village Offices in R&DM department. Audit also scrutinised the government files connected with the assignments. The data collected was analysed with reference to the audit criteria and audit queries raised. Findings of Audit were discussed with the Department and Government. The draft note on audit was sent to the Government on 10<sup>th</sup> October 2013 for their response.

An exit meeting was conducted on 22 January 2014 in which the points noticed in audit were discussed in detail. The views of Government/Department were considered while finalising the report.

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3 Alappuzha, Ernakulam, Kollam, Kozhikode, Thiruvananthapuram, Thrissur and Wayanad

4 Ambalappuzha, Chengannur, Cherthala, Kanayannur, Kochi, Kollam, Koyilandy, Kozhikode, Kunnathunad, Mukundapuram, Neyyattinkara, Pathanapuram, Sulthan Bathery, Thiruvananthapuram, Thrissur and Vythiri.

## **2.5 Criteria of audit**

The criteria for audit were derived from the provisions of Act/Rules viz.,

- The Kerala Land Assignment Act, 1960 (KLA Act, 1960).
- The Kerala Land Assignment Rules, 1964 (KLA Rules, 1964).
- Rules for Assignment of Land within Municipal and Corporation Areas, 1995 (RALMCA, 1995).
- The Kerala Land Conservancy Act, 1957 (KLC Act, 1957).
- The Kerala Land Conservancy Rules, 1958 (KLC Rules, 1958).
- The Kerala Survey and Boundaries Act, 1961 (KSB Act, 1961).
- The Kerala Survey and Boundaries Rules, 1964 (KSB Rules, 1964).

In addition, the notifications/instructions issued by Government/ Land Revenue Commissioner had been reckoned as the criteria for audit.

## **2.6 Acknowledgments**

Audit acknowledges the co-operation extended by Government as well as the Commissioner of Land Revenue, Special Officers of Land Bank and Zero Landless Projects, District Collectors, Tahsildars and Village Officers. Audit also acknowledges the co-operation extended by Minister (Revenue) and Secretary (R&DM) in making the records available.

## **2.7 Audit findings**

Important findings of the audit are given in the following paragraphs.

### **2.7.1 Non-compliance of land management policy**

The land management policy of the Government has been laid down in various government orders<sup>5</sup> and circulars of Government/Commissioner of Land Revenue; wherein Government lands should be considered as a resource capable of bringing in considerable revenue. Various steps proposed in land management policy of Government (1994) to ensure efficient and effective utilisation and

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5 GO (MS) No. 222/94/RD dated 4 May 1994, GO (MS) No. 189/95/RD dated 22 March 1995, GO(MS) No. 280/2011/RD dated 27 July 2011.



management of Government land were as follows.

Sl. No.	Steps to be taken
1	Land falling under various categories to be identified with reference to the registers maintained in the revenue offices at various levels.
2	In cases where terms of lease has expired, action to be taken to revise the lease rent with reference to the current market value.
3	In cases where the land leased has not been utilised for the purpose for which it was leased out, such lands shall be resumed to Government.
4	Effective action to be taken to manage, administer or dispose off the land escheated to Government.
5	Steps to be taken to evict all unauthorised occupations in Government lands.
6	All revenue records pertaining to Government lands to be made up-to-date.
7	Regular inspection of public lands.
8	Assess all public land and update data on public land.

However audit noticed that the laid down policies in land management declared in 1994/2011 has not been scrupulously followed as discussed in subsequent paragraphs.

This was pointed out to Government in November 2013. Government accepted the views of Audit and agreed to look in to the matter. Further report has not been received (May 2014).

### **2.7.2 Delay in framing rules**

The KLA Act, 1960, rules and government orders issued thereunder regulate the assignment of government land. Rules under the Act have to be formulated timely for fixing terms and conditions, period of lease etc. Audit

noticed inordinate delay in prescribing the rules thereon under Section 7 of the Act as shown below.

Sl. No.	Area	Act	Rule	Delay in framing rules	Last revision of rate of lease rent	Audit remarks
1	Rural areas	KLA Act, 1960	KLAR 1964	4 years	December 1985 <sup>6</sup>	Rates of lease rent were prescribed in 1985. Thereafter no revision has been effected though displeasure was expressed by PAC vide recommendation no. 52 of their 71 Report 2006-08 presented to the Legislature.
2	Municipal and Corporation areas	KLA Act, 1960	RALMCA 1995	35 years	April 2004 <sup>7</sup>	Till 1995 lease under municipal and corporation areas were regulated by executive orders. Though as per provisions of the rules lease rent had to be revised every three years, lease rent has not been revised after 2004.

These resulted in collection of lease rent at very low old rates which was beneficial to the lessees.

On this being pointed out the Principal Secretary to Government, R&DM Department stated during the exit meeting (January 2014) that the matter of revision of lease rent is under the consideration of the Subject Committee. Further report has not been received (May 2014).

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6 GO(MS)No. 1026/85/RD dated 19 December 1985.

7 GO(P)No. 126/2004/RD dated 14 May 2004.

**Excerpts from the discussion of the Committee with Government officials.**

1. Prior to the deliberations, the committee stated that these audit paragraphs on Land Management with respect to Aranmula Airport and Smart city, Kochi are major audit observations and pointed out the delay on the part of the Government in furnishing replies to these audit objections promptly. The Witness Principal Secretary, Revenue Department informed the Committee that the reply to audit paragraph would be furnished soon. He further stated that Government had taken necessary steps on audit observation that there was delay in revision of lease rent on Government land leased out to different institutions/individuals. He added that lease rent had been revised and order was issued in 2017.

2. The Committee wanted to know when was the lease rent revision done and whether rate of lease rent under KLAR and RALMCA was revised periodically. The witness, Principal Secretary, Revenue Department replied that the last lease rent revision was done in 2016 and that the procedure for the next revision had been initiated and that the concerned Government order and details would be furnished to the Committee. The Committee asked about the details of the lease rent revision prior to the C & AG's Audit Report. The Principal Secretary replied that the rent was last revised in 2016. The witness informed that there had been delay in periodical revision as pointed out by the Accountant General and he agreed to provide the correct details after an enquiry. He also added that Government had taken necessary action for periodic lease rent revision and a notification was issued in 2017.

3. The Committee enquired whether land can be assigned for purpose other than agriculture and whether there is any amendment of rules in this regard. The Principal Secretary, Revenue Department informed the Committee that as per Land Assignment Act or any other connected rules the Government land was assigned on the condition that the assigned land must be used for agriculture purpose or house construction purpose. But in some districts especially in Idukki district, those assignable lands were consolidated and used for tourism and many other purposes and it was commonly followed in our State even if it was illegal. He added that the Hon'ble High Court of Kerala, knowing the prevailing conditions, ruled that permission for construction in assigned lands should be granted only after examining the possession certificate issued by Revenue officials and house number should not be

issued to the building unless NOC was obtained from the Revenue Department. To break the impasse, the issue was brought to the notice of the cabinet last month and Government has issued an order in this regard. He also added that as per the Government order, the rules may be amended to regularise structures upto 1500 square feet in 15 cents of land, even if it was an illegal construction. He further added that Government has decided to resume those land wherein illegal construction were made by the individuals, who have pattayam and that the land would be returned to them only on lease as per the existing lease conditions. The Committee directed the Department to furnish the reply on the audit para including the current position.

**[Notes received from the Government based on the audit paragraph is included as Appendix – II.]**

**Excerpts from the discussion of the Committee with Government officials.**

4. The Committee accepted the reply furnished by the government

*Conclusion /Recommendation*

**5. The Committee requires the Department to inform about the action taken in the aftermath of the Government order dated 22-8-2019 for regularising the structures upto 1500 sq.ft plinth Area in 15 cents or below area of land released to the owners of building in Idukki, Wayanad districts etc, what amount added to the exchequer towards lease rent in this regard and how much land was reclaimed. The Committee directs the department to furnish a detailed report covering all the aspects, without delay.**

**[Audit paragraph 2.7.3 contained in the 6<sup>th</sup> Report of the C & AG of India on Land Management by the Government of Kerala with special focus on land for Aranmula Airport and Smart City, Kochi for the year ended on 31<sup>st</sup> March 2014]**

**2.7.3 Lack of information on assignable land**

Details of assignable land though required to be maintained under Rule 11 of KLAR, 1994 and Rule 6 of RALMCA, 1995 was not available in the selected 16 taluk offices test checked by Audit. List of assignable land was not being updated, instead when a land was to be assigned the land was first included in the list of assignable land so as to enable the assigning authority to assign the land.

This was pointed out to Government in November 2013. Government could not justify the action.

**Excerpts from the discussion of the Committee with Government officials.**

6. While considering the audit observation regarding the lack of information on assignable land, the Committee opined that the Register regarding the information on assignable land was not maintained in the selected 16 Taluk Offices.

7. The witness, Principal Secretary, Revenue Department replied that after the audit objection, special order was issued to consolidate and prepare a list of assignable land in taluk offices and the data has since been updated and monitored regularly.

8. The Committee recommended to furnish details about the steps taken by the department to update the information on assignable land and also the copies of the updated version of the registers for assignable lands for the last one year in the 16 Taluk Offices audited by Accountant General.

**[Note received from the Government on the above audit paragraph regarding the information sought by the Committee is included as Appendix – II.]**

**Excerpts from the discussion of the Committee with Government officials.**

9. The Committee accepted the reply furnished by the government

***Conclusion /Recommendation***

**10. The Committee requires the department to furnish details about the steps taken to update the information/list of assignable land and also a statement pertaining to the rectification measures initiated on the basis of the Audit observations.**

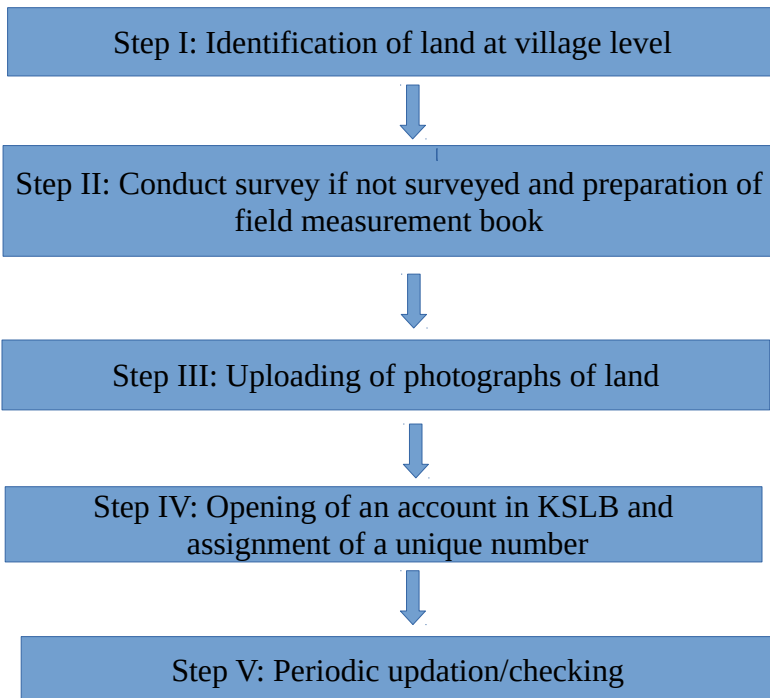
***[Audit paragraph 2.7.4 contained in the Report of the C & AG of India on Land Management by the Government of Kerala with special focus on land for Aranmula Airport and Smart City, Kochi for the year ended on 31<sup>st</sup> March 2014]***

### 2.7.4 Failure to identify Government land

In Kerala, the detailed information such as survey number, sketch etc., on land is kept in 1,634 village offices. Details of all the land identified and demarcated as per Revenue Settlement Proclamation of the year 1886 are recorded in the Settlement register of each village office. Details of private land are available in the Thandaper Register and that of government land in the poramboke register maintained in each village office. There is no comprehensive/consolidated record of government land in the State.

To overcome this problem, a concept of 'Land Bank' was initiated<sup>8</sup> in 2007. Land Bank is a repository of details of Government land, for scientific inventorisation and professional management in the State.

The various processes involved in the functioning of the land bank as per the proposal were as follows.



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<sup>8</sup> GO(Rt) No. 2563/2007/RD dated 21 June 2007.

Its objectives were to check illegal encroachments on government lands, income generation from such lands and surveillance and protection of lands. It is a LINUX based IT system hosted in the State data centre accessible through internet.

The R&DM department acts as the custodian of Kerala State Land Bank on behalf of themselves and other government departments.

Out of 26,898 cases (73,103.74 Ha.) reported in the State for inclusion in the Land Bank as on 31 March 2013, digitisation of Field Measurement Book has been completed in respect of 13,995 cases forming 52 per cent (7,561.55 Ha.) and uploading of photograph has been completed in 8,352 cases forming 31.05 per cent (12,067.82 Ha.). Though the cases were identified, the digitisation work relating to Idukki and Wayanad Districts has not yet commenced.

Rule 82 of the KSBR, 1964 stipulates that survey of government lands should be completed first. It has been reported that out of 1,634 villages in the State, survey work has been completed in 766 villages only (46.88 per cent). The State Government has stopped resurvey work in October 2012. As the resurvey has not been completed, the cases reported for inclusion in Land Bank cannot be treated as exhaustive.

Audit found that the attempt to inventorise the government land through land bank has reached a stand still. No specific target has been fixed for completion of data entry work in the Land Bank or the date from which the system would become operational in all respects. The objective of formation of Kerala State Land Bank has not yet been achieved even after seven years.

This was pointed out to Government in November 2013. Government accepted the views of Audit and agreed to look in to the matter. Further report has not been received (May 2014).

**Excerpts from the discussion of the Committee with Government officials.**

11. Regarding the concept of Land Bank which was initiated in 2007, the Committee enquired about the present status of the project as well as the reason for the delay in submitting replies. To the query the Principal Secretary informed that the detailed report on land bank is under active consideration of Government and it will soon be furnished and also admits that the delay in furnishing the reply is because it requires a detailed examination.

12. The Principal Secretary, Revenue Department informed that there are certain conditions when the land is given on lease. If the land is given on lease for agricultural purpose 2% of the estimated cost and 5% for industrial purposes will be realised as annual lease rent.

**[Note received from the Government based on the above audit paragraph is included as Appendix – II.]**

**Excerpts from the discussion of the Committee with Government officials.**

13. The Committee mentioned that the detailed discussion regarding this audit objection was done earlier in a meeting and further enquired about the present status of implementation of Kerala State Land Bank Project.

14. To the query of the Committee, the Principal Secretary, Revenue Department replied that procedures regarding the implementation of Land Bank was in progress. He admitted that there was no appreciable improvement in the process of lease rent collection and added that notices had been sent to lessees in many cases.

15. When the Committee enquired whether the process to identify the leased land was completed, the witness, Principal Secretary, Revenue Department apprised that eventhough the process was not completed they could achieve noticeable improvement.

16. The Committee reminded the Secretary on the information sought by the Committee at its previous meeting about the extent of Government land given on lease, in how many cases lease conditions were violated and what were the steps taken to resume the land whose lease period had expired. The Committee reiterated its earlier direction to strictly maintain a register having complete information of land, state and district wise. The Committee wanted to know if any further action was taken on the direction of the Committee. The Principal Secretary, Revenue replied that strict directions had been given to the concerned officials to properly maintain a register on Government land given on lease, within 3 months. He also informed that review meeting was being conducted monthly for monitoring the work.



17. The Deputy A.G intervened and pointed out that land survey process has been temporarily discontinued. The Principal Secretary answered that survey on Government land had been slowed down as many complaints arised during re-survey, which are being currently attended to. The survey was temporarily discontinued and surveyors were called back as many cases regarding survey were pending. Steps are being taken to conduct the resurvey process in a full fledged manner.

18. The Committee expressed its disappointment on the present procedure adopted for resurvey since complaints are increasing in every village after each such resurvey. The Committee wanted to know about the new system to be introduced for resurvey processes, which the survey director has disclosed in the previous meeting of the Committee. The Principal Secretary replied that Government is working on the proposal put forward by Survey Director to integrate Registration, Land Records and Survey Departments. This is being done through a computerised platform where entire details of the land are recorded during transaction of a land.

19. He further added that a system that can conduct regular survey with 54 stations was received from the Survey of India. He added that a project was approved for that purpose but it would be delayed by six months for the commencement of its operations. He also added that the computerised integrated platform would be functional when the project launched. He further added that it was decided to speed up the resurvey process thereafter.

20. The Committee directed the department to take necessary action to speed up the procedure so that the resurvey process would be initiated within six months and to inform the progress made in this regard to the committee.

### *Conclusion /Recommendation*

**21. The Committee expresses its strong displeasure at the present resurvey processes as several complaints have been arisen from villages where the resurvey work has been conducted. Sensing the seriousness of the situation, the committee directs the department to take necessary action to speed up and complete the resurvey process impeccably in a time bound manner and furnish a report regarding the progress made in this regard to the Committee.**

**[Audit paragraphs 2.7.5 and 2.7.5.1 contained in the 6<sup>th</sup> Report of the C & AG of India on Land Management by the Government of Kerala with special focus on land for Aranmula Airport and Smart City, Kochi for the year ended on 31<sup>st</sup> March 2014]**

### **2.7.5 Government land on lease**

As per records available in the Commissionerate of Land Revenue, 26,445 Ha. of land was leased out in 4,746 cases as on 31 March 2013 as follows.

<b>Type</b>	<b>No. of cases</b>	<b>Area (Ha.)</b>
<i>Rural</i>	3,615	24,687.38
<i>Urban</i>	1,131	1,757.62
<b>Total</b>	<b>4,746</b>	<b>26,445.00</b>

As per provisions of KLAR, 1964 and RALMCA, 1995, Government should prepare lists of land which should be reserved for government or public purpose and which may be made available for assignment<sup>9</sup>. The list should be approved by the District Collector on the advice of Taluk Land Assignment Committee<sup>10</sup> and Municipal/Corporation Land Assignment Committee<sup>11</sup>.

On the advice of the Land Assignment Committees (LAC) constituted at the Taluk and Municipal/Corporation levels for the purpose, land would be assigned to individuals by the Tahsildar/District Collector, as the case may be. However, the LAC has no power in respect of assignment of land to companies/ institutions/ commercial entities of Grama panchayat areas and institutions in municipal/ corporation areas. While Tahsildar is the assigning authority in respect of KLAR, 1964, the District Collector and Government are the assigning authorities under RALMCA, 1995. Government land may be assigned by the Government or by prescribed authority either absolutely or subject to such restrictions, limitations and conditions as may be prescribed.

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9 Rule 11 of KLAR and 6 of RALMCA.

10 Under KLAR- Rule 12(3)

11 Under RALMCA- Rule 6 A

With the approval of LAC concerned land can be assigned and title issued. Land assigned on registry is heritable<sup>12</sup> and not alienable for specified periods of time.

Audit of records connected with the lease of land disclosed the following defects/deficiencies.

### ***2.7.5.1 Lack of information on land given on lease***

Cross verification of 121 lease cases maintained in 16 taluk offices with reference to the list of lease cases maintained by the Commissioner of Land Revenue has shown that 36 cases (Annexure IV) relating to eight<sup>13</sup> taluks were not included in the list maintained by the Commissioner of Land Revenue. The extent of land leased out in these cases was 53.35 Ha.<sup>14</sup> and the lease rent arrears in the above cases was worked out by Audit as ₹73.28 crore as on 31 March 2013. This showed that the details of lease cases available with the Commissioner of Land Revenue was not comprehensive.

Register showing details of government land leased out was not maintained in a consolidated form at the Collectorates. The data in respect of seven districts compiled from the list of lease cases furnished by the taluk offices, is shown below.

Source	Rural		Urban		Total	
	No. of cases	Area (Ha.)	No. of cases	Area (Ha.)	No. of cases	Area (Ha.)
<i>Seven districts test checked</i>	1,432	623.42	1,195	245.50	2,627	868.92

Following deficiencies were noticed during audit in filing of periodical returns/maintenance of registers.

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12 The assignee and his legal heir can inherit the land.

13 Ambalapuzha, Fort Kochi, Kollam, Pathanapuram, Koyilandy, Kozhikode, Thiruvananthapuram and Mukundapuram

14 One Hectare = 100 Are, 1 Are = 2.471 Cent, 100 Cent = 1 Acre, 1 Hectare = 2.471 Acre

- System of filing periodical returns showing the details of Government land leased out, lease rent due, collected, arrears etc., to higher authorities was not existing in the Department.
- There is no centralised record for government land on lease/for monitoring collection of lease rent.
- Registers/records are not available in Taluk/District level showing arrears of lease rent realisable.
- Consolidated Demand Collection Balance Statement<sup>15</sup> is being prepared at Commissionerate based on figures supplied by Collectorates. The figures are furnished by Taluk Offices which are taken from files concerned. Since register/database showing details of lessee wise arrears is not being maintained in Taluk Offices, the correctness of the figures cannot be verified.

In the absence of records showing the comprehensive position, Audit could not vouchsafe the correctness and completeness of details available at the Commissionerate/Collectorates/taluks/villages.

This was pointed out to Government in November 2013. Government accepted the views of Audit and agreed to look in to the matter. Further report has not been received (May 2014).

**Excerpts from the discussion of the Committee with Government officials.**

22. While considering the audit para, lack of information on land given on lease, the Committee was serious to note that the Register showing the details of Government land leased out was not maintained in consolidated form at Land Revenue Commissionerate, and commented that absence of properly maintained lease register may result in non realisation of lease rent, failure to note the expiry of lease period as well as resumption of leased land after the expiry of lease period.

23. The Committee understands that because of this lackadaisical approach of the department, many acres of leased land are being occupied by private parties

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15 Statement showing details of the Demand Collection and Balance of lease rent in respect of Government lands leased out in the State.

even after expiry of lease period which resulted in the failure to renew, calculate and collect lease rent arrears and Government resort to buy private property at huge cost for its developmental programmes. The Committee opined that due to the absence of lease rent register, the lease rent has not been revised which resulted in loss of revenue towards lease rent due to Government land.

24. The Committee laments the inertia of the department for not properly maintaining and taking actions to renew leases of assigned lands even though 5 years has elapsed since the audit. The Committee view that the department shows scant response to serious matters and suspect that the officials collude with the private parties for making the profit to their favour. The Committee fears that whether the same subject will become a matter of concern for the PAC after the next 5-10 years.

25. The Committee pointed out that as the lease records are not properly maintained, many cases were ordered in favour of respondents in High Court and in many cases only the pre-revised rent is realised even if there is favourable Court Order. The Principal Secretary, Revenue Department replied that there are records for the land given on lease. Most of the register are kept in Village and Taluk offices. He agreed that lack of proper monitoring has resulted in the failure to collect lease rent properly. He further added that a Lease Mission has been started in Revenue Commissionerate to co-ordinate the maintenance of lease records using modern technology. The Deputy Accountant General clarified that there is disparity in the records kept in Village Office with those kept in Land Revenue Commissionerate. The Committee directed the Department to take necessary steps to maintain the register properly and to check the changes occurred since 2013 and to take urgent steps to update the information. The Principal Secretary, Revenue Department agreed to furnish the detailed reply.

**[Notes received from the Government based on the above audit paragraphs are included as Appendix – II.]**

**Excerpts from the discussion of the Committee with Government officials.**

26. The Committee accepted the reply furnished by the department.

### *Conclusion /Recommendation*

**27. The Committee seeks a detailed report regarding the performance of Lease Mission in maintaining records of Government land on lease using modern technology and urges to furnish an updated version of the lease register which has been preserved by the Land Revenue Commissioner. The Committee urges that the report should include the survey numbers, area of land leased out, the purpose, period of lease and lease rent arrears.**

**[Audit paragraph 2.7.5.2 contained in the 6<sup>th</sup> Report of the C & AG of India on Land Management by the Government of Kerala with special focus on land for Aranmula Airport and Smart City, Kochi for the year ended on 31<sup>st</sup> March 2014]**

#### *2.7.5.2 Failure of the Government to renew lease*

The period of lease has been stipulated as maximum three years for urban areas and two to ten years for rural areas, based on the use for which it is assigned and maximum twenty years for any scheme approved by the Government as shown in Annexure III.

In 16 taluk offices it was found that 241.48 Ha. of government land was occupied by 1,084 occupants on lease in the urban area. Out of these only 56 (5 per cent) leases measuring 3.71 Ha. had been renewed. In the remaining 1,028 cases (95 per cent) leases had not been renewed even after expiry of lease and the land was in possession of the lessee for a quite long period. The follow up action for renewal, realisation of outstanding lease rent or levy of prohibitory assessment<sup>16</sup> under KLC Act, 1957 that has to be taken under Rule 12(1), were not taken.

This has resulted in unauthorised occupancy of 237.77 Ha. of land in seven Districts by 1,028 entities. Audit could not quantify the loss due to non-renewal of lease. A specific case is highlighted below quantifying the loss of revenue due to non-renewal of lease agreement.

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<sup>16</sup> It is an amount to be assessed and imposed by the District Collector in cases of unauthorised occupation of Government land. As per Rule 12(1)(b) of RALMCA in case of land held under time expired lease, prohibitory assessment as required under Rule 8(2) of KLC Act, 1957 treating the possession of land under lease as unauthorised occupation.

An extent of 1,028.36 Are of land in Kadakampally Village was leased out to Travancore Titanium Products Ltd. for a period of 25 years in 1948. On expiry of lease period in 1973 the agreement was neither terminated nor renewed by the Department. The lessee remitted the lease rent at the agreed rate up to 1993-94 though the period of lease expired in 1973. Thereafter the lease rent was revised and the lessee was served a demand notice for ₹2.85 crore towards lease rent arrears for the period up to 1993-94. In an original petition filed by the lessee against this notice, the Court ruled (March 2003) that levy of revised rate of lease rent is possible only after modification of existing agreement. But the lease has not been terminated/renewed and no agreement has been executed so far (November 2013). This has resulted in loss of revenue towards lease rent of ₹20.49 crore due on government land worth ₹102.83 crore.

*This was pointed out to Government in November 2013. Government accepted the views of Audit and agreed to look in to the matter. Further report has not been received (May 2014).*

**Excerpts from the discussion of the Committee with Government officials.**

28. Referring to audit remarks that in 16 Taluk offices, checked by audit, almost 95% cases of lease had not been renewed even after expiry of lease period, the Committee termed it as a very grave situation. Committee opined that the renewal of lease rent will be possible only if proper records are available. Otherwise, in the present situation, even a reason for the failure in realisation of outstanding lease rent or renewal of lease rent cannot be demanded from the Revenue Officials.

29. The Committee criticized that the lease rent had not been revised and no agreement was executed in the case of land which was leased out to Travancore Titanium Products in 1948. The Department had not taken any steps either to renew or terminate the lease agreement even after the lease period expired in 1973 which in turn resulted in loss of revenue of ₹20.49 crores as lease rent. This helped the lessee to obtain a favourable Court Order. The Deputy Accountant General commented that the High Court had ordered not to collect the lease rent in the revised rate as lease agreement was not renewed at that time and the lease rent could have been collected in pre-revised rate, but the Department did not collect it.

30. The Committee directed the Revenue Department to submit a detailed report regarding the present status of the case related to Travancore Titanium Products Ltd. and the reason for the non-renewal of lease agreement with the company. The Principal Secretary, Revenue Department replied that they would submit the report after examining the matter in detail.

**[Note received from the Government based on the above audit paragraph is included as Appendix – II.]**

**Excerpts from the discussion of the Committee with Government officials.**

31. The Committee accepted the reply furnished by the department.

#### **Conclusion /Recommendation**

**32. The Committee directs the Revenue Department to submit a detailed report regarding the present status of the case related to the loss of revenue towards lease rent from Travancore Titanium Products Ltd. and the reason for the non-renewal of lease agreement with the company.**

**[Audit paragraphs 2.7.6 , 2.7.6.1 and 2.7.6.2 contained in the 6<sup>th</sup> Report of the C & AG of India on Land Management by the Government of Kerala with special focus on land for Aranmula Airport and Smart City, Kochi for the year ended on 31<sup>st</sup> March 2014]**

#### **2.7.6 Issues in collection of lease rent**

Under KLAR, 1964 and RALMCA, 1995 lease rent shall be collected from the lessees by village officers at the rates prescribed by Government from time to time. The registers showing the details of land assigned, lease rent due, collected and balance to be collected shall be maintained in the village offices. Demand Collection Balance Statement (DCBs) and details of land on lease shall be submitted to Collectorate/Commissionerate by village offices/taluk offices. The lease rents collected as per DCBs maintained by the Commissioner of Land Revenue were as follows.



(₹ in crore)

<b>Year</b>	<b>Amount</b>
2008-09	2.81
2009-10	5.42
2010-11	2.92
2011-12	4.81
2012-13	2.58

Agreements of lease shall be kept at Taluk office/Collectorate and reviewed periodically and action shall be taken to terminate/renew as the case may be on expiry of the period of agreement. During the audit it was found that there were deficiencies in the termination/renewal of lease agreement and collection of lease rent promptly, as detailed below:

#### **2.7.6.1 Arrears of lease rent**

Under RALMCA, 1995, lease rent at various rates from two per cent to 10 per cent on market value is leviable. Till 1 May 2011 actual market value prevailing in the area was taken for fixing lease rent. As per GO dated 2 May 2011, double the fair value of the adjacent land should be taken as the market value. Audit noticed that no effective system existed in the Department to work out arrears of lease rent periodically, demand it from the lessee, realise the arrears with interest and credit it to government account and to take action against defaulters.

As per the lease list maintained by the Commissioner of Land Revenue, ₹60.18 crore was the arrear of lease rent in respect of 4,746 cases as on 31 March 2013. Audit test checked 1,084 files relating to government land on lease under

RALMCA maintained in sixteen offices in seven districts. Out of this details of lease rent were available only in 121 cases. Test check showed that lease rent to the tune of ₹176.69 crore and interest thereon were realisable from the 121 entities. Extent of land involved in above cases was 126.30 Ha. (Annexure V) with a market value of ₹875.22 crore. Cross verification of 121 cases (Annexure V) with the lease list maintained by the Commissioner of Land Revenue showed that in 44 cases arrears were not worked out and in another 41 cases the updation of the arrears was pending due to non-revision of lease or lease rent. Audit could not work out the arrears due from remaining 963 cases in the absence of sufficient details.

On this being pointed out, the Principal Secretary to Government, R&DM Department admitting the views of Audit stated during the exit conference (January 2014) that major portion of the lease rent arrears were pertaining to private entities. As the lease rent arrears are around ₹500 crore, the matter was brought to the notice of the Cabinet. A onetime settlement scheme would be proposed to settle the arrears. Further report has not been received (May 2014).

#### **2.7.6.2 Failure to revise fair value and consequent short levy of lease rent**

Under Rule 12(5) of RALMCA, 1995 the lease rent leviable in urban area varies from two to ten per cent per annum of the market value. Hence the lease rent was fixed considering the market value prevailing in the locality of the land leased out. Consequent on fixing the fair value of land in the State from 1 April 2010, Government fixed<sup>17</sup> market value as double the fair value for determining lease rent. Audit found that due to adoption of new method in many cases the actual market value exceeded double the fair value. As fair value is not being revised periodically, relying on fair value for fixing the market value would affect the

revenue of the State as detailed in instances below:

SI. No.	Name of lessee	Area (Are)	Market value per Are for 2010-11	Fair value per Are	Market value per Are based on fair value	Difference	Rate of lease rent (%)	Loss in rent per year	Year	Total loss
			(₹)	(₹)	(₹)	(₹)		(₹)		(₹)
1	M/s Indian Airlines, Thiruvananthapuram	8.09	22,23,900	4,50,000	9,00,000	13,23,900	5	5,35,517	2011-12 2012-13	10,71,035
2	KTDC, Thiruvananthapuram	2.02	19,76,800	5,00,000	10,00,000	9,76,800	5	98,657	2012-13	98,657
3	All India Radio, Thiruvananthapuram	107.24	17,81,808	4,50,000	9,00,000	8,81,808	2	18,91,302	2011-12 2012-13	37,82,604
								Total		49,52,296

On this being pointed out the Principal Secretary to Government, R&DM department stated during the exit meeting (January 2014) that the revision of fair value would be taken up to avoid loss of lease rent due to non-revision. Further report has not been received (May 2014).

**Excerpts from the discussion of the Committee with Government officials**

33. While considering these audit paragraphs, the committee noticed that the registers showing the details of land assigned, lease rent due, collected and balance to be collected are not maintained properly. The Committee commented that these issues would not have happened if the District Collectors had detected these failures through review meetings. The Principal Secretary, Revenue Department informed the Committee that as per the manual, it was the duty of the District Collectors to go after revenue of the Government by examining and monitoring the records of every village office on a regular basis. He added that the District Collectors do not even visit the village offices at present.

34. The Deputy Accountant General (Audit) pointed out that there was discrepancy between the records kept in village offices and collectorates related to land on lease.

35. The Committee stressed the need for proper maintenance of lease rent registers and called for updation and close monitoring of the records related to the Government land leased out. The Committee asked the department to instruct village officers to collect lease documents in a warfoot manner and properly enter the details connected with it, viz, Taluk, extend of land leased, survey number, to whom leased, lease purpose, period of lease, lease rent, date of renewal of lease so as to check the revenue loss and unauthorized occupancy.

36. The Committee opined that issues related to collection and renewal of lease rent could be solved through computerization and the Government would get more revenue from this Sector if it expend some amount for computerization of the records. The Principal Secretary, Revenue Department informed that the computerization process was going on in the Department.

**[Note received from the Government based on the above audit paragraph is included as Appendix – II.]**

**Excerpts from the discussion of the Committee with Government officials.**

37. When enquired about the progress in collection of lease rent arrears, the Principal Secretary, Revenue department stated that he had already informed the Committee in the previous meeting about One Time Settlement system for collection of lease rent and as per that system notices had issued to the parties but

response was minimal. He added that upto 2018 almost ₹1155 crore was seen to be collected as arrears of lease rent. The arrear amount includes those of Educational institutions and they had been requested for One Time Settlement and recently it was directed to issue notice to the parties. To the query of the Committee, the Principal Secretary, Revenue Department further informed that an amount of ₹10 crore was recently collected as lease rent arrears.

38. The Committee observed that the defaulters, in the remittance of lease rent arrears were reluctant to remit the amount even when one time settlement offers were made by Government. Also, most of the defaulters were private entities.

39. The Committee decided to direct the Department to compile and update the list of defaulters and furnish the list to the Committee and to take urgent steps to cancel the lease if the resumption of land will not affect the wellness of the public. The Committee strongly recommended that Revenue Recovery proceedings should be initiated against the defaulters in a time bound manner and the progress made in this regard should be reported to the Committee without delay. The Committee opined that as the one time settlement was offered several times and response was poor, the Department should take necessary action for recovery including revenue recovery, against those who fail to settle the arrears of lease rent within the time prescribed by the Government.

### **Conclusions /Recommendations**

**40. The Committee observes that the defaulters, predominant private entities are reluctant to remit the lease rent arrears even though Government have announced One Time Settlement Scheme for clearing their liability. Therefore, the Committee directs the department to compile and update the list of defaulters and inform the details to the Committee at the earliest. The Committee recommends that the department shall take urgent steps, in such cases, to cancel the lease if the resumption of land does not affect the public interest.**

**41. The Committee strongly recommends that Revenue Recovery proceedings should be initiated against the defaulters in a time bound manner and the progress made in this regard should be reported to the Committee without delay.**

**42. The Committee stresses the need for proper maintenance of lease rent registers and directs the department to instruct Village Officers to collect lease documents in a warfoot basis and properly enter the details connected with it,**

**viz, Taluk, area of land on lease, Survey No., to whom leased out and purpose, period of lease, lease rent, date of renewal of lease, so as to check the revenue loss and unauthorized occupancy.**

**[Audit paragraphs 2.7.6.3, 2.7.6.4, 2.7.6.5 and 2.7.6.6 contained in the 6<sup>th</sup> Report of the C & AG of India on Land Management by the Government of Kerala with special focus on land for Aranmula Airport and Smart City, Kochi for the year ended on 31<sup>st</sup> March 2014]**

**2.7.6.3 Failure to collect lease rent arrears from entities whose land was resumed/lease terminated**

Under Rule 17 of RALMCA 1995, government land given on lease having lease rent arrears can be resumed to Government. In such cases, revenue recovery procedures are to be initiated for collecting lease rent on land.

However, a scrutiny of files and registers connected with lease, maintained in the Taluk Office/Collectorate, Thiruvananthapuram revealed that arrears of lease rent amounting to ₹65.15 crore was not collected though land has already been resumed. Details of such cases are given in Annexure VI.

In one case alone, the golf club (SI. No. 1 of Annexure VI), though the land measuring 10.53 Ha. was given on lease by the Government in 2010, lease rent arrears of ₹63.70 crore (1995 to 2010) has not been realised. District Collector stated that as per government instructions, arrears was not realised as it was a case of license and not lease. This argument is not acceptable since all cases of assignments, whether on lease or license, in urban areas are governed by RALMCA, 1995<sup>18</sup> and hence arrears were recoverable through revenue recovery procedure.

On this being pointed out the Principal Secretary to Government, R&DM department stated during the exit meeting (January 2014) that onetime settlement would be introduced for the clearance of arrears. Further report has not been received (May 2014).

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18 GO (P) 566/95/Rev dated 13 November 1995 (Rule 12 (1)).

#### 2.7.6.4 Defective calculation of lease rent

In Kozhikode Taluk, scrutiny of lease files/registers revealed that 6.07 Are of land belonging to Police Department in Kasaba village of Kozhikode Taluk was leased to Kerala State Civil Supplies Corporation (KSCSC) for a period of 20 years for setting up of a petrol bunk by Bharat Petroleum Corporation Ltd. as per sanction order dated 9 January 1991.

On request of the Police Department in 1990-92 to release 1.92 Are of land out of the 6.07 Are, the above sanction was cancelled. KSCSC continued to possess the entire land. The lease rent was being collected from the KSCSC from 1992-93 for 4.15 Are only. The Village officer, Kasaba reported to Tahsildar, Kozhikode that the KSCSC actually possessed/enjoyed an extent of 6.47 Are of land. But no action was taken to collect lease rent on the actual area of land under possession of KSCSC. This resulted in short collection of lease rent of ₹0.46 crore<sup>19</sup>.

This was pointed out to Government in November 2013. Government failed to reply on the point raised by Audit.

#### 2.7.6.5 Write off of arrears in violation of provision of RALMCA, 1995

While test checking lease cases with outstanding arrears of lease rent in Taluk Offices/Collectorates it was noticed that in 27 cases involving 71.56 Ha. of land, lease rent arrears of ₹60.78 crore (Annexure VII) were written off. Out of this, ₹44.42 crore related to 19 private entities. The other beneficiaries were government sponsored commercial undertakings and autonomous bodies.

As mode of dealing with non-payment or non-renewal have been clearly spelt out in the Rules, the action of writing off was not in order. The private entities who had already violated lease conditions and defaulted gained at the cost of revenue of the State.

This was pointed out to Government in November 2013. Government accepted the views of Audit and agreed to look in to the matter. Further report has not been received (May 2014).

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19 Total lease rent due from 01 April 1992 to 31 March 2013 ₹0.49 crore - lease rent paid ₹0.03 crore = ₹ 0.46 crore.

### **2.7.6.6 Undue favour to Institution of Engineers (India), Kerala**

Government land measuring 40.46 Are in Survey number 90 of Thycaud Village, Thiruvananthapuram Taluk was leased to Institution of Engineers (India), Kerala, a professional body of engineers, in 1957. Out of this, 18.21 Are was resumed subsequently in October 2009. With coming into force of RALMCA, 1995 lessee was categorised as commercial and lease rent was fixed as 20 per cent of market value. But lessee neither renewed the lease nor paid the lease rent arrears. In 2001, Government initiated action for resumption of land and show cause notice was sent to the lessee.

In this connection, Audit noticed the following

- The lessee is using the land for commercial purpose. The building in the land is rented out for meetings, exhibitions etc. Public interest was not served by reduction/write off of lease rent arrears and reduction in the rate of lease rent.
- The rate of lease rent was reduced from 20 per cent per annum of market price to ₹1,000 for one Cent in June 2011 and to ₹100 for one Cent in September 2012.
- Lease rent arrears was reduced from ₹4.17 crore to ₹1.36 crore in January 2010, but the lessee paid ₹0.34 crore only.
- Out of the balance amount of ₹1.02 crore, ₹0.76 crore was written off. Yet the lessee did not pay the balance of ₹0.26 crore.

On this being pointed out the Principal Secretary to Government, R&DM department stated during the exit meeting (January 2014) that action would be taken to resume the land if they are not utilising the land for the purpose for which it was leased out. Further report has not been received (May 2014).

### **Excerpts from the discussion of the Committee with Government officials.**

43. The Committee enquired whether the lease rent arrears had been realised from the golf club as pointed out by Audit in Para 2.7.6.3. The Principal Secretary, Revenue Department informed that not only the Golf Club but also many colleges and clubs in



Thiruvananthapuram district including the Civil Supplies Corporation did not take any steps to clear the arrears of lease rent despite notices were issued to them frequently. The Committee enquired whether those lease rent arrears were written off. The Principal Secretary, Revenue Department replied that the lease rent arrears of Sree Chithra Institute of Medical Science, St.Thomas College, Thrissur etc had been written off. The Committee commented that there was no provision in any Act or rule which enabled the Government to write off the lease rent arrears. The witness admitted that there was no provision in the Act to write off lease rent. He further added that it should be better to bring provisions in the rule for writing off the arrears. The Committee agreed with the opinion of the Secretary and directed that steps should be taken to bring the provisions in the rules for enabling the Government to write off the arrears of lease rent in eligible cases. The Principal Secretary agreed to give comprehensive reply to the Committee after examining and verifying the details.

**[Note received from the Government based on the above audit paragraph is included as Appendix – II.]**

**Excerpts from the discussion of the Committee with Government officials.**

44. Regarding the audit paragraph failure to collect lease rent arrears from entities whose land was resumed/lease terminated, the witness, Principal Secretary, Revenue department replied that land from Trivandrum Tennis Club and Golf Club has already been resumed. The Principal Secretary, Revenue Department informed that the Department would examine the possibility of initiating the R.R proceedings against the office bearers of some clubs. However the department received the opinion that it was not legally tenable. Since there is no provision in the RR Act or RALMCA to recover lease rent arrear from personal assets of office bearers, the lease rent arrears could not be recovered. To a specific query, the Principal Secretary replied that the land, resumed from Golf Club, was handed over to Sports Authority of India.

45. The Committee opined that if land was resumed from one or two entities it would be a warning for others to clear the lease rent arrears. The Committee asked about the lease rent arrears in the case of M/s Punj Loyd and Sasthri Nagar Residents Association. The Principal Secretary, Revenue Department agreed to submit a report about the same after examining the case.

46. The Committee noticed 6.07 Are of land in Kasaba Village of Kozhikode held by Police Department was leased to Kerala State Civil Supplies Corporation (KSCSC) for 20 years in 1991 for setting up of a petrol bunk by BPCL. When the Police Department requested to release 1.92 Ares of land out of 6.07 Ares leased, the lease sanction was cancelled but KSCSC continued to possess the entire land.

47. The Committee noticed that Kerala State Civil Supplies Corporation (KSCSC) was paying the lease for 4.15 Are of land even though 6.07 ares of land was in its possession from 1992-93.

48. The Committee wanted to know how the revenue loss to Government till the actual date of leasing out of 1.92 Are of land would be compensated and whether the issue related to Civil Supplies Corporation was solved. The Principal Secretary, Revenue department replied that the proposal to regularise the leased land has been initiated.

49. With regard to the audit para on write off of arrears in violation of provisions of RALMCA, 1995, Committee enquired who was the competent authority to write off arrears, since the power to write off of lease rent arrear has not been defined in the rules. The Witness, Principal Secretary, Revenue department answered that Government have powers to write off arrears.

50. The Committee further enquired whether provisions related to writing off arrears was included in the rules. The Deputy Accountant General informed the Committee that there are provisions to write off arrears in the rules. He added that as per the provisions, the arrears could be written off only after following all procedures and exploring all possibilities for recovery including Revenue Recovery. The Principal Secretary, Revenue Department clarified that writing off arrears could only be finalised with a cabinet decision. He added that the Finance department would also be consulted in this regard. Considering these facts, the Committee opined that there should be clear cut criteria/protocol for writing off the arrears and strict direction should be given to complete all procedures including Revenue Recovery before writing off the arrears. The Committee directed that in genuine cases the reasons for writing off the arrears must be clearly stated and writing off procedure should be completed only after the scrutiny of Finance Department.

51. When the Committee enquired about the audit para on undue favour to Institution of Engineers (India), Kerala, the witness, Principal Secretary, Revenue department, replied that it was finally decided to fix the lease rent at a lower rate and the institution had paid the entire amount. He added that the Government had taken over the land and a part of it was transferred to Disaster Management Authority. The Committee expressed its satisfaction for the action.

**[Note received from the Department regarding the additional information sought by the Committee about audit paragraph 2.7.6.4 is included as Appendix II]**

### **Conclusions /Recommendations**

**52. The Committee directs the Revenue Department to submit a report with regard to the lease rent arrears of M/s. Punj Loyd and Sasthri Nagar Residents Association.**

**53. The Committee observes that Government have to follow certain procedures including Revenue Recovery and to honour all relevant rules prior to write off lease rent arrears. The Committee further notices that consultation with Finance Department and a Cabinet decision are also a pre requisite for such write off. Therefore, the Committee recommends that the Department should scrupulously follow all procedures envisaged in the rules before writing off lease rent arrears.**

*[Audit paragraph 2.7.6.7 contained in the 6<sup>th</sup> Report of the C & AG of India on Land Management by the Government of Kerala with special focus on land for Aranmula Airport and Smart City, Kochi for the year ended on 31<sup>st</sup> March 2014.]*

#### **2.7.6.7 Application of incorrect rate of lease rent**

Rule 12(5) of RALMCA, 1995 stipulates the lease rent at various rates from two to ten per cent. On lease of land to public sector institutions for commercial purposes rent leviable is fixed at five per cent. But in the following cases lease rent was levied at two per cent instead of five per cent resulting in loss of ₹4.18 crore.

Sl. No.	Name of lessee	Area of land (Are)	Rate of lease rent charged	Rate of lease rent chargeable	Short recovery (₹in crore)
1	All India Radio, Thiruvananthapuram	107.24	2 per cent	5 per cent	3.22 <sup>20</sup>
2	State Bank of Travancore, Thiruvananthapuram	23.37	2 per cent	5 per cent	0.96 <sup>21</sup>
Total					4.18

Further, in case of SI. No. 2 above, as per lease agreement, second floor of the building was to be leased out to Government on completion. The Government was to pay rent to the lessee at the rate fixed by PWD for this floor. The Bank did not execute any agreement with Government. PWD fixed monthly rent of ₹3,752 per month. At this rate, rent payable by Government from 1986 to 2006 worked out to ₹0.09 crore. Instead of adjusting this amount towards lease rent payable to Government as per terms of lease agreement, Government allowed a reduction of ₹1.04 crore in the lease rent payable by the lessee. Further, as per Cabinet decision reduction of two per cent was allowed till 2006. According to this decision the entity had to remit base rent at three per cent upto 2006 and upto five per cent thereafter. But the Bank is remitting lease rent only at two per cent even after 2006. No action has been taken to realise short remittance of lease rent (November 2013).

This was pointed out to Government in November 2013. Government accepted the views of Audit and agreed to look in to the matter. Further report has not been received (May 2014).

#### **Excerpts from the discussion of the Committee with Government officials.**

54. The Committee enquired whether lease rent could be reduced to 2 percent when the rent leviable was fixed at 5% to public sector institutions for commercial purposes. The Principal Secretary replied that Government could decide lease rent rate

20 Calculated on market value prevailed during the period from 20.07.1979 to 31.03.2013.

21 Calculated on market value prevailed during the period from 2006-07 to 2012-13.

and further added that the lease rent rate concession had been given by assigning 5% for commercial purposes and two per cent for non-commercial purposes. The Committee directed the department to submit the report detailing the present status of cases AIR & SBI, Thiruvananthapuram as pointed out in the audit paragraph.

**[Note received from the Government based on the audit paragraph is included as Appendix – II]**

**Excerpts from the discussion of the Committee with Government officials.**

55. The Committee noticed that in the cases mentioned in the audit para 2.7.6.7, land was leased out to PSUs for commercial purposes. The Committee pointed out that though the rent leviable on land leased out to PSU's for commercial purposes was 5%, the fixation of lease rent @2% of market value was not in order. The witness, Principal Secretary, Revenue department replied that as All India Radio is a public sector institution under the Central Government and managed in a non commercial manner, 2% of market value was fixed as lease rent from the above institution. SBI was also considered in the same par and this was done as per Government orders.

56. The Committee opined that All India Radio could be exempted from paying higher rate of lease rent but the actual rate of 5% should have been collected from SBI. The Committee decided to mention this aspect in its report that original lease rent rate should have been collected from the SBI.

***Conclusion /Recommendation***

**57. The Committee opines that it disagree with the application of lease rent at the rate of 2% of the market value for each cent of the land assigned to public sector institutions for Commercial purposes while the rate of lease rent has been fixed at 5% as per rule. The Committee points out that even when the exemption granted to AIR from paying high rate of rent is substantiated, the identical concession extended to SBI cannot be condoned. Therefore, the Committee suggests that the lease rent applicable to public Sector Institutions for Commercial purposes be levied from SBI, Thiruvananthapuram.**

**[Audit paragraphs 2.7.7, 2.7.7.1 and 2.7.7.2 contained in the 6<sup>th</sup> Report of the C & AG of India on Land Management by the Government of Kerala with special focus on land for Aranmula Airport and Smart City, Kochi for the year ended on 31<sup>st</sup> March 2014.]**

### **2.7.7 Incorrect assignments on registry**

As per Rule 13 of the KLA Rules 1964 and Rule 12 (1) of RALMCA, 1995 government land may be assigned by government or any prescribed authority either absolutely or subject to conditions prescribed. Government lands which are not immediately required for government or public purposes may be leased out for temporary purposes. Under Rule 21(ii) of RALMCA, 1995, Government have special powers to assign land (lease/transfer of registry) on public interest subject to such terms and conditions, if any, as may be imposed. The transfer on registry (i.e. ownership) is governed by Rule 5 of RALMCA, 1995. Before transfer of ownership, lease rent outstanding shall be recovered under Rule 5(2) of RALMCA, 1995. Government vide GO (MS) No. 230/2011/RD dated 27 July 2011 has clarified that land assignment on registry would be only to the landless and for self housing.

Audit found that ownership of 83.41 Ha. of government land was transferred (transfer on registry) by special orders violating the basic principles of these rules and various court orders. Total benefits to entities including the value of land and lease rent dues written off amounted to ₹630.01 crore as brought out in the table below and detailed in subsequent paras.

(₹ in crore)

Sl. No.	Category	Area of land assigned (in Hectare)	Total benefits
1	Educational institutions (8 numbers) (Annexure VIII)	70.42	596.59
2	Non educational entities (5 numbers) (Annexure IX)	12.99	33.42
	Total	83.41	630.01

### 2.7.7.1 Educational institutions

During the period covered in audit 70.42 Ha. of government land was ordered to be assigned to eight aided colleges (Annexure VIII) owned by private managements at a cost of ₹0.15 crore. As per GO(MS) No. 174/2011/RD dated 2 May 2011, market value of the land is to be taken as double the fair value. Based on this, the market value of the above land comes to ₹559.89 crore<sup>22</sup>. Titles were issued in respect of five colleges and in case of the remaining three it is being issued.

These assignments were made on the basis of a common Government Order<sup>23</sup> and then separate special orders were issued for each entity based on that.

Audit found the following issues in these cases.

- These institutions defaulted in paying lease rent and accumulated arrears of lease rent amounting to ₹36.84 crore upto March 2013.
- Instead of collecting the arrears, they were written off. However to reduce the monetary impact of write off, the lease rent was reduced with retrospective effect in all cases.
- The common order was meant for aided<sup>24</sup> educational institutions providing free education where salary expenditure of staff was met by the government. However, most of such institutions conduct self-financing courses - which were run by collecting fees from students.
- The assignments on registry were made without considering the purpose and extent of land assignable. The fact whether the assigned land was absolutely necessary for the requirements of the entity was not assessed while assigning the land; rather, the entire land occupied by the entity was assigned.
- In these eight cases no additional public interest was achieved by assigning the land on registry since the land was already under their possession on lease.

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22 Excluding lease rent arrears written off.

23 GO (MS) No. 201/2005/Rev dated 18 June 2005.

24 In Kerala educational institutions fall under three categories - Government, aided and unaided. Aided institutions are almost like Government. Salary of staff is given by Government but the infrastructure facilities are provided by the Management.

### **2.7.7.2 Non - Educational entities**

Land to the extent of 12.99 Ha. having market value (based on Government order dated 2<sup>nd</sup> May, 2011) of ₹32.83 crore (Annexure IX) was ordered to be assigned to five entities either free of cost or by paying nominal value of ₹100 for one cent of land on the basis of separate Government orders. Out of these, three entities were on encroachment of government land.

Scrutiny of Government files/G.O.s revealed the following defects.

- Land measuring 10.12 Ha. in Teekoy village, Kottayam district vested with Government as excess land was set apart for public purpose. This land which should have been distributed among landless under the KLR Act 1963, was assigned to an organisation<sup>25</sup> through an executive order. Application for assignment was for 3 Ha. against which land assigned was 10.12 Ha. This was not in consultation with Finance Department as required by Rules of Business issued by Government of Kerala. In case of DFA, Thiruvananthapuram (SI.No. 1 of Annexure IX) as against three cents of land advised by the Finance Department, actual assignment was 5.46 Are. Nature of the organisation was not ascertainable from the records connected with assignment.
- In the case of SNDP Yogam, Kollam the assignment was made over ruling the objection raised by Additional Chief Secretary (Revenue) pointing out the Supreme Court judgement restricting assignment of Government land to religious organisations and the objections of Law and Finance Departments regarding assignment of land to encroachers. The assignment was made by State Government only on the reason that the land was in the possession of the entity from 1995.
- Out of the cases mentioned in Annexure IX, three entities were on encroached government land which called for action under KLC Act, 1957 and Rules there under described in the subsequent para.

Audit found that in none of the offices, there existed a system to ensure that after assignment of government land, the conditions of assignment are complied with.

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25 SN Trust, Kollam/SNDP Yogam Meenachil (Annexure IX).



The above cases were pointed out to Government in November 2013. Government accepted the views of Audit and agreed to look in to the matter. Further report has not been received (May 2014).

**Excerpts from the discussion of the Committee with Government officials.**

58. The Committee directed the department to intimate in detail the present system to ensure compliance of conditions for assignment of Government land and to furnish the replies to the cases pointed out in para with its present status.

**[Note received from the Government based on the above audit paragraph is included as Appendix – II]**

**Excerpts from the discussion of the Committee with Government officials.**

59. The Committee pointed out that the reply is silent on the aspect of write off of lease rent, which in fact, is a loss to Government. The Committee noted the fact that lease rent had written off before the assessment of land which was a clear violation of rules and decided to include this point in its report to the Legislative Assembly.

60. The Principal Secretary, Revenue Department stated that since the land could not be assigned without clearing the arrears, the lease rent arrear was written off and the land was assigned thereafter. The Committee opined that lands were usually assigned to educational institutions and also for social purposes in the past. The assessment of land value based on market value was not practical in such cases where land were assigned on public interest and therefore revenue recovery could not be effected forcefully on educational institutions.

61. The Principal Secretary, Revenue Department informed the Committee that steps had been taken to resume the excess land under the possession of educational institutions and the excess land of 15 acres which was under the possession of All Saints College, Trivandrum had already been restored to Government in this way.

62. The Committee opined that the Government had the responsibility to inspect and monitor whether educational institutions to which land was assigned serve social purpose as stipulated by the Government.

63. The Committee opined that excess land was also under possession of temples and churches. The Principal Secretary, Revenue Department replied that the issue would be brought to the notice of the Cabinet to restore the excess land held by the temples and places of worship and also to fix the lease amount. He added that a scheme was under way to regularise such land.

64. The Committee commented that most of the encroachment of the Government land occurred in coastal areas of Kerala and directed the department to take urgent steps against that encroachment of Government land in coastal areas except the land occupied by fishermen. The Committee also raised a point of unauthorised assignment of Port Departments' land to private parties without discussing provisions contained in the rules. The Principal Secretary replied that land had been transferred to Ports Department through Revenue Department and Revenue Department should be informed of the assignment of land by Ports Department if any such action occurred. The Principal Secretary also agreed to examine the matter.

65. On enquiry about the incorrect assignments of Government land to non educational institutions the witness, Principal Secretary, replied that as the land was in the possession of SNDP Yogam, Kollam for many years, Government had decided to assign the land to them. The Principal Secretary informed the Committee that the issue of encroachment could be found out not only on revenue land but also on land owned by PSU's.

66. The Principal Secretary, Revenue department informed the Committee that decision has been taken not to regularise any encroached land in possession of non-educational institutions and no such assignment has been made for the last 2 years to any such institutions. Necessary directions were also given to district collectors to prevent encroachment on Government land.

67. The Committee observed that Government, succumbing to pressure, assigned the lands encroached by religious institutions after realising an amount in namesake or free of cost or in some cases in excess of actual requirement. The Committee vehemently criticised this attitude of government and opined that regularising unauthorised possession of land would set out a wrong precedent and

it would eventually be taken as a right and strongly recommended that any encroachment made by any religious institutions should be sternly dealt with under the provisions of existing rules.

### *Conclusions /Recommendations*

68. The Committee comments that most cases of encroachment of government land has been reported from coastal areas of Kerala. The Committee directs the department to take urgent steps against the encroachment of Government land in coastal areas other than the land occupied by fishermen families.

69. The Committee directs the Department to furnish a detailed report about the present system to ensure the compliance of conditions for assignment of Government land and to furnish the replies to the cases pointed out in the audit paras with its present status at the earliest.

70. The Committee notices with pain that Government have often succumbed to pressure from religious institutions and assigns the very same encroached Government land to these religious groups either after realising nominal amount or free of cost. The Committee vehemently criticizes this attitude and opines that regularising the unauthorised possession of Government land will set a bad precedent and will eventually be taken as a right. Hence the Committee strongly recommends that encroachments made by any religious institutions should be sternly dealt with under the provisions of existing rules.

*[Audit paragraph 2.7.8 contained in the 6<sup>th</sup> Report of the C & AG of India on Land Management by the Government of Kerala with special focus on land for Aranmula Airport and Smart City, Kochi for the year ended on 31<sup>st</sup> March, 2014]*

#### *2.7.8 Encroachments of Government land*

The KLC Act 1957 and KLC Rules 1958 were enacted to check unauthorised occupation of government lands and allied subjects. According to Section 5 of the Act, it shall not be lawful for any person to occupy a land which is the property of government, without permission from the government. Encroachments can be considered as direct and indirect.

- Direct - Occupy the property of government unlawfully.

- Indirect - Occupy without renewal of lease and cases of violations of lease conditions which are deemed to be an encroachment.

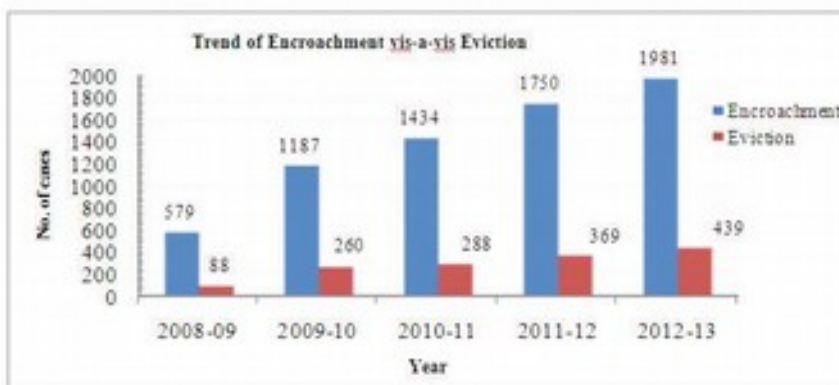
Section 7 (a) of KLC Act 1957 stipulates imprisonment and fine as punishment for unauthorised occupation of government land. Officials concerned who do not initiate action or fails to report encroachment are also liable for imprisonment and fine as per Section 7 (c).

### Direct encroachment

Encroachment is detected through inspections, information/ complaints received from public and through media reports. Out of seven districts audited, in six districts there were 2924 cases (as on March 2013) of encroachments detected on record. In Thrissur district there was no evidence on record to show that the procedure is being followed.

In six districts, land measuring 283.48 Ha. (2924 cases) was illegally occupied. Of these, encroachment of water courses was 52.42 Ha. in 477 cases.

During the period covered in audit 1981 encroachment cases involving 118.53 Ha. was booked. Out of these in 439 cases (22 per cent) involving 41.57 Ha. encroachments were evicted and land was taken back. Encroachment of government land vis-a-vis eviction showed an upward trend as shown below.



**Excerpts from the discussion of the Committee with Government officials.**

71. With respect to the audit observation, the Committee wants to be informed whether regular inspection was conducted to check encroachments in Government land and also about the status of eviction of encroachment. The Committee wanted to know about the details of the land leased out by Government for quarrying.

72. The witness, Principal Secretary, Revenue informed that all the details regarding Government land on lease is available in Revenue Department and that normally quarrying is permitted only on leased land. To the observation of the Committee that mining is conducted beyond the permitted area, the Principal Secretary replied that mining is not permitted without a license. He further added that encroachments on forest lands are strictly controlled.

**[Note received from the Government based on the above audit paragraph is included as Appendix – II]**

**Excerpts from the discussion of the Committee with Government officials.**

73. While considering the audit paragraph the Committee enquired about the details of encroachment in Government land. The Principal Secretary, Revenue Department replied that there were 3460 cases of encroachments as per the records of the department. However, 221 Hectare were already resumed. 600 Ha. of land is remained to be resumed. The Principal Secretary, Revenue Department added that directions were issued to conduct inspections in the field and review them regularly. He further explained that encroachment in urban area could be easily detected and quick action would be taken. But in remote areas like high ranges, there are rampant encroachments of land including on forest land. The Deputy Accountant General intervened and pointed out that proper land records or registers were not being maintained in most of the Village Offices or Taluk Offices. The Principal Secretary, Revenue Department agreed with the opinion of the Deputy Accountant General and submitted that steps are being taken to maintain the register of government land. An Officer from Accountant General's office pointed out that in Government reply it was mentioned that some of the institutions have sold out the property without consulting with Government and it has caused

much loss to Government. The Principal Secretary conceded the fact and pointed out that the revenue land which had assigned to a public Sector undertaking was sold by that PSU without the consent of the Department. He further pointed out that this had happened in the case of HMT and some other PSUs. Subsequently, Government had decided to prohibit further transfer of land in this case. He further added that the land transfer to Smart City had made without consulting Revenue Department and Department had no knowledge of the terms and conditions of the transfer. He informed that Government would like to bring about certain conditions for the assignment of Government land particularly for industrial purposes. The official from the office of Accountant General pointed out that when the land under lease comes up for transfer/sale, the Revenue Department may not be aware of it. However, it is mandatory on the part of the officials of the Registration Department to report the sale of leased land to the officials concerned vide Section 45 of KLR Act.

74. The Committee directed that strict instructions should be given and constant monitoring must be done to prevent encroachment and the Revenue Department should keep centralised data on leased lands. The Committee pointed out that there occurred grave faults on the part of the Registration Department which led to Government property/leased property being unlawfully sold or transferred. Therefore, the Committee decided to direct the Registration Department to follow scrupulously all procedures and checkout all previous registration papers involved on registration of a land. The Committee also decided to direct Registration Department to strictly inform Revenue Department if there is any move to sell or transfer a Government land or leased land.

### **Conclusions /Recommendations**

**75. The Committee recommends that strict instructions should be given and constant monitoring must be done to prevent encroachments on Government land and suggests that the Revenue Department should update and maintain centralised data on leased lands in the State.**

**76. The Committee observes that the culpability on the part of Registration Department in the transfer of leased land had led to the illegal selling and**

**transferring of Government property. Hence the Committee directs the Registration Department to follow all procedures as envisaged in the KLR Act scrupulously and track down all previous land registration records of Government land to avoid such errors in future.**

**[Audit paragraph 2.7.8.1 contained in the 6<sup>th</sup> Report on Land Management by the Government of Kerala with special focus on land for Aranmula Airport and Smart City, Kochi for the year ended on 31<sup>st</sup> March, 2014]**

### **2.7.8.1 Encroachment of a canal**

Canoly Canal is a waterway flowing through four Taluks of Thrissur District touching two municipalities and 20 Grama panchayats. Considering the importance of the Canal it has been made a part of the National Waterway Grid Project (2007) proposed to be implemented with the financial assistance of Twelfth Finance Commission.

A considerable portion of the canal is under encroachment<sup>26</sup>. Though survey for demarcation of the canal was completed in 2010, the demarcation was not done due to non-availability of boundary stones/inadequacy of funds. As per the data supplied, encroachment comes to 17.97 Ha. in 832 cases in Thrissur district alone. Encroachment of the canal has been brought to the notice of district authorities by individuals, organisations, grama panchayats and even by the State Human Rights Commission. As no effective action has been taken till date to demarcate the land and evict the illegal occupants, the state waterway remains unimplemented.

On this being pointed out (November 2013) Government accepted the views of Audit and agreed to look in to the matter. Further report has not been received (May 2014).

### **Excerpts from the discussion of the Committee with Government officials.**

77. With respect to the audit objection, Committee wants to be informed whether effective action has been taken to demarcate the land and evict the illegal occupants.

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<sup>26</sup> Encroachment is in the banks and also by way of filling in the canal.

[Note received from the Government based on the above audit paragraph is included as Appendix – II]

**Excerpts from the discussion of the Committee with Government officials.**

78. The Committee accepted the explanation furnished by the department.

### **Conclusion /Recommendation**

79. No Comments

***[Audit paragraph 2.7.8.2 contained in the 6<sup>th</sup> Report on Land Management by the Government of Kerala with special focus on land for Aranmula Airport and Smart City, Kochi for the year ended on 31<sup>st</sup> March, 2014]***

#### ***2.7.8.2 Suspected alienation of leased out land by the lessees***

*Scrutiny of records connected with lease revealed that there was shortage in the area of land held by the lessees with reference to the actual area leased out to them. This indicated illegal alienation of part of the leased out land by the lessees. Some instances of suspected alienation of government land on lease were noticed in audit which can be considered as encroachment as below:*

Sl.No.	Present/ Former Lessee	Area as per original lease (Are)	Area found (Are)	Shortage (Are)	Shortage found on	Land value (₹ in crore)
1	Golf Club, Thiruvananthapuram	1,053.42	1,027.11	26.31	Resumption	3.09
2	MG College, Thiruvananthapuram	1,822.23	1,738.56	83.67	Assignment	7.54
3	NSS College for Women, Thiruvananthapuram	1,231.89	1,035.66	196.23	Assignment	15.70
4	District Football Association (DFA), Thiruvananthapuram	8.09	7.67	0.42	Assignment	0.13



5	Ex Servicemen's Co-Op Wood Industries Ltd., Thiruvananthapuram	32.37	29.78	2.59	Inspection	0.58
6	Indian Institute of Diabetes, Thiruvananthapuram	741.95	645.28	96.67	Report of the Secretary, H&FW Dept.	4.83
		<b>4,889.95</b>	<b>4,484.06</b>	<b>405.89</b>		<b>31.87</b>

The above instances showed that the Department had no system for monitoring the utilization of land during post lease period.

**Excerpts from the discussion of Committee with Government officials.**

80. The Committee pointing out the audit remark that there was shortage in the area of land held to the area leased out, directed the department to intimate whether the cases were verified by the Department and to submit the report about the present position of the Government land which was leased out to Golf club, M.G. College, Thiruvananthapuram, N.S.S. College for Women, District Football Association, Thiruvananthapuram, Ex-Servicemen's Co-op Wood Industries Ltd., Tvp, Indian Institute of Diabetes, Tvp. The Committee also required a report from the Revenue Department on the system to monitor the utilisation of leased out land to the Non educational entities during the post lease period. The Committee directed the Department to submit a detailed report regarding the audit para.

**[Notes received from the Government based on the audit paragraph is included as Appendix – II.]**

***Excerpts from the discussion of the Committee with Government officials.***

81. The Committee directed to submit a detailed report regarding the audit para

**[Note received from the Department regarding the additional information sought by the Committee about audit paragraph 2.7.8.2 is included as Appendix II]**

*Conclusion /Recommendation*

**82. The Committee desires to be furnished with a report on the issue of lack of a system in the Department to monitor the utilisation of leased out land to the non educational entities during the post lease period as pointed out in the Audit Para.**

***[Audit paragraph 2.7.8.3 contained in the 6<sup>th</sup> Report on Land Management by the Government of Kerala with special focus on land for Aranmula Airport and Smart City, Kochi for the year ended on 31<sup>st</sup> March 2014]***

**2.7.8.3 Failure to resume land under unauthorised possession of M/s. Harrison Malayalam Ltd.**

M/s. Harrison Malayalam Ltd. (HML) got land on lease from government, Devaswoms and private parties. Now they are in possession of about 24,281.67 Ha. of land spread over in eight<sup>27</sup> districts.

High Level Committee constituted by Government found<sup>28</sup>that the title of the assignee on the property under possession was suspicious. It was legally advised<sup>29</sup>to evict the HML from government land. A special team headed by the Assistant Commissioner (LA) in the Land Revenue Commissionerate, was constituted by Government to enquire into the titleship claim of the lands held by HML. The report submitted (January 2010) by the team contained a comprehensive account of the land dealings of HML, total land under their illegal occupation, the violations of law resorted to by them including tax evasions and many other lapses. Among other things the major conclusions of the team were:

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27 Emakulam, Idukki, Kollam, Kottayam, Kozhikode, Pathanamthitta, Thrissur and Wayanad.

28 Committee constituted under Dr. Niveditha P. Haran, Principal Secretary (Revenue) in their Report (September 2007).

29 Justice L. Manoharan, former judge of Hon'ble High Court of Kerala appointed by Government.

- 16,582.69 Ha. of land taken on lease from Devaswoms and individuals and retained as private lease by HML should be resumed to Government;
- 6,388.64 Ha. received as assignment should be taken over by government as escheat land;
- Plantation tax amounting crores of rupees were lost to Government;
- Not even a single cent of land from 3,554.82 Ha. ordered to be taken over under provisional assessment and 746.75 Ha. ordered to be taken over under final assessment by the Vythiri Taluk Land Board in 1978 has been resumed;
- Transfer of 4,049.19 Ha. of land resorted to by HML was invalid by virtue of the provisions of Foreign Exchange Regulation Act, Kerala Land Reforms Act, Kerala Transfer of Registry Act etc.,
- The Report recommended action to :
  - resume the land under the possession of HML and
  - fix responsibility on the officers concerned.

Scrutiny of files revealed that no follow up action was taken by the R&DM department, till January 2014.

This was pointed out to Government in November 2013. Government accepted the views of Audit and agreed to look in to the matter. Further report has not been received (May 2014).

### **Indirect/deemed encroachment**

Rule 14 of the RALMCA, 1995 states that land held on lease shall not be alienable<sup>30</sup>. As per Rule 12 (1), leased land shall not be used for any purpose other than that mentioned in the order. Cases violating lease conditions which were noticed in audit are given below.

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30 Alienation includes sale, gift, bequest under will, mortgage, hypothecation, or lease as per Rule 2(a) under any circumstances.

A few cases of deemed encroachments (cases in which lease conditions were violated) of government land by institutions, noticed by Audit are given below:

Sl. No.	Entity encroached	Taluk/ Village	Area (Are)	Violation	Land value (₹ in crore)
1	Banerjee Memorial Club	Thrissur/ Thrissur	26.15	Unauthorised occupation. Cases of encroachment of government land are pending with Hon'ble High Court of Kerala since 2008. Counter was not filed and was adjourned 17 times.	32.30
2	Clare Jyothy Convent	Thrissur/ Pananchery	52.62 29.96	Unauthorised occupation of land originally given on lease to one Konar Encroached land	0.25
3	KTDC	Kanayannur / Ernakulam	585.59	Lease not renewed after expiry. Encroachment not evicted.	146.34
4	SNDP Yogam	Kollam/ Mundackal	2.32	Encroached government land	0.32
5	SN Trust	Kollam/ Vadakkevila	126.62	Encroached government land	17.73
6	Davis & Lissy	Mukundapuram/ Meloor	72.03	Illegal transfer. Land under lease to one Kandan Koran & Omala	0.36
Total			895.29		197.30

Department has not initiated any action against the encroachers till date (May 2014).

**Excerpts from the discussion of the Committee with Government officials**

83. While considering the audit paragraph the Committee pointed out that counter petitions against cases of encroachment of Government land were not seen filed before High Court because of which the cases had to be adjourned several times. The Committee enquired whether there was any mechanism to review and update the status of the pending court cases relating to Revenue Department. The Principal Secretary, Revenue Department replied that as per revenue manual a register for cases related to the Revenue Department should be prepared and scrutinized. He added that the cases related to Revenue department are usually reviewed every month through suit conferences and a special officer had been appointed to monitor and to consult the government pleaders for conducting the cases.

84. The Committee enquired whether the said suit conference were held in district level or State Level. The Principal Secretary, Revenue Department replied that suit conferences are held every month in District and Taluk levels. Government pleaders also attend the conference conducted by District Collectors. To the Committee's query about the reason for not filing affidavit in many of the encroachment cases, the Principal Secretary, Revenue Department agreed to submit the reply after examining the matter.

**[Note received from the Government based on the audit paragraph is included as Appendix – II]**

**Excerpts from the discussion of the Committee with Government officials**

85. The Committee wanted to know what action was taken on the basis of the report submitted by AC(LA) against the land dealings of HML. The Principal Secretary, Revenue department replied that direction was issued to the concerned officials to take appropriate action to file civil cases for reclamation of land under HML Ltd. in 8 districts.

86. When asked about the reason for the rejection of Rajamanickam report on illegal land holding by M/s. Harrison Malayalam Ltd., the Principal Secretary replied that the main objection against this report was its lack of jurisdiction. A Special Officer appointed under KLC Act 1957 had to decide the resumption of the land. In the judgement it was specified that title of the land could not be adjudicated under KLC Act. The Act intended only for eviction of unauthorised occupation. It was also ruled that in case of a dispute arising on title of land, State had to file case before Civil Court to establish its rights.

87. To the query of the Committee regarding filing of civil suit in this respect, the witness Principal Secretary, Revenue department answered that orders were issued to the officers concerned of all districts to file civil suit in this regard. When asked about the period of limitations for filing a civil suit, the Principal Secretary replied that it was not mentioned in the High Court Order.

88. The Committee commented that if Civil suits are filed in land issues, due to delay in judicial process, Government would not able to materialise the possession of the land in the near future.

89. The Committee pointed out that the reply was not furnished for the paragraph 'indirect/deemed encroachment'. Then the Principal Secretary, Revenue department assured to submit the reply as early as possible.

**[Note received from the Department regarding the additional information sought by the Committee about audit paragraph 2.7.8.3 is included as Appendix II]**

#### **Conclusion /Recommendation**

**90. The Committee points out the inordinate delay on the part of the department in filing counter affidavits in the cases of unauthorised occupation and government land encroachment which have been pending with the High Court since 2008 even when the Department have a number of pleaders and**

**liaison officers to review, monitor and update such cases. Therefore, the Committee directs the department to inform the reasons for the delay in filing affidavit in many government land encroachment cases at the earliest.**

**[Audit paragraph 2.7.8.4 contained in the 6<sup>th</sup> Report on Land Management by the Government of Kerala with special focus on land for Aranmula Airport and Smart City, Kochi for the year ended on 31<sup>st</sup> March 2014]**

***2.7.8.4 Violation of lease conditions***

- Scrutiny of lease files in Taluk office, Thiruvananthapuram showed that 28.73 Are of government land in Thiruvananthapuram was leased out to Nair Service Society for 99 years in 1937 to construct its headquarters building. The lease rent fixed was ₹18 per annum.

Instead of the specified purpose, the lessee subsequently constructed a Women's Hostel on the land with 75 per cent assistance from Government of India. A portion of the building has been given on rent to a State Government office in April 1992 at a rent of ₹22,500 per month. The government had received a paltry sum of ₹378 (₹18 x 21 years from 1992 to 2013) towards lease rent (for land worth ₹14.37 crore) while an amount of ₹0.57 crore was paid by the government to the lessee between 1992 to 2013 towards building rent for the portion of the building occupied by the Government.

Consequent on introduction of RALMCA 1995, revised lease rent at higher rate was demanded from the lessee on 2<sup>nd</sup> May, 2007. Based on the request made by the lessee to the Government on 2<sup>nd</sup> February, 2010 the Government permitted<sup>31</sup> the lessee to pay lease rent at the old rate of ₹18 per annum instead of 20 per cent/10 per cent of the market value of the land per annum.

- An area of 192.50 Are land in Thrissur Taluk kept for public purpose was given on lease to Kerala Cancer Society, Thrissur in 1982 for development of Amala Cancer Hospital and Research Centre. The market value of 192.50 Are of Government land under the possession of the lessee was ₹9.63 crore as on March 2013. Though the lease was for five years, lease

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31 GO(MS)No. 92/2012/Rev dated 03 March 2012.

has not been renewed. Thereafter the lessee constructed a building and let out to BSNL and a scheduled bank. While the lessee did not pay any lease rent to the Government, it collected rent of ₹0.09 crore from BSNL.

No action for resumption of leased out land has been taken by Government.

**Excerpts from discussion of the Committee with Government officials.**

91. The Committee directed the department to submit a detailed report including the present status on the above audit paragraph and the Principal Secretary, Revenue Department agreed to do so.

**[Note received from the Government based on the audit paragraph is included as Appendix – II.]**

**Excerpts from discussion of Committee with Government officials.**

92. The Committee observed that final reply in respect of land leased out to NSS is yet to be received and also the remarks on land leased to Cancer Society are not furnished. The witness clarified that the reply could not be furnished as the file on One Time Settlement is under the consideration of Finance department. He added that the case would be finalized only after getting a final decision from the Finance Department.

**Conclusion /Recommendation**

**93. The Committee directs the department to submit a detailed report in respect of the land leased out to Nair Service Society and Kerala Cancer Society.**

**[Audit paragraphs 2.7.8.5, 2.7.9 and 2.7.9.1 contained in the 6<sup>th</sup> Report on Land Management by the Government of Kerala with special focus on land for Aranmula Airport and Smart City, Kochi for the year ended on 31<sup>st</sup> March, 2014]**

***2.7.8.5 Alienation and sale of leased government land***

Instances of sale of land on lease and inaction to resume the land had also been noticed in audit. Some such instances are given below:

- An area of 6.48 Are of government land in Survey No. 552/2 of Fort Kochi Village was under lease to one P. S. Dayanandan, as per the order



of Revenue Divisional Officer, Fort Kochi dated 31<sup>st</sup> May, 1959. As the land was alienated through sale by the lessee, the lease was terminated w.e.f 1959 vide order issued in 1963. But the alienated land was not taken back. This being deemed encroachment, should have been dealt with under Kerala Land Conservancy Act, 1957. Even though the Tahsildar proposed resumption of the land, it did not materialise in the absence of any favourable response from the Government/Department and the land changed hands many times. The market value of alienated land when calculated at “double the fair value” would come to ₹2.85 crore. Government also could not collect the arrear lease rent of ₹1.32 crore for the period from 1995 to 2013 for the above land.

No records regarding the present occupant of the land were available in the department.

- Government land of 12.55 Are in Fort Kochi Village was allotted to one Mayinkutty in 1959. Subsequently, he transferred the lease right to another person who mortgaged the property to Cochin Nair Bank. Later the Bank took possession of the property as the loanee failed to remit the loan. Consequent on the amalgamation of Cochin Nair Bank with the State Bank of Travancore (SBT), the property rested with SBT.

Later, in December 2001 SBT, through an Indenture of transfer of lease, transferred the land to M/s Hindustan Shipping Company (Deed No. 5117/1/01) for a consideration of ₹0.08 crore. In the Schedule attached to the Deed, the property has been mentioned as 'lease from Government'. The company further transferred the property in 2004 for a consideration of ₹15 lakh. In the Schedule of this Deed also the property has been mentioned as 'lease from Government'. Government also could not collect the arrear lease rent of ₹2.46 crore for the period from 1995 to 2013 for the land.

The Department was sending notices to the present occupants of the land. As there is no lease agreement between the Government and the present occupant, subsequent possession by other occupant should be treated as deemed encroachers and dealt with accordingly.

Land value when calculated at “double the fair value” comes to ₹ 5.52 crore.

The above two instances show alienation of 19.03 Are of government land. The lands changed hands many times and the R&DM department failed to take any action to protect the land or resume the same. Moreover, the lands were registered by the Sub Registrar (SR), Fort Kochi fully knowing that the lands belong to Government. This resulted in loss of land valuing ₹ 8.37 crore to the State, apart from non-recovery of lease rent of ₹ 3.78 crore.

This was pointed out to Government in November 2013. Government accepted the views of Audit and agreed to look in to the matter. Further report has not been received (May 2014).

### **2.7.9 Internal Control**

Effective internal controls are essential for timely detection of weaknesses in the system and resultant deficiencies/defects and their rectification. Audit noticed the following deficiencies/defects which were indication of weakness in the internal control mechanism existing in the Department.

#### **2.7.9.1 Failure to vacate court stay and non-realisation of arrears and security deposit**

An extent of 3,434.03 Are (now reduced to 1,408.94 Are) of government revenue land at Muringoor Thekkumuri village of Mukundapuram taluk was leased out to Jamuna Threads Ltd.<sup>32</sup> for 99 years with effect from 10<sup>th</sup> October, 1950. The lease rent has been fixed by Government from time to time. Lease rent arrear as on 25<sup>th</sup> November, 2009 was ₹18.69 crore. Against this demand, the lessee approached the Hon’ble High Court of Kerala vide WPC 36019/2009 and the Court granted indefinite stay on 18<sup>th</sup> August, 2010 for realising the arrears. On the basis of available data, the lease rent arrears as on 31<sup>st</sup> March, 2013 was ₹30.34 crore. Even after three years, action has not been taken to vacate the stay order and to realise the dues. It was also found that Security deposit<sup>33</sup> amounting to ₹3.48 crore also

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32 Name changed as Coats Viyella India Ltd., Vaigai Threads etc.

33 An amount equal to one year’s rent as security to be deposited with the Government in advance under Rule 18(2) of KLAR 1964.

has not been collected. The department did not have an effective mechanism to monitor the stay cases, to take timely action to get the stay vacated and check the adherence to provisions of the Acts and Rules by the lessee.

This was pointed out to Government in November 2013. Government accepted the views of Audit and agreed to look in to the matter. Further report has not been received (May 2014).

**Excerpts from the discussion of the committee with Government officials.**

94. The Committee directed the Department to submit the detailed report including the present status on the above audit paragraphs and the Principal Secretary, Revenue Department agreed to do so.

**[Notes received from the Government based on the above audit paragraph are included as Appendix – II]**

***Excerpts from the discussion of the Committee with Government officials.***

95. Since the case mentioned was subjudice, the Committee made no remarks on para “Alienation and sale of leased Government land”.

96. Regarding the present situation of M/s.Vaigai Threads, an officer from the Accountant General pointed out that in the reply furnished by the department, it was stated that the case is under the consideration of Karnataka High Court, but during their examination, they understand that the case was under Kerala High Court and the case was seen disposed as per the status on the website of Kerala High Court.

97. Hence the Committee directed to furnish a report on latest position and clarification to the statement put forth by AG. The witness, Principal Secretary, Revenue department agreed to do so.

**[Notes received from the Department regarding the additional information sought by the Committee about audit paragraph 2.7.9.1 is included as Appendix II]**

*Conclusions /Recommendations*

98. The Committee directs the department to furnish a detailed report on the above audit paragraphs including the present status of the cases.

99. The Committee notices that according to the reply furnished by the department, the case regarding M/s Vaigai Threads was under the judicial consideration of Hon'ble High Court of Karnataka, whereas the case was in the Hon'ble High Court of Kerala as per the records of the Accountant General. Moreover it is a disposed case as per the status on the website of the Kerala High Court. Hence the Committee directs the department to submit a clarification regarding this case and also to furnish a detailed report including the present status of M/s Vaigai Threads.

100. The Committee enquired about the contradictory statements in regard to the jurisdiction of the case relating to M/s.Vaigai Threads as it was stated in the reply furnished by the department that the case was under the judicial consideration of Hon'ble High Court of Karnataka whereas as per the records of Accountant General the case was in the Hon.High Court of Kerala and directs that if there was an error in stating the name of the court in which the judicial process was going on the official responsible for the lapse, if any, should be made answerable through due process without delay.

[Audit paragraph 2.7.9.2 contained in the 6<sup>th</sup> Report on Land Management by the Government of Kerala with special focus on land for Aranmula Airport and Smart City, Kochi for the year ended on 31<sup>st</sup> March 2014]

**2.7.9.2 Failure to frame rules and consequent loss of revenue**

In the erstwhile princely state of Cochin, land was given on ground rent under the Cochin Land Revenue Manual. The ground rent charged varied from ₹0.25 to ₹64 per plot. At present there are 138 such cases in Kanayannur taluk and 237 cases in Kochi taluk involving nine hectares of land having a market value of ₹899.10 crore.

Government ordered (GO (MS) No.227/97/RD dated 1 April 1997) to revise rent to two per cent to 10 per cent of the market value as stipulated under the RALMCA, 1995, with effect from 1<sup>st</sup> April, 1997 ignoring the fact that the above lands did not come under this Act.

In its judgment dated 28<sup>th</sup> June, 2002 while disposing OP 28189/99 filed by one Navaneethlal and others against the above revision, the Hon'ble High Court of Kerala has ruled in favour of the Petitioners. Subsequently, other affected parties also approached the Court and obtained favourable orders. Thus the effort of the R&DM department to realise rent from those persons possessing government land under ground rent became futile.

It is noticed that the order of Hon'ble Court was against revision in accordance with RALMCA, 1995. On the other hand, the Court has given permission to the Department to revise rates in accordance with the Patta conditions and land usage.

In the light of the judgment of the Hon'ble Court, the Department amended (2009) the relevant provisions in the RALMCA 1995 incorporating all land given under ground rent also under the same Rule. However, the rates have not been fixed till date. The proposal for fixing rates (without proposing rates) with draft amendment submitted by the District Collector, Ernakulam in 2007 is pending with the Land Revenue Commissioner.

Thus the occupants of this nine hectare of land are paying a nominal ground rent prescribed in Cochin Land Revenue Manual. The failure to fix/revise rent on land given on ground rent resulted in recurring loss of revenue.

Had the internal control mechanism of the department was strong enough to identify the lapse in the Act/Rule timely, action could have been taken for necessary amendments so as to bring the land on ground rent also under the purview of RALMCA, 1995.

This was pointed out to Government in November 2013. Government accepted the views of Audit and agreed to look in to the matter. Further report has not been received (May 2014).

**Excerpts from the discussion of Committee with Government officials.**

101. The Committee enquired about the ground rent, the Principal Secretary clarified that it is the rent for land given for conducting markets etc. The Committee questioned whether there is any provision to realise ground rent in Revenue Department. The Principal Secretary, Revenue Department replied that some provision for lease rent is also applicable to ground rent. The ground rent per day is ₹300/-. The Committee then asked the Department to furnish the reply regarding the proposal for revising ground rent at the earliest. The Principal Secretary agreed to do so.

**[Note received from the Government based on the above audit paragraph is included as Appendix – II]**

**Excerpts from the discussion of Committee with Government officials.**

102. The Committee enquired whether action was taken to revise the ground rent as per the amended provision of RALMCA. The Principal Secretary replied that no rules has been framed for fixing ground rent and at present ground rent is assessed and realised in the same way as lease rent.

**Conclusion /Recommendation**

**103. The Committee directs the Department to furnish a detailed report regarding the proposal for revising ground rent at the earliest.**

**[Audit paragraphs 2.7.9.3 contained in the 6<sup>th</sup> Report on Land Management by the Government of Kerala with special focus on land for Aranmula Airport and Smart City, Kochi for the year ended on 31<sup>st</sup> March, 2014]**

**2.7.9.3 Continuance of lease under repealed rules**

Government land was leased out as Kuthakappattom governed by the Travancore-Cochin Land Assignment Act, 1950. However it was repealed with the enactment of KLA Act, 1960. Thus all assignments should be regulated under it and had to be revised and brought under the KLA Act, 1960. In its Circulars dated 1 February, 1991 and 28 March, 1996 the Board of Revenue had also issued instructions to revise all old leases under the KLA Act, 1960.

Audit test checked 1,159 Kuthakappattom cases involving 484.68 Ha. in three Taluks and found that in none of the cases, the lease was revised. In addition, the following deficiencies were also noticed:

Sl. No.	Taluk	Cases	Area (Ha)	Deficiency
1	Neyyattinkara	113	Not available	The cases are not identifiable as the addresses of the lessees and details of resurvey numbers are not available.
2	Pathanapuram & Ambalapuzha	453	Not available	The lease files or records are not available.
3	Ambalapuzha	364	Not available	Date of expiry of lease period is not available in the Department. Lease details were not available.
4	Ambalapuzha	403	Not available	These cases have not been renewed under any Rule. In eleven cases notice for renewal was issued. No follow up action has been taken.
5	Pathanapuram and Ambalapuzha	382	45.71	Leased lands could not be identified by the Department. The fair value of 95 cases in Pathanapuram Taluk works out to ₹3.58 crore.
6	Pathanapuram and Ambalapuzha	27	Pathanapuram - 0.40. Ambalapuzha - not known	Government land was mutated in favour of others. The fair value in respect of eleven cases in Pathanapuram Taluk works out to ₹0.11 crore.

Department did not take any effective action to identify the above land cases and either to renew the lease or to terminate the kuthakappattom and resume the land. This shows the weakness in internal control mechanism in the Department.

This was pointed out to Government in November 2013. Government accepted the views of Audit and agreed to look into the matter. Further report has not been received (May 2014).

**Excerpts from the discussion of the Committee with departmental officials.**

104. To the query of the Committee, regarding revision of lease rent Revenue Divisional Officer, Adoor, replied that the Tahsildar revises lease rent on the basis of a report from concerned Village Officer and for Commercial purposes the District Collector revises the same. He added that the main reason for the failure in revising the lease was the absence of sketches of the land which has been leased out during 1950-1952 (Kuthakappattom). The shortage of services of Surveyors to identify whether a particular land is leased or assigned and the difficulty to identify old records are also reasons. The Committee enquired why the cases relating to lease rent revision are still pending in 3 taluks and whether the records are updated periodically. The Revenue Divisional Officer replied that proper records had been prepared during 1950-1956 but thereafter the process of renewing the lease rent had been pending and some files had been lost during the time of shifting of taluk offices.

105. The Committee viewed it as a serious issue since the department had not made any effort to revise the lease rent of about thousand acres of Government land in 3 taluks. The Committee directed the department to submit a report, about the present status of issues pointed out in the audit paragraph. The Principal Secretary answered that reply including the present status would be furnished soon.

**[Note received from the Government based on the above audit paragraph is included as Appendix – II]**

**Excerpts from the discussion of the Committee with Government officials.**

106. When the Committee enquired whether action was taken to identify and revise the Kuthakappattom cases under the provisions of Kerala Land Assignment Act or to terminate Kuthakappattom and resume the land, the Principal Secretary, Revenue department replied that at the time of audit examination, land was leased as Kuthakappattom based on a non existent rule, but now a system has been developed with updated instructions and guidelines. The Committee directed the department to furnish the final reply regarding the para.



### Conclusion /Recommendation

107. The Committee observes that the inertia on the part of the department in revising the lease of 1000 Acre of Government land in three taluks shall be regarded as a grave issue. Therefore, the Committee directs the department to furnish a detailed report on the continuance of lease under repealed rules with its current status.

*[Audit paragraph 2.7.9.4 contained in the 6<sup>th</sup> Report on Land Management by the Government of Kerala with special focus on land for Aranmula Airport and Smart City, Kochi for the year ended on 31<sup>st</sup> March, 2014]*

#### 2.7.9.4 Non-resumption of leased land despite Government Orders

In Thiruvananthapuram Taluk an area of 31.57 Are of land leased out worth ₹11.45 crore were not resumed in two cases despite cancellation of lease and Government order to resume land.

Name of lessee	Village	Area (in Are)	Land Value (₹ in crore)	Remarks
Pettah Vanitha Club	Vanchiyoor	11.74	1.53	Government vide letter No.68279/2008/Rev. dated 06 July 2011 ordered to resume the land due to violation of lease conditions.
Annadana fund (Vanchi Poor Fund)	Vanchiyoor	19.83	9.92	Vide GO (MS) No.186/2010/Rev. dated 25 May 2010, Government accorded sanction for write off of land revenue arrears upto 31 March 2008 amounting to ₹1.31 crore and ordered to resume land.
<b>Total</b>		<b>31.57</b>	<b>11.45</b>	

Department did not take effective action to resume the land in the above cases.

This was pointed out to Government in November 2013. Government accepted the views of Audit and agreed to look in to the matter. Further report has not been received (May 2014).

**Excerpts from the discussion of the Committee with Government officials**

108. To the query of the Committee regarding non-resumption of leased land the Principal Secretary, Revenue Department answered that orders had been issued to resume the land leased out to Vanchiyoor Fund and land leased to Pettah Vanitha Club had already been resumed. The Committee directed the department to submit the present status of cases pointed out in audit paragraph and witness, Principal Secretary agreed to do.

**[Note received from the Government based on the above audit paragraph is included as Appendix – II.]**

**Excerpts from the discussion of Committee with Government officials.**

109. The Committee directs to furnish the final reply so that the para may be dropped. The Principal Secretary agreed to do so.

**[Notes received from the Department regarding the additional information sought by the Committee is included as appendix II]**

**Conclusion /Recommendation**

**110. The Committee directs the department to submit the final report and current status regarding the audit paragraph.**

**[Audit paragraph 2.7.9.5 contained in the 6<sup>th</sup>Report on Land Management by the Government of Kerala with special focus on land for Aranmula Airport and Smart City, Kochi for the year ended on 31<sup>st</sup> March 2014]**

**2.7.9.5 Failure to comply with direction/judgments of Courts**

While disposing OP/WP the Hon'ble Court gave specific directions to government regarding the action to be taken. During the course of audit it has been observed that the directives issued by Courts were not complied with in seven cases resulting in blocking up of revenue in the case of 2.67 Ha. of land worth ₹40.62 crore as shown below.

Sl. No.	Name of lessee & Village	Taluk	Extent of land (in Are)	Land value (₹ in crore)	Direction of court
1	City Theatres (P) Ltd., Thycaud	Thiruvananthapuram	3.27	1.18	Court ordered (November 2008) that final orders on the petition on revision of lease rent shall be issued within two weeks. Revision petition has not been disposed off (October 2013)
2	Sri. Mulam Club, Sastha mangalam	Thiruvananthapuram	44.52	16.50	Court ordered (May 2010) that before effecting RR, opportunity of being heard shall be offered to the petitioner and final orders shall be issued as expeditiously as possible. The case is still pending (October 2013)
3	Young Men's Christian Association (YMCA), Kollam East	Kollam	34.34	6.87	Court ordered (February 2010) that Government shall take decision to the petition for revision within a period of three months. Decision on the revision petition has not been taken (October 2013).

4	Majeedia Free Night School, Mundakkal	Kollam	18.62	2.98	High Court directed (January 2006) the District Collector to dispose off the application by the lessee for the issuance of patta. But the lessee neither remitted the market value nor the lease rent till date. As per the reply of DC the land has not yet been resumed (October 2013).
5	Mc Dowel Co (P) Ltd, Kokkothamangalam	Cherthala	109.00	0.73	The lease rent of the assignee for 1999-2000 was revised <sup>34</sup> from ₹332 per annum (fixed in 1958) to ₹6,45,912 by Tahsildar. Hon'ble High Court of Kerala while disposing OP filed by the assignee directed (June 2006) that, appellate authority should pass appropriate order within four months upto which stay was allowed. The assignee filed (August 2006) appeal before RDO which was

					disposed of only in March 2012, after six years. Neither the lease was revised nor any demand notice issued so far.
6	Alexander J. Anthrapper, Vayalar East	Cherthala	16.19	0.10	DC revised <sup>35</sup> the lease rent in accordance with RALMCA 1995, and fixed lease rent at ₹80,131 per annum against which the lessee filed OP No.31590/99 before the Hon'ble HC. The Court directed (October 2008) the DC to issue fresh notice and pass order fixing annual lease rent within six weeks. This has not been complied with.
7	Mannam Memorial National Club, Vanchiyoor	Thiruvananthapuram	40.87	12.26	Court ordered (November 2010) that final orders on application for revision of lease shall be passed within two months. However, petition is still pending before Government (October 2013).
	<b>Total</b>		<b>266.81</b>	<b>40.62</b>	

Inordinate delay was noticed in above cases to comply with the directions of court by the Department.

This was pointed out to Government in November 2013. Government accepted the views of Audit and agreed to look in to the matter. Further report has not been received (May 2014).

#### **Excerpts from the discussion of the Committee with Government officials**

111. The Committee enquired about the reason for the failure of the Department to comply with judgments of courts. The Principal Secretary, Revenue Department agreed to give a report after examining the subject.

**[Note received from the Government based on the above audit paragraph is included as Appendix -II.]**

#### **Excerpts from the discussion of the Committee with Government officials**

112. Referring to the cases mentioned in the audit para and Government reply, the Committee wanted to know whether one time settlement could be initiated on the cases where court had given directions to Government. The Principal Secretary apprised that the court ordered State to take an appropriate decision after hearing both the parties. He further added that the lease rent fixed at that time still continues and that as per One Time Settlement, lease rent can be collected if it is fixed at a reasonable rate. An officer from the Accountant General informed that if the court did not give specific direction, there would be no objection in including this case in One Time Settlement.

113. The Committee remarked that it would be impracticable to bring the case for a one time settlement if the Court rejected the petition for Solace in remitting arrears, with a clear direction that the arrear should be paid in full.

114. The Principal Secretary, Revenue department informed that the court ordered the District Collector to issue fresh notice and to issue orders for fixing annual lease rent within 6 weeks. No further action could be taken since decision was not taken regarding annual lease rent. He further added that the judgment directed the government to take a decision on the revision within a period of 3 months and was silent about the rates.

**Conclusion/Recommendation**

**115. The Committee directs the Department to furnish a detailed report after examining the subject contained in the audit para.**

**[Audit paragraphs 2.7.10 to 2.7.12 contained in the 6<sup>th</sup> Report on Land Management by the Government of Kerala with special focus on land for Aranmula Airport and Smart City, Kochi for the year ended on 31<sup>st</sup> March 2014.]**

**2.7.10 Impact**

The financial impact of the observations made in the chapter is ₹1,077.74 crore as given below.

Sl. No.	Para No.	Reference	Area of land Involved (in Ha.)	Amount (₹ in crore)
1	2.7.5.2	Failure of the Government to renew lease	10.28	20.49
2	2.7.6.1	Arrears of lease rent	126.30	176.69
3	2.7.6.2	Failure to revise fair value and consequent short levy of lease rent	1.17	0.50
4	2.7.6.3	Failure to collect lease rent arrears from entities whose land was resumed/lease terminated	23.32	65.15
5	2.7.6.4	Defective calculation of lease rent	0.02	0.46
6	2.7.6.5	Write off of arrears in violation of provisions of RALMCA, 1995	71.56	60.78
7	2.7.6.6	Undue favour to Institution of Engineers (India) Kerala	0.22	1.02
8	2.7.6.7	Application of incorrect rate of lease rent	1.31	4.18
9	2.7.7	Incorrect assignments on registry	83.41	630.01

10	2.7.8.2	Suspected alienation of leased out land by the lessees	4.06	31.87
11	2.7.8.5	Alienation and sale of leased government land	0.19	12.15
12	2.7.9.1	Failure to vacate court stay and non realisation of arrears and security deposit	14.09	33.82
13	2.7.9.5	Failure to comply with directions/ judgments of Courts	2.67	40.62
	<b>Total</b>		<b>338.60</b>	<b>1077.74</b>

### 2.7.11 Conclusion

Audit arrived at the following conclusions.

- Government/Department failed to implement its own land management policies declared in 1994/2011. It could not generate considerable revenue by deploying land as a revenue earning resource. There existed no system for timely renewal of leases, revision of lease rent and to realise the lease rent arrears properly.
- The Department was not monitoring the identification and inventorisation of government land so as to complete it in a time bound manner even after five years of the formation of Kerala State Land Bank.
- There existed no system for timely detection of violations of lease conditions by the lessees and to resume the leased out land in cases of violations of lease conditions.
- No additional public interest had been achieved by assigning the Government lands which were under lease at very nominal value to educational and non educational institutions. There existed no specific policy to deal with encroachers. Instead land was assigned to encroachers also.
- There existed no streamlined procedures for renewal of lease, realisation of outstanding lease rent, invoking penalty process under Section 7 of KLC Act, effective monitoring of collection of lease rent etc.



- Write off of lease rent arrears was made in favour of private entities, who had violated lease conditions.
- There existed no system for periodical verification of assigned or leased government land to ascertain post registry/lease violations which resulted in alienation being unnoticed/unreported for years together and action not being taken to recover/resume government land under suspected alienation.
- There was undue delay in issuing orders on proposals to resume government land from lessees who violated lease conditions or time expired leases.
- Encroachment of government lands was showing an upward trend. Effective and prompt action was not taken on encroachment cases. Assignment of encroached land without resumption of the land has potential to have cascading effect.
- There was assignment of government land without ensuring its requirement when sufficient land is scarce for public purposes.
- Government revenue suffered due to delay in fixing lease rent, renewal of lease rent rate, non framing of rules, non revision of fair value, continuance of lease under repealed rules etc.

### **2.7.12 Recommendations**

Audit recommends for

- taking steps for effective implementation of the land management policy so as to generate maximum revenue to Government since the supply/availability of land is very limited.
- identifying and inventorising all government lands on a war footing by surveying and demarcating the land. This may be done by fixing a target date.
- prescribing and maintaining a register in the Taluk/District/Division level for noting the details of the lease such as order number, area under lease,

name of the lessee, date of expiry of lease, periodical renewal details and demand, collection and balance of lease rent etc. in respect of each lease. The register should be updated and reviewed periodically at District level.

- developing a mechanism to fix lease rent and renew the lease within the time period stipulated in Act/Rules. Fix a mechanism to revise fair value of land at frequent intervals.
- prescribing a heavy fine and punitive action against those who violate lease conditions. Initiate effective action against encroachment and prompt implementation of provisions of KLCA.
- fixing conditions for assignment of land on registry. Put in place a reporting system from village level to Commissioner of Land Revenue level for monthly reporting of lease cases such as total cases, time expired cases, demand, collection and balance of lease rent, resumed cases under resumption procedure etc.

### **Excerpts from the discussion of the Committee with Government officials**

116. The Committee directed the Department to submit a reply explaining the reason for financial loss to Government due to failure in timely renewal of lease rent. The Principal Secretary, Revenue Department agreed to do so.

117. The Committee enquired about the present status of resurvey. The Director, Survey and Land Records informed the Committee that the Survey had been completed in 905 villages and a road map had been prepared to form a system to integrate the department of Survey, Registration and Revenue for obtaining information about the transaction of land simultaneously and also for digital survey. Kaduthuruthy Village was selected for implementing digital Survey pilot project. The Additional Director, Survey and Land Records Department submitted that the digital survey had been conducted in Kaduthuruthy village in last June and the survey had been completed in 86 villages and the department was trying to make the data of the latest surveyed villages online. She added that the Revenue Department had compiled online data by using 'Relis' Software and Registration Department had also made online access, Survey Department has no access to the online system. She informed that a workshop was conducted to check the software

'Bhuraksh' of NIC which was used for survey in Chattisgarh and it was found appropriate. She further added that a meeting of the officers of the NIC, IT Mission, Survey, Registration and Revenue was held in the chamber of the District Collector, Kottayam for the implementation of software system in three Departments.

118. The Director, Survey and Land Records informed that after the resurvey process there was lot of complaints as people could not remit the tax of the land in possession. She explained that main reasons for faulty resurvey were incorrect furnishing of survey numbers, failure to produce correct documents at the time of resurvey and hastiness to complete the resurvey process. She further added that it is very difficult to alter the records of resurvey. She added that there is no mechanism in Revenue Department to identify whether registration is done for the correct land and even if it is puramboke land registration is done after just checking the survey number and area. The Revenue Principal Secretary clarified that only 86 Resurvey records has been modified and the rest are in the earlier format. The Survey Director further informed that data regarding the land to be registered must be verified before registration. The Committee opined that there should be a system to check revenue records before land registration and for that there should be co-ordination among Revenue, Registration and Survey Departments.

119. The Revenue Divisional Officer informed that since the land allotted for lease was found as regular land in records, the lease rent could be renewed only if the said land had been identified as Government land. The Additional Director, Survey and Land Records submitted that a subdivision survey must be conducted before land is allotted for lease and the details of land given on lease must be entered in the records of Village Offices. She added that as the details of land were not entered in the village office records from time to time, there would be no records about the land on lease when the surveyor began to examine the records. Therefore, the record submitted by those who possess the land should be included in the register and tax receipts without survey number and area should not be accepted.

### Conclusions /Recommendations

120. **The Committee directs the department to submit a detailed report explaining the reason for financial loss to government due to failure in renewing the lease rent timely.**

121. **The Committee opines that there should be an effective system to scrutinize the revenue records while deeds are submitted for registration in the State. Therefore the Committee recommends that the department should ensure that there is effective co-ordination among Revenue, Registration and Survey Departments.**

#### ***ISSUES IN RESPECT OF LAND AND ECOLOGICAL IMPACT – ARANMULA AIRPORT***

***[Audit paragraphs 5.1 to 5.5.1 contained in the 6<sup>th</sup> Report on Land Management by the Government of Kerala with special focus on land for Aranmula Airport and Smart City, Kochi for the year ended on 31<sup>st</sup> March 2014]***

#### **5.1 Introduction**

Kerala, a state stretching 580 kms in length and upto 120 kms in width has three functioning airports (Thiruvananthapuram, Kochi and Kozhikode) and a fourth one is under development at Kannur.

In addition to these four airports in Government sector, a fifth one is proposed as a greenfield airport<sup>36</sup> in Aranmula village, Kozhenchery Taluk, Pathanamthitta District. It is to be executed by a private sector developer - M/s. KGS Developers Ltd. (Developers). For this objective, the developers, a property development company executing commercial and residential projects in South India, formed (August 2009) a company, namely KGS Aranmula Airport Ltd.<sup>37</sup> (Airport company) under the Companies Act, 1956. The proposed Airport project envisages catering to the needs of the Non-Resident Indians of Pathanamthitta, Kottayam, Idukki and Alappuzha districts. It is within a distance of 117 kms and 136 kms (road distance) respectively from Thiruvananthapuram and Kochi International Airports.

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36 Greenfield Airport is one which is built from scratch on a new (undeveloped) site. The Government of India brought in a New Greenfield Airport Policy in 2008, that would govern proposals for setting up Greenfield airports, other than defence airports.

37 The name subsequently changed as KGS Aranmula International Airport Ltd.

Aranmula, the proposed site for the airport, is a beautiful wet land ecosystem on the banks of Holy River Pamba that represents the epitome of Kerala culture and is a declared heritage village under United Nations Development Programme (UNDP).

There were widespread protests against the proposed airport by social and cultural activists, persons affected by the project and various well known figures and opinion makers<sup>38</sup> of Kerala as there was gross violation of existing land laws and subsequent environmental impact in a heritage site. A joint petition was submitted by 71 MLAs of Kerala Legislative Assembly (out of the total strength of 140 MLAs) and other prominent persons before the Prime Minister of India on which Ministry of Environment and Forest sought for the factual report from the State Government.

The findings of the Committee on Environment (2011-2014) of Thirteenth Kerala Legislative Assembly, on the environmental issues raised by the Aranmula Greenfield International Airport Project, placed in the Assembly on 12 July 2012 were also against the activities connected with the airport.

Ignoring all the protests and various violations, successive governments supported the airport project to obtain almost all the necessary clearances as shown below.

- 'In principle' approval from the Government of Kerala (GOK) in September 2010,
- No Objection Certificate (NOC) for setting up of a new greenfield airport at Aranmula from the Ministry of Defence in August 2011,
- Site clearance approval in October 2011 and the 'in principle' approval from the Ministry of Civil Aviation, Government of India (GOI) in September 2012.
- Environmental clearance for the proposed airport was issued by Ministry of Environment & Forests, GOI in November 2013.

Construction of airport would commence on getting license from the Director General of Civil Aviation, as provided in the Greenfield airport policy.

The company has announced that the first aircraft will take off from the proposed airport in 2015. In this backdrop, an audit was conducted to study the land management issues.

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38 Poetess Smt. Sugathakumari, Environmentalist, Dr. V.S Vijayan former Chairman of Biodiversity Board etc.

## 5.2 Audit criteria

The criteria for this study were derived from the provisions of following Central/State laws.

### Central laws

- The Aircraft Act, 1934.
- The Airports Authority of India Act, 1994.
- Greenfield Airports Policy, 2008.
- The Registration Act, 1908.

### State laws

- The Kerala Land Conservancy Act, 1957 (KLC Act, 1957).
- The Kerala Land Conservancy Rules, 1958 (KLC Rules, 1958).
- The Kerala Land Reforms Act, 1963 (KLR Act, 1963).
- The Kerala Land Utilisation Order, 1967 (KLU Order, 1967).
- The Kerala Conservation of Paddy Land and Wet Land Act, 2008.
- Registration Rules (Kerala)

## 5.3 Scope and methodology of audit

Audit was conducted from January to June 2013 concurrent with the audit on Assignment of Government land. An entry conference was conducted on 12 February 2013 with R&DM Department and Government. The records connected with ‘in-principle approval’ granted to the proposed Greenfield Airport at Aranmula and the issues connected with land possessed by the company were verified from the files/records available in four Village Offices<sup>39</sup>, Taluk office - Kozhenchery, Taluk Survey office - Kozhenchery, Collectorate Pathanamthitta, Taluk Land Board Kozhenchery and Commissionerate of Land Revenue, Thiruvananthapuram. Audit also test checked the Government files in the administrative departments viz. Transport, Industries, R&DM and Environment of Government Secretariat.

The issues raised in the audit were discussed with the Commissioner of Land Revenue and the Secretary to Government, R&DM Department in the exit conference conducted on 22 January 2014.

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39 Aranmula, Mallapuzhassery, Kidangannur and Mezhuveli

#### 5.4 Land for the Airport

Two societies viz. Kozhenchery Charitable Educational Society<sup>40</sup> and Charitable Educational and Welfare Society<sup>41</sup> and a company (Aranmula Aviations Ltd.) registered under the Chairmanship of one ‘individual’<sup>42</sup> purchased/illegally occupied 153.31 Ha. of land. Out of this, he sold 94.94 Ha. in three villages - Aranmula (21.62 Ha.), Kidangannur (9.74 Ha.) and Mallapuzhassery (63.58 Ha.) of Kozhenchery taluk to Airport company. This includes 7.03 Ha. of paddy fields filled in violation of KLU Order, 1967. The total land under possession of the societies/company, land transferred to the Airport company and the balance land with the societies as on 31 March 2013 were as detailed below:

Sl. No.	Location of land	Land with societies (in Ha.)	Land transferred to airport company (in Ha.)	Balance with societies (in Ha.)
1	Pathanamthitta/ Kozhenchery	113.20 (5 villages)	94.94 (3 villages)	18.26 (2 villages)
2	Pathanamthitta/Thiruvalla	0.07	0	0.07
3	Pathanamthitta/Adoor	13.25	0	13.25
4	Alappuzha/Chengannur	3.53	0	3.53
5	Palakkad/Alathur	23.26	0	23.26
	<b>Total</b>	<b>153.31</b>	<b>94.94</b>	<b>58.37</b>

Apart from the land transferred by the Societies, the Airport company also possessed 39.9285 Ha. of land purchased by them directly. In addition, 24.35 Ha. poramboke (thodu poramboke and road poramboke) encroached in violation of the KLC Act, 1957 was also under the possession of the Airport company as reported by the revenue authorities. Total land under the possession of Airport company was 159.22 Ha.

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40 Reg.No.P72/04

41 Reg.No.Q373/83

42 Two societies and one company were registered under the Chairmanship of KG Abraham Kalamannil and his family as its members. R&DM department has also considered the above as belonging to one individual.

## 5.5 Audit findings

Audit found several serious irregularities by the Government at all levels in the manner in which land was allotted/allowed to be acquired to/by the Airport company. They are described in the following paragraphs.

### 5.5.1 Evasion of land ceiling Rules with connivance of Government

As per Section 82 (1) (d) of the KLR Act, 1963 the maximum extent of land that could be held or possessed by a person - other than a member of a joint family - in the State has been specified as 6 Ha. (15 acres). No person shall be entitled to own, hold or possess under mortgage, land in excess of the above ceiling area (Section 83 of the KLR Act, 1963).

A person holding or owning land in excess of the ceiling area shall surrender such excess land to the government as per Section 85(1) of KLR Act, 1963 and file a statement (ceiling statement) under Section 85(2) before the Land Board showing the total area owned or held, including the area proposed for surrender. Where a person fails to file the statement under section 85(2) of KLR Act, 1963 the Taluk Land Board shall by order determine the extent and other particulars of the land to be surrendered. The authorities responsible to take action against excess land were thus;

- The State Land Board<sup>43</sup>, consisting of a sole member appointed by the Government - Commissioner of Land Revenue.
- The Taluk Land Board<sup>44</sup> headed by an officer not below the rank of Deputy Collector as Chairman and consisting of not more than six members nominated by the Government.

The 'individual' purchased parcels of dry/wet land from various individuals in Tiruvalla, Kozhenchery and Adoor taluks of Pathanamthitta district since 2004 and held 126.52 Ha. (312.63 acres) in total in the District. In addition the individual had 23.26 Ha. (57.48 acres) of land in Palakkad district and 3.53 Ha. (8.71 acres) in Chengannur taluk of Alappuzha district. The individual

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43 Formed under Section 100 of the KLR Act, 1963 to perform the function related to land reforms under the Act.

44 Constituted under Section 100A of the KLR Act, 1963 to perform the functions under the Act.



owned in all 153.31 Ha. (378.82 acres) of land in the State which was more than 25 times the ceiling prescribed by the provisions of the KLR Act, 1963.

Audit found that, the Revenue authorities took more than nine years (2004 to 2013) to identify the excess holding and to initiate action to resume the excess land to the government. The inordinate delay enabled the 'individual' to transfer the excess holding of land to the Airport company. The action subsequent to the transfer to resume the excess land became ineffective as explained below.

The individual requested (February 2008) the then Revenue Minister of Kerala that 80.94 Ha. (200 acres) of land in Aranmula along with further land to be purchased be exempted from the ceiling under the KLR Act, 1963 to facilitate the construction and operation of an Airport at Aranmula. The request was a clear indication of excess land holding. However, no action was initiated by the Revenue Minister/department to enquire/resume the excess land invoking the provisions of KLR Act, 1963.

The Additional Tahsildar Kozhenchery reported<sup>45</sup>(March 2009) to the District Collector Pathanamthitta that an 'individual' acquired land at various villages of Kozhenchery taluk in excess of the ceilings prescribed. District Collector reported<sup>46</sup> (August 2009) the matter to the Commissioner of Land Revenue, who is the sole member of the Land Board. The Secretary Land Board directed<sup>47</sup> (November 2009) the Chairman Taluk Land Board (TLB), Pathanamthitta to forward proposal to book suo moto case under Section 85 (2) of the KLR Act, 1963 and raised concern that delay in booking the case may facilitate the transfer of the excess holding. However the successive Chairpersons failed to put up proposals to take suo moto action as directed. After issuance of various reminders/D.O letters by the State Land Board, Chairman TLB, Kozhenchery forwarded<sup>48</sup> (April 2012) the primary report proposing booking of suo moto case as per the KLR Act, 1963 to the

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45 Letter No CI-16918/07 dated 17 March 2009.

46 Letter No.C4.32821/04 dated 21 August 2009.

47 Letter No. LB.B8 4257/09(1) dated 07 November 2009.

48 Letter No. C8.51855/09 dated 28 April 2012.

Secretary Land Board. The Chairman, TLB took almost three years to act on the State Land Board orders.

On receipt of the proposal (April 2012) of the Chairman, TLB, the Land Board authorised (July 2012) the TLB, under section 85(7) of KLR Act, to proceed against the 'individual'. TLB suo moto initiated the land ceiling case<sup>49</sup> and issued (September 2012) draft statements, seeking whether the 'individual' had any objection to the TLB in determining under Section 87(1) and (2), the extent of excess holding and identity of lands to be surrendered. The TLB vide its proceedings in SM01/12 Kozhenchery dated 10 April 2013 identified 136.31 Ha. of land as holding in excess of ceiling to be resumed to the Government as shown below.

Sl. No.	Particulars	Area Ha
1	Total land as per Taluk Land Board, Kozhenchery	149.96 <sup>50</sup>
2	Less deduction under Section 81 of KLRA	8.79
3	Net holding (1-2)	141.17
4	Land permitted to hold	4.86
5	Land to be surrendered	136.31

In the meantime the individual transferred (2010-11) 94.94 Ha. to Airport company and the excess land identified (April 2013) had not yet been resumed. The Airport company had obtained the clearances for the airport from the state and central governments highlighting the availability of this land for the Airport. The inaction of the Government machinery needs to be investigated and responsibility fixed against the delinquent officers.

This instance highlights the need for having a procedure to identify the aggregate land holdings of an individual in the State, the details of which may spread over the records of 1,634 villages. But Audit noticed that, there is no such prescribed procedure in the State.

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49 Case No. SM 01/2012/KZHRY

50 As per information collected by Audit the land under possession of the 'individual' was 153.31 Ha. as against 149.96 Ha as on 31 March 2013. The difference of 3.35 Ha .remains unreconciled.

**[Notes received from the Government based on the above audit paragraphs are included as Appendix - II.]**

**Excerpts from the discussion of the Committee with Government officials.**

122. To the queries made regarding the audit paragraphs, the witness Revenue divisional officer, Adoor detailed that two ceiling cases were filed with respect to the total area except 20 Ha. In one of the case SM1/12, 118 Ha was identified as excess land holding, but surrendering of the excess land could not be completed when counter case was filed in High Court and High Court ordered to continue the existing status. He also disclosed that at present 118 Ha of land held by Shri Abraham Kalamannil was resumed to Government and that steps are being taken to resume the remaining 40.68 Ha of land belongs to KGS group.

123. The Committee wanted to know whether implementation of Section 83 of KLR and surrendering of land was done after audit objection. The witness informed that land was resumed in 2017 after audit objection. He also added that almost 40 landless families who had been residing in this property protested against the upcoming Aranmula Airport.

124. The Committee pointed out that the Village Officials had informed about the ceiling of land that an individual could be held to the higher revenue authorities. The Deputy Accountant General informed that action in this regard would have been taken by the Taluk Land Board. Though the Village Officer had informed about the ceiling of land, no action was taken by the Taluk Land Board. The State Land Board insisted on furnishing a proposal for a land ceiling case . But the Taluk Land Board didn't submit the proposal on time.

125. The Committee urged to be informed about the composition of State Land Board and asked whether the Commissioner of Land Revenue was given additional charge as the Chairman. Then the witness told that steps were being taken to appoint a Land Board Secretary, who would exercise the powers of the Chairman. The Deputy Accountant General informed that Land Board Chairman is the Land Revenue Commissioner but the overall functioning is to be monitored by Land Board Secretary. He further clarified that Land Revenue Commissionerate

was formed after the abolition of Revenue Board and the Chairman of Revenue Board would be the Chairman of the State Land Board. Powers of the Chairman would be exercised by Secretary State Land Board. He further added that the powers of the Chairman, State Land Board may have been bestowed on the Secretary. The Committee enquired whether judicial powers have been given to the Land Board Secretary. The witness replied that unless he is empowered he has no right to exercise the powers.

126. The Committee understands that detailed proposal regarding excess land holdings was not necessary for the initiation of Section 83 and hence pointed out that by already acquiring more than 118 Ha. of land in Aranmula Village itself, there was clear violation of exceeding the ceiling limit by an individual (Sn 83 of KLR) and hence to determine the extent of land in possession of the individual was pointless.

127. The Committee opined that in the Government reply that delay in initiating the ceiling case was due to delay in collecting the details of land the client held in other places was not justifiable and Committee could not accept the reply. The Deputy Accountant General explained that as per the provisions of the land Reform Act the party had to file a return consequent upon the initiation of a case. Details of all the land in possession of that individual could be obtained from the return.

128. The Committee wanted to be apprised whether at present there was any system to identify the aggregate land holdings of an individual. The witness detailed the procedure that soon after receiving the report regarding violation from village officer, it would be handed over to the State Land Board for approval. The Taluk Land Board which issues notices to concerned parties.

129. To the question of the Committee about the provisions for exemption beyond the ceiling limit, the witness informed that exemption could be given to properties of schools, places of worship and plantations registered before the year 1964.

130. The Committee enquired how the 15 Acres of land for Aranmula Airport has been purchased in violation of KLR Act. The witness informed that the Company had submitted a request for ceiling exemption and the Company bought the land before taking any decision on ceiling exemption.

131. With respect to the audit objection of evasion of land ceiling rules by Shri Abraham Kalamannil, the Committee criticized the violation of procedures and the dereliction of duty on the part of officers at various levels which led to inordinate delay in initiating ceiling case against the individual and resuming the excess land holdings to the Government before the accused transferred the land to the Airport Company.

132. The Committee was not satisfied with the Government reply that delay so caused in submission of proposal from Taluk Land Board for initiating a ceiling case was due to delay in the collection of entire details of land owned by Shri Abraham Kalamannil from various Taluk Offices and for its further verification. Therefore Committee directed the department to furnish a convincing reply to the Committee on the audit objection, at the earliest.

133. On enquiry about the excess land holdings of Shri Abraham Kalamannil an officer from office of Accountant General pointed out that Registration Department did found out the excess land holdings. To the enquiry of the Committee whether the registering authority was the power to take over excess land, witness informed that registering authority had no power to take over the excess land. He further informed that the registration department should first register the land and then report it to the Deputy Registrar. The Deputy Registrar should inform the District Collector of the excess land transfer. However, in this case the Revenue Department was not aware of the registration of land.

134. The Secretary, Land Board & Joint Commissioner (In Charge) clarified that Sec.120 of KLR Act envisages mandatory submission by both parties, of a declaration 'on no excess land holding' while registering a sales deed of land. However, in this case, they might have either submitted a false declaration or evaded its filing. He added that the District Collector could give direction to Registering Authority to postpone the registration if any irregularities were found out. The Committee enquired whether the registering authority has the power to postpone the registration of a deed when they find out a flawed declaration. The Revenue Principal Secretary answered that the reply would be furnished after examination. Therefore Committee directed the Revenue Department to enquire into the question whether both the parties had filed declarations as envisaged in Section 120 of KLR Act and provisions contained in Section 120(A) was observed scrupulously.

### Conclusions /Recommendations

135. The Committee criticizes the dereliction of duty on the part of the officers at various levels which led to the inordinate delay in initiating land ceiling case against Shri Abraham Kalamannil and resuming the excess holding of land to the Government before transferring the land to Airport Company.

136. The Committee understands that details regarding excess land holdings of the individual at various villages was not an essential element for initiating land ceiling case against Shri Abraham Kalamannil as he had already owned more than 118 Ha of land in Aranmula village itself. The Committee notices that the individual had clearly violated the land ceiling rules as he did not surrender the excess land to Government or filed a statement as provided in the KLR Act. Hence the Committee expresses its dissatisfaction over the reply furnished by the Government explaining the reasons for the delay in initiating land ceiling case against the person who had violated the provisions of the KLR Act. Therefore the Committee recommends that the department should conduct an inquiry in to the issue and take action against those who are responsible for the passivity.

**[Audit paragraph 5.5.2 contained in the 6<sup>th</sup> Report on Land Management by the Government of Kerala with special focus on land for Aranmula Airport and Smart City, Kochi for the year ended on 31<sup>st</sup> March 2014]**

#### **5.5.2 Registration of sale deeds during the currency of the proposal for suo moto proceedings to resume the excess holding**

The Additional Tahsildar, Kozhenchery informed (December 2009) the District Collector, Pathanamthitta that the ‘individual’ is venturing to transfer the excess land holding at Aranmula, Kidangannur and Mallappuzhassery Villages and that directions need to be issued to the respective Sub Registrars not to register such deeds in view of the steps being taken to book land ceiling case against the individual under the KLR Act, 1963. On 8 March 2010<sup>51</sup>, the District Collector issued directions under Section 120A of KLR Act, 1963 to the Sub Registrars Aranmula and Kozhenchery to stop registration of sale deeds executed by the individual.

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51 Letter No Cl-51855/09(1) dated 08 March 2010 of District Collector Pathanamthitta to Sub Registrars Aranmula and Kozhenchery.

In the mean time the local MLA requested (11 November 2010) the Chief Minister (CM) to issue necessary directions to the District Collector to dispense with the ban imposed on the land and to transfer the land. The CM, without further enquiry, on the very next day acceded to the request and directed (12 November 2010) the District Collector, Pathanamthitta on the letter of the MLA itself to take immediate action to facilitate transactions of the land and report the same to CM. Upon the direction of District Collector (18 November 2010)<sup>52</sup> an extent of land of 94.94<sup>53</sup> Ha. was registered in the name of the Airport company in December 2010, violating Section 120A of KLR Act, 1963 as detailed below.

Village	Sub Registry	Deed Nos.	Area in Ha
Kidangannur	Aranmula	3	9.74
Aranmula	Aranmula	2	21.62
Mallapuzhasserry	Kozhenchery	7	63.58
Total		12	94.94

Further, Collector directed (November 2011) the Additional Tahsildar Kozhenchery to mutate the land in the survey numbers purchased by the Airport company and the same was mutated in their favour during February 2012 to September 2012. The registration of the sale deeds transferring the land acquired by the 'individual' to the Airport company was tantamount to regularisation of the encroachment of unclassified Government land.

**[Note received from the Government based on the above audit paragraph is included as Appendix – II.]**

**Excerpts from the discussion of the Committee with Government officials.**

137. The Committee expressed its dissatisfaction in the reply furnished by the Department and directed to furnish a detailed reply including the present status of the matter of resumption of excess land holding.

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52 Letter No. C1-51855/2009 dated 18 November 2010 to Sub Registrar, Aranmula.

53 Out of 134.87 Ha. (excluding 24.45 Ha. Encroached) land possessed by KGS the restriction on registration was applicable only for the 94.94 Ha purchased from the 'individual'. In respect of 39.93 Ha. purchased from others this restriction was not applicable.

**[Note received from the Government based on the above audit para is included as Appendix – II.]**

**Excerpts from the discussion of the Committee with Government officials at its second meeting**

138. Regarding the audit paragraph the committee pointed out that even after TLB had ordered to surrender the land, the property was transferred. The witness informed the Committee that if land which was considered as excess, sold before surrendering, it could not be regarded as excess land.

**Conclusion /Recommendation**

**139. The Committee decided to combine the subject with the previous para, hence no additional comment is offered.**

*[Audit paragraph 5.5.3 contained in the 6<sup>th</sup> Report on Land Management by the Government of Kerala with special focus on land for Aranmula Airport and Smart City, Kochi for the year ended on 31<sup>st</sup> March 2014]*

**5.5.3 Failure to take action against illegal filling of paddy fields**

As per clause 6 of KLU Order, 1967 the conversion of any land cultivated with food crops for any other purpose is restricted and needs prior permission. The authority to consider and dispose of the application of conversion as per the provisions of the KLU Order, 1967 is vested (February 2002)<sup>54</sup> with the Divisional Officers/District Collectors subject to certain conditions. Inter- alia, Government also ordered that the revenue machinery at taluk and village levels should be activated to ensure that the conversions or attempted conversions without sanction are detected promptly and proceeded against and conversion should not be presented as a 'fait accompli' which need inevitably to be regularised.

Among the 153.31 Ha. (378.82 acres) land held by the societies and company, 92.78 Ha. (229.27 acres) were paddy fields; coming within the purview of KLU Order, 1967.

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54 G.O. (Rt.) No. 157/2002/AD dated 05 February 2002.



The illegal filling and conversion of land became a 'fait accompli' due to the failure of the revenue authorities to take action, on the transfer of land as detailed below:

The 'individual' submitted (April 2004) an application to the then District Collector, Pathanamthitta to sanction reclamation of 25 acres of paddy field<sup>55</sup> in Kozhenchery taluk for the construction of a private air strip. The District Collector did not give any permission for the conversion.

However, the investigations and reports by various revenue authorities<sup>56</sup> (July 2004) revealed filling of paddy fields. Further, as per the records of R&DM department, 7.03 Ha. included in the area transferred to the Airport company was paddy fields filled in by the 'individual', as reported by Village Officers of Aranmula and Mallapuzhassery and Principal Agricultural Officer, Pathanamthitta.

The Committee on Environment (2011-2014) of Thirteenth Kerala Legislative Assembly in its report (July 2012) recommended to remove soil from the land filled paddy fields and take action against those who converted paddy fields.

The Kerala State Biodiversity Board conducted a study and found that about 28 Ha. of paddy field had been filled in taking soil from the nearby Karimaruthu hills. However the area of paddy field filled in still stands unreclaimed as on 31 march 2014.

Based on the direction (30 November 2011) of the Commissioner of Land Revenue, the Deputy Collector (Vigilance), South Zone, Thiruvananthapuram reported<sup>57</sup> (March 2012) to the Commissioner of Land Revenue that Village officers of Aranmula, Mallapuzhassery and Kidangannur, Addl. Tahsildar Kozhenchery and Revenue Divisional Officer (RDO) Adoor were not vigilant and the filling of land was due to their inaction.

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55 In survey nos.387,388,389 and 390 of Aranmula village.

56 Letter No. C4-32821/2004(3) dated 20 July 2004 of District Collector, Pathanamthitta to The Director, Agriculture Department, Thiruvananthapuram.

57 Investigation report No. RVC/A1/1932/09/PT dated 19 March 2012.

Clause 12 of the KLU order, 1967 empowers the District Collector to use force for compliance of the orders issued by him. Though violations were noticed from 2004 onwards the District Collector failed to exercise the power vested with him under the KLU Order, 1967 to check the unauthorised filling of the paddy fields.



The illegally filled paddy fields were subsequently transferred to the Airport company and formed part of the land considered for issuing clearance to the airport.

#### **Excerpts from the discussion of the Committee with Government officials**

140. As RMT was not furnished by the Government, the Committee directed to submit the Government reply to these audit paragraphs at the earliest. The Principal secretary, Revenue Department agreed to do so.

**[Note received from the Government based on the above audit paragraph is included as Appendix -II.]**

#### **Excerpts from discussion of the Committee with Government officials**

141. Committee wanted to know whether illegally filled paddy fields mentioned in the audit para has been reclaimed. The witness, Principal Secretary, Revenue Department informed that the 'thodu' was reclaimed since 7 hectares of land spreading over 3 villages were illegally filled and rest of the area remained unused as it was under TLB cases. He added that there were 2 cases in TLB of which one had been settled (SM 1/15) and the second case (SM 1/12) is going on in the court. Therefore the rest of the land could not be resumed.

142. The Committee directed to submit the report about the procedural violation as pointed out in this audit paragraph and to take necessary action against the persons who were responsible for it.

### **Conclusion /Recommendation**

143. **The Committee views this issue seriously and directs the department to submit a detailed report about the procedural violation as pointed out in the audit paragraph and take necessary action against the persons who were responsible for the misdeed.**

**[Audit paragraph 5.5.4 contained in the 6<sup>th</sup> Report on Land Management by the Government of Kerala with special focus on land for Aranmula Airport and Smart City, Kochi for the year ended on 31<sup>st</sup> March 2014.]**

#### **5.5.4 Illegal possession of Government land-Violation of KLC Act, 1957**

KLC Act, 1957 and KLC Rules, 1958 are framed to protect government land from encroachment. The duties of various authorities to prevent encroachment as well as penalties and the measures to evict encroachers are specified in the Act/Rules.

The 'individual' had illegally taken 24.35 Ha. government land<sup>58</sup> which included unclassified Government land (Poramboke) as detailed below.

Sl. No.	Type of land	Area (in Ha.)
1	Pathway	9.95
2	Thodu poramboke <sup>59</sup>	12.06
3	Road poramboke <sup>60</sup>	1.52
4	Other Government land	0.82
	<b>Total</b>	<b>24.35</b>

58 In Kidangannur, Mallapuzhassery, Aranmula and Mezhuveli villages of Pathanamthitta district.

59 Government land around river.

60 Government land around road.

As per Rule 4 of KLC Rules, 1958 all officers of the R&DM department shall have it as their primary duty to prevent unauthorised occupation of government lands. The Village Officer shall report to the District Collector promptly all cases of encroachments of government land in Form A and he shall inspect the encroached land as per Rule 6. The Village Officers of Aranmula and Mallapuzhassery reported promptly the encroachment in September 2007 and February 2008 to the RDO Adoor and Additional Tahsildar Kozhenchery.

Various penalties/remedial measures were available to the District Collector against encroachment like:

- Summary eviction with recovery of dues(Section 11 of KLC Act,1957) and
- Imprisonment and fine<sup>61</sup> (Section 7(a)) of KLC Act, 1957.

However Audit found that inspite of the remedial measures provided, the District Collector Pathanamthitta failed to take any action against the encroachment of 24.55 Ha. of land.

The Legislative Committee on Environment (2011-2014) in its report (July 2012) also expressed concern regarding inaction on the occupation of the unclassified revenue land and recommended an enquiry and action against the delinquent officials and to resume the unclassified revenue land to Government.

As per report (July 2012) of Joint Commissioner, Land Revenue, the Village Officers concerned had reported the matter to the Tahsildar with all statutory records including Form A under Rule 6 KLC Rules, 1958. However, the Assistant Commissioner (LA), Commissionerate of Land Revenue, Thiruvananthapuram in its report dated 2 July 2012 stated that the Additional Tahsildar, the taluk surveyor and the RDO Adoor were responsible for the omissions.

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61 The fine was an amount not exceeding ₹ two hundred and additional fine of ₹ two hundred for everyday of continued occupation as may be imposed by the Collector as per Section 7(upto 07 November 2008)

Section 7 (c) of the KLC Act, 1957 prescribes imprisonment for a term not less than three years which may extend upto five years and fine not less than ₹ 50,000 which may extend to ₹ two lakh for dereliction of duty.

The Joint Commissioner recommended vigilance enquiry to bring out the official lapses which has not materialised (March 2014) even after almost two years.

#### **Excerpts from the discussion of the Committee with Government officials**

144. As RMT was not furnished by the Government, the Committee directed to submit the Government reply to these audit paragraphs at the earliest. The Principal Secretary, Revenue agreed to do so. RMT was not received from the Department

#### **Excerpts from the discussion of the Committee with Government officials.**

145. The Committee directed to furnish the Remedial Measures Taken in respect of the audit para.

#### **Conclusion /Recommendation**

**146. The Committee expresses its dissatisfaction over the lackadaisical attitude of the Revenue Department in not furnishing the Remedial Measures Taken Statements regarding the audit paragraphs even at the time of witness examination. It condemns the department for not complying the assurance given at the time of witness examination. The deliberate silence of the department towards the Committee's query could not be tolerated at any cost and the Committee insists that Remedial Measures taken statement regarding the audit para be furnished within no time.**

*[Audit paragraph 5.5.5 contained in the 6<sup>th</sup> Report on Land Management by the Government of Kerala with special focus on land for Aranmula Airport and Smart City, Kochi for the year ended on 31<sup>st</sup> March 2014]*

### 5.5.5 Illegal encroachment of 'Kozhithodu' and its environmental impact

One of the major encroachments was that of Kozhithodu; a stream about 7 kms long and 4 metres wide (at its narrow point) which runs across the paddy fields of Aranmula, Karimaram and Kidangannur villages.



The 'individual' encroached about 800 mtrs of the poramboke stream(Kozhithodu) and filled it illegally during the period 2004 to 2008. The encroached part of the stream stretching 2.57 Ha. was in Aranmula and Mallapuzhassery villages. This was encroached for maintaining the continuity of the land already purchased by the individual, lying on both sides of the stream. The 'individual' had transferred(2010) the land surrounding this filled-in stream to the Airport company which formed a part of the land proposed for airport. Consequent to filling up of part of this stream, the rest of the paddy fields became water logged and became unsuitable for farming. The puncha cultivation<sup>62</sup> had come to an end since the supply of water from Kozhithodu was stopped.

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62 Cultivation in water logged paddy field.  
978/2023.

### Filled and resumed portion of kozhithodu



The Executive Engineer, Minor Irrigation suggested that the Irrigation department would excavate the soil filled in poramboke thodu at a cost of ₹ 19 lakh and recover the cost from the 'individual'.

However, though the encroachment was evicted (July 2012) and marked as Government land, the filled in soil was not removed and the water flow not restored (March 2014) at the risk and cost of the 'individual'. Further, the RDO, Adoor failed to initiate punitive action against the encroachment.

#### **Excerpts from the discussion of the Committee with Government officials.**

147. When asked about the audit objection, the witness answered that the encroached area of stream filled with soil was restored to its earlier state and has demarcated the area as government land. He also informed that case was filed against the individual responsible for encroachment and steps are also being taken to restore the water flow in Kozhithodu. The Committee accepted the explanation and directed to furnish the remedial measures taken statement at the earliest.

### **Conclusion /Recommendation**

148. **The Committee directs the department to urgently furnish the Remedial Measures Taken regarding the audit para.**

**[Audit paragraph 5.5.6 contained in the 6<sup>th</sup> Report on Land Management by the Government of Kerala with special focus on land for Aranmula Airport and Smart City, Kochi for the year ended on 31<sup>st</sup> March 2014]**

#### **5.5.6 Alteration of nature and boundaries of land in the sale deeds**

The Registration Act, 1908 requires that the property involved in a transaction be clearly identified in terms of its nature and boundaries.

As per Section 21 of the Registration Act 1908, no non-testamentary<sup>63</sup> document relating to immovable property shall be accepted for registration unless it contains a description of such property sufficient to identify the same. In Rule 23 of the Registration Rules (Kerala) the description of the “territorial division” required by Section 21 states that it shall *inter alia* contain the nature and boundaries of the land. Rule 36 stipulates that a document which relates to land shall, before it is accepted for registration, be checked with the survey numbers and subdivisions in the indexes maintained under Rule 149 and the Settlement Register. Section 71 of the Registration Act, 1908 enables a Sub Registrar to refuse registration of a document, after making an order of refusal and recording the reasons for such order.

Land measuring 134.87 Ha. purchased by KGS Aranmula Airport was registered with Sub registry offices Kozhenchery, Aranmula and Pandalam through 75 deeds (12 deeds relating to 94.94 Ha. purchased from the ‘individual’ and 63 relating to 39.93 Ha. purchased from others) as in Annexure XI.

Audit verified the 12 sale deeds on 94.94 Ha. and found that in seven sale deeds affecting 19.05 Ha. of land, the nature of the land and boundaries were altered/incorrect.

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63 Deeds other than a will or a testament



***Alteration in the nature/boundary of land***

Village	Area in Ha.	Nature of land	Alteration in nature	Nature of boundary	Alteration in boundary	SRO	Altered Document
Mallapuzhassery	1.88	Residential plot and paddy land	Dry land without road	Thodu <sup>64</sup>	Self property	Kozhenchery	1385/10
Mallapuzhassery	3.24	Paddy land	Dry land without road	Thodu	Self property	Kozhenchery	1382/10
Mallapuzhassery	3.57	Paddy land	Dry land without road	Thodu	Self property	Kozhenchery	1383/10
Kidangannur	4.28	Paddy land	Dry land without road	Thodu	Self property	Aranmula	1929/10
Kidangannur	1.63	Paddy land	Dry land without road	Thodu	Self property	Aranmula	1932/10
Aranmula	1.05	Paddy land	Dry land without road	Thodu	Self property	Aranmula	1931/10
Aranmula	3.40	Paddy land	Dry land without road	Nilam/Kozhithodu	Self property	Aranmula	1928/10
Total	19.5						

The documents were registered without verifying the altered nature and boundaries of the land with reference to the previous sale deeds, Basic Tax Register and Settlement Register as required under Rule 36 of the Registration Rules (Kerala). The Sub Registrars, Kozhenchery and Aranmula should have

rejected the registration as prescribed in Section 71 of the Registration Act, 1908. No departmental action was seen initiated by the Inspector General of Registration, Kerala on the Sub Registrars who admitted the incorrect documents for registration.

Registration of sale deeds, showing incorrect nature of land and boundaries of land resulted in regularisation of unlawful filling up of paddy land and illegal possession of Government thodu.

Audit pointed out (April 2014) the lapses on the part of the Sub Registrars to the Inspector General of Registration calling for the details of disciplinary action taken against the delinquent officers. Reply has not been received (May 2014).

#### **Excerpts from the Committee's discussion with departmental officials**

149. The Committee directed to submit detailed report to the audit objection, to which Principal Secretary, Revenue Department agreed.

#### **Conclusion /Recommendation**

**150. The Committee directs the department to submit a detailed report about the audit objection.**

*[Audit paragraph 5.5.7 contained in the 6<sup>th</sup> Report on Land Management by the Government of Kerala with special focus on land for Aranmula Airport and Smart City, Kochi for the year ended on 31<sup>st</sup> March 2014]*

#### **5.5.7 Unauthorised according of approvals by the Industries Department**

The Airport company placed their application (April 2010) for No-objection certificate (NOC) for the construction of the Airport to the Addl. Chief Secretary, Industries department, Government of Kerala. Industries department in turn granted (September 2010) in-principle approval for a Green field airport at Aranmula.

As per the recommendation 6 of the Report No.3 (July 2012) of the Legislative Committee on Environment (2011-14) the Transport department of the State is the nodal department for the project of Greenfield Airport. Hence the application for the NOC should have been submitted to the Transport department

and the in-principle approval should have been arranged by the Transport department after consulting the allied departments.

The Industries department overstepped their jurisdiction by accepting the application for NOC from the Airport company and granting the in-principle approval. Moreover, having accepted the application, the department did not observe the requirements detailed in the Greenfield Airport Policy of 2008 while giving the in-principle approval. This resulted in the defects depicted in the succeeding paragraphs.

**[Note received from the Government based on the above audit paragraph is included as Appendix – II.]**

#### **Excerpts from the discussion of the Committee with Government officials**

151. The Committee criticized the department for not submitting the RMT on audit objection. While considering the audit para, the Committee enquired about the unauthorised according of approvals by the Industries Department. The witness, Principal Secretary Industries Department opined that Transport department was the authority to issue NOC with respect to Airport construction as per rule, but Industries department in turn granted in-principle approval for Greenfield Airport at Aranmula in September 2010 as per the Cabinet decision.

152. To the Committee's query whether Industries Department is competent to issue such an approval, the witness, Principal Secretary, Industries department admitted the fact that Industries department did not have the authority to issue such an approval and therefore all the prior approvals given by the department had been cancelled in 2014. He added that the proposal submitted by the Airport Company to Industries department was later placed before the Cabinet and Cabinet subsequently approved the same.

153. The Committee criticized the department in forwarding the proposal to the cabinet and opined that the officials of the department should have convinced the Cabinet that Industries Department could not grant such an approval trespassing into the jurisdiction of Transport Department. The Committee decided to include this fact in the report to audit para.

### **Conclusions /Recommendations**

154. **The Committee notices that the Industries Department overstepped their jurisdiction by accepting the application for NOC from the Airport Authority and granting in-principle approval for the construction of Airport at Aranmula, notwithstanding the fact that Transport Department was the authority to issue NOC with respect to the Airport construction as per rule.**

155. **The Committee criticizes the Industries Department in forwarding the proposal to the cabinet and opines that the officials of the department should have convinced the Cabinet that Industries Department could not grant such an approval bypassing the jurisdiction of Transport Department.**

*[Audit paragraph 5.5.8 contained in the 6<sup>th</sup> report on land management by the Government of Kerala with special focus on land for Aranmula Airport and Smart City, Kochi for the year ended on 31<sup>st</sup> March 2014.]*

#### ***5.5.8 Granting of in-principle approval by State Government without sufficient verification regarding the availability of land***

Construction of Aranmula Airport is a major project requiring vast area of land and can cause irreparable damage to the environment and ecological balance of the area. Airport company requested (April 2010) for NOC for the construction of Greenfield Airport at Aranmula to the Additional Chief Secretary (Addl. CS) (Industries), GoK, stating that they had acquired around 350 acres of land, out of the required 500 acres. Based on their request, Government order<sup>65</sup> granting ‘in-principle approval’ for the Greenfield Airport at Aranmula was issued (September 2010) by the Addl. CS stating that the company had purchased 350 acres of land from land owners out of the 500 acres required for the project. However, as per note (July 2013) of Commissioner of Land Revenue at the time of issue of in-principle approval the extent of land held by the Airport company was only 264 acres. Also the Airport company started purchasing land only in October 2010.

Thus the Industries department did not consult the R&DM department to ascertain the availability/ownership of the land with the Airport company. The Government also did not consider the environment/ecological issues raised by various social and cultural activists, representatives of organisations, project affected persons and environmentalists before granting in-principle approval to the proposed project.

**[Note received from the Government based on the above audit paragraph is included as Appendix – II.]**

### **Excerpts from the discussion of the Committee with Government officials**

156. While considering the audit paragraph the Committee observed that Government had given in-principle approval without verifying the availability/ownership of land and the Industries department did not consult this issue with the concerned Department which is the Revenue Department. The Principal Secretary, Industries Department replied that this issue was occurred in 2010 and no more information regarding this subject was available there. The Committee sharply criticized the failure on the part of Industries Department in not consulting the Revenue Department regarding availability/ownership of land.

#### ***Conclusion /Recommendation***

**157. The Committee sharply criticizes the failure on the part of the Industries Department in not consulting the Revenue Department regarding availability/ownership of land with the Airport Company before granting in Principal approval to the proposed airport project.**

***[Audit paragraph 5.5.9 contained in the 6<sup>th</sup> Report on Land Management by the Government of Kerala with special focus on land for Aranmula Airport and Smart City, Kochi for the year ended on 31<sup>st</sup> March 2014.]***

#### ***5.5.9 Acceptance of equity by Government in the project***

Aranmula Airport project is a private venture by the KGS Group, Chennai. As per the Green field Airport Policy (April 2008) issued by Government of India (GOI), in the case of airports other than by Airport Authority of India (AAI), financing and development of airport, acquisition of required land, obtaining the various licenses and clearances etc., will be the responsibility of the Airport company.

The proposed Airport company suffered from many drawbacks. They did not have sufficient land with them and land ceiling case was initiated (in September 2012) against the original owner of the land under possession of the Airport company. The Airport company was in illegal possession of government land. Filling up of paddy fields was done by the original owner of the land possessed by the Airport company and the proposed project was facing criticism from all sides regarding the adverse effect on environment, ecology etc. Despite all these, Government of Kerala (Transport department) decided<sup>66</sup> to accept (January 2013) 10 per cent equity in the Airport company which was offered free of cost and issued (January 2013) orders to accept the equity. Government also ordered that poramboke land essential for the operations of the Airport shall be given at market price. Further, Government would also have one nominee as Director in the Board of Directors of the Airport company.

By accepting the equity offered by the Airport company, Government became a party to the illegal filling of land, encroachments, environmental and ecological problems. They also agreed to give more poramboke land necessary for the project.

***[Note received from the Government based on the above audit paragraph is included as Appendix – II.]***

**Excerpts from the discussion of the Committee with Government officials.**

158. The Committee made discussions about the audit para on acceptance of equity by government in the project and decided to accept the reply furnished by the Government.

**Conclusion /Recommendation**

159. No Remarks

***[Audit paragraph 5.5.10 contained in the 6<sup>th</sup> Report on Land Management by the Government of Kerala with special focus on land for Aranmula Airport and Smart City, Kochi for the year ended on 31<sup>st</sup> March 2014.]***

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66 GO(MS) No. 04/2013/Trans dated 16 January 2013

### ***5.5.10 Land declared as 'industrial area' in excess of requirement***

R & DM department, the custodian of the land records in the State, only can authoritatively state the actual area contained in a particular locality or survey number.

The Airport company requested (April 2010) for NOC for the construction of Greenfield Airport at Aranmula to the Additional Chief Secretary (Industries), Government of Kerala. As per their application they required 500 acres of land which was identified by them for the proposed Greenfield Airport at Aranmula. Industries Department declared<sup>67</sup> (February 2011) 200 Ha.<sup>68</sup> (500 acres) of land (as specified in the schedule to the order), to be an Industrial area of the State. But while appending the schedule, the extent of land in the survey numbers suggested by the Company were not verified with reference to the requirement of the applicant in consultation with the R&DM department. Appending the unverified schedule to the notification resulted in wrong declaration of 444.72 Ha. (1,098.90 acres) of land as industrial area instead of 200 Ha. required for the proposed project. The R&DM department though stated to have initiated action for de-notification of the land declared as industrial area, action has not yet been completed.

Thus laxity in verification led to notification of more than double the area required as 'industrial area'.

***[Note received from the Government based on the above audit paragraph is included as Appendix – II.]***

### **Excerpts from the discussion of the Committee with Government officials**

160. The Committee wanted to know about the present status of the de-notification of the land declared as industrial area. The Principal Secretary, Industries department informed that the land was declared as industrial area

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67 GO(P) No. 54/1/ID dated 24 February 2011

68 At Aranmula, Mallapuzhassery and Kidangannur villages in Pathanamthitta district.

without verifying with the Revenue department and appending the unverified schedule to the notification resulted in wrong declaration of 444.72 Ha of land as industrial area instead of 200 Ha required for the proposed project. He also added that all declarations had been cancelled and steps had been taken by Revenue Department to resume the excess land.

161. Summarising the discussion, the Committee pointed out the failures on the part of Industries Department viz, being not the competent authority granted in principle approval for airport at Aranmula, not consulted Revenue Department to ascertain the availability/ownership of land with airport company.

### ***Conclusion /Recommendation***

162. No Remarks

***[Audit paragraphs 5.5.11 to 5.7 contained in the Report on Land Management by the Government of Kerala with special focus on land for Aranmula Airport and Smart City, Kochi for the year ended on 31<sup>st</sup> March 2014.]***

#### ***5.5.11 Environmental clearance obtained through false submissions***

Under the Environment Impact Assessment Notification<sup>69</sup> 2006 issued under Environmental (Protection) Act, 1986, all airport projects require prior environmental clearance from the Central Government. Ministry of Environment and Forest, GOI sought a factual report from the Environment Department of Government of Kerala (GoK) on the joint petition filed by 71 MLAs and other prominent persons to the Prime Minister against the proposed Airport Project. The Environment Department issued clean chit to the proposed project recommending<sup>70</sup> (September 2013) that the application for environmental clearance for the Airport project may be processed for clearance on certain grounds which was factually incorrect as shown below:

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69 Notification SO 1533 dated 14 September 2006 issued by the Ministry of Environment and Forest, Government of India, published in Gazette of India, Part II and Section 3, Sub Section(ii).

70 Letter No. 565/B1/12/Envvt. dated 13 September 2013.



Sl. No.	Information/recommendation furnished by the Department	Factual position/result
(1)	(2)	(3)
1	<p>The Department intimated Ministry of Environment and Forest, GOI that the Legislative Committee on Environment has not categorically expressed any reservation against the project.</p>	<p>This was factually incorrect since the Committee in July 2012 had categorically commented that the Puncha cultivation had come to an end since the supply of water from Kozhithodu (Stream) had been stopped and recommended that the soil from the land filled paddy fields and Kozhithodu should be removed to restore the free flow of water. Further, the Committee expressed their disagreement with the development activities in July 2012 that would destroy water resources, acres of paddy fields that had been used for cultivation for centuries and destroying the biodiversity of the locality.</p>
2	<p>The allegation that the project has created hardships to farmers does not seem factual as the fallow paddy land had been sold in 2003 itself and reclaimed immediately thereafter. No petition on environmental consideration has been received from any farmer against the reclamation in 2003 and against the Airport project.</p>	<p>The view that paddy land filling took place before the land was taken for the project and no punitive action was taken at the time of filling of the paddy lands was not correct since the action to restore the land and imposing punitive action as required in the Kerala Land Utilisation Order 1967 was not done by the department or Government. Treating this violation committed as fait accompli is not in line with the spirit of the existing land conservation orders or rules.</p>

(1)	(2)	(3)
3	The paddy field filling took place before the land was taken over for the project, but no punitive measures had been taken while filling activities were initiated at that time.	Same remarks as at 2 above.
4	The reclamation was during pre-2008 period when the Kerala Conservation of Paddy Land and Wet Land Act, 2008 was not there. Hence the 2008 Act is not applicable.	The plea that the reclamation was during the pre 2008 is also not tenable since the Kerala Land Utilisation Order 1967 was in force, which prevented conversion of land for any other purpose other than the existing cultivation.
5	The Department stated that details of court cases (criminal/vigilance) were not available with the Committee.	As per note prepared for Chief Secretary's meeting on Aranmula Airport, held on 4 July 2013 there were 7 WP/OS pending disposal.

Verification of Government files has shown that the National Green Tribunal, South Zone, Chennai in its judgement dated 30 April 2013 disposed of the Application No. 38 of 2013 filed by Aranmula Heritage Village Action Council as withdrawn, awarding cost to the State Government. By interpreting the above disposal of the case as thorough consideration of all the points by the tribunal, Government decided to request the Ministry of Environment and Forest for environmental clearance to the Airport Project. Audit found that while giving the recommendations, the Principal Secretary to Government, Environment Department instead of considering the environmental/ecological aspects, took a stand favourable to the proposed project.

### **5.5.12 - 'In principle' approval of Central Government without reckoning the views of Customs**

Guidelines for granting license framed under the Aircraft Act by GOI stipulates that Greenfield airport would not be allowed within an aerial distance of 150 kms of an existing civilian airport. Further, in case a Greenfield airport is proposed within 150 kms of an existing civilian airport, the impact on the existing airport would be examined and such cases would be decided by the Government on a case to case basis and the steering committee, will make suitable recommendations to the Central Government (Ministry of Civil Aviation). Central Government (Ministry of Civil Aviation) shall decide whether approval for the airport should be granted in consultation with departments like revenue.

The Central Board of Excise and Customs (CBEC) GOI in consultation with jurisdictional Chief Commissioner of Customs arrived at the conclusion that there was no urgent requirement to construct a Greenfield airport in Aranmula since there were four international airports located in Kerala<sup>71</sup> and number of weekly international flights were only a few. These views were communicated to the Ministry of Civil Aviation in July 2012. Without considering the view of Department of Revenue (CBEC), the Civil Aviation Ministry issued (September 2012) the site clearance and 'in principle' approval<sup>72</sup> for the project. GOK also granted 'in principle' approval to the project.

Audit found that though findings of the Department of Revenue (CBEC) was against the new airport, the Government favoured the project at all stages without studying the impact on the existing airports, of which two were located well within a distance of 150 kms.

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71 At Kozhikode, Kochi, Thiruvananthapuram, one under construction at Kannur.

72 Letter No. AV.20015/015/2009-AD dated 04 September 2012 issued by the Ministry of Civil Aviation, AD Section.

### 5.5.13 Public interest adversely affected by the proposed projects

As decided in the steering committee meeting (June 2012), a three member expert committee appointed by AAI made a site visit in July 2012 to study the Obstacle Limitation Surface (OLS) survey report and observed the following obstacles in the site for the proposed project.



- The temple mast (kodimaram) of the ancient Aranmula Parthasarathy temple, situated 905 metres away from runway, is 30.8 metres high. But the permissible elevation is just 23.7 metres.
- The four hills in the vicinity of airport, situated around 1.2 to 2.4 kms from the proposed runway, have a height of 98 metres, 74 metres, 70 metres and 99.3 metres. Permissible heights at such distances are 31.7 metres, 46.4 metres, 53.2 metres and 56.8 metres respectively and they need to be removed.
- The rubber plantations and other trees existing on the hills need to be cut and pruned along with cutting of the hills.

The obstacles brought out as per the OLS survey report (2012) was reiterated by an expert team from AAI on 02 July 2012 and it was recommended among other things;

- the threshold to be displaced by 285 metre and the temple mast to be lighted.
- the four hills and rubber plantations to be removed for which the airport operator take appropriate clearance from Environment Ministry.

The recommendations of the expert committee were not analysed by the environment department prior to recommending the issuance of the Environmental Clearance Certificate. This adversely affected the interest of the public.

The above points were discussed in the exit conference conducted in January 2014. The Principal Secretary, R&DM Department, Government of Kerala stated that since the land issues are very complicated in nature, the matter would be presented before the Cabinet and a detailed reply would be furnished. Further report has not been received (May 2014).

## **5.6 Conclusion**

Audit found that Government did not conduct any in-depth study before granting 'in principle' approval to the project.

It also failed to take appropriate action against irregular filling of paddy fields, encroachment on government land etc. Cases of violations of provisions of the Act/Rules were not properly dealt with. Instead of taking action against the encroachers/violators, government machinery aided the illegal activities by becoming a partner to the project and expediting approvals without study.

## **5.7 Recommendations**

Audit recommends that the Government may -

- Conduct an in-depth study on the need for a fifth airport in the small state of Kerala and that too at Aranmula; which is less than 150 Kms from Thiruvananthapuram and Kochi international airports.

- Conduct an in depth study on the impact of the project on the ecology/environment on the basis of the issues raised in the Reports of the Legislature Committee on Environment, Kerala State Biodiversity Board and the Expert Committee appointed by AAI and take effective action to resolve the impacts.
- Conduct an independent enquiry into the cases of violations of provisions of various Act/Rules including the lapses that has occurred at all levels including that of the secretariat departments which supported the illegal acts of the individual/company.

**[Note received from the Government based on the above audit paragraph are included as Appendix – II.]**

**Excerpts from the discussion of the Committee with Government officials.**

163. While examining the replies furnished by the Environment department to the audit para 5.5.11, the Committee expressed its resentment in submitting such an inappropriate reply having no relation with the audit objection. The Secretary, Environment department disclosed that since a supporting report was given by Government to Ministry of Environment and Forest for the environmental clearance without proper examination and approval of Environment impact Authority of the State, such a reply might have been produced for concealing the lapse from the Government.

164. The Committee strongly criticized the irresponsible attitude of department in insulting the Committee by forwarding such an irresponsible reply which calls forth strong remarks from Committee. The Committee also remarked it as a warning to all departments that Committee would be forced to place adverse remarks if it received irrelevant replies hence forth, from Government on specific audit objections. The Committee decided to drop the audit paragraphs with these remarks.

*Conclusion /Recommendation*

165. The Committee is disturbed to find that the reply put forth by the department regarding the audit para 5.5.11 was inappropriate and have no relation with the audit objection. The Committee strongly criticizes the irresponsible attitude of the department in forwarding irrelevant replies to the Committee and comments that this action of the department was an absolute disgrace to the Committee. The Committee remarks it as a warning to all departments and points out that strict instruction should be issued to ensure that such lapses does not occur in future.

Thiruvananthapuram,  
10<sup>th</sup> August 2023.

SUNNY JOSEPH,  
*Chairman,*  
*Committee on Public Accounts.*

APPENDIX 1  
SUMMARY OF MAIN CONCLUSION/ RECOMMENDATION

Sl. No.	Para No.	Department Concerned	Conclusion/ Recommendation
1	2	3	4
1	5	Revenue	The Committee requires the Department to inform about the action taken in the aftermath of the Government order dated 22-8-2019 for regularising the structures upto 1500 sq.ft plinth Area in 15 cents or below area of land released to the owners of building in Idukki, Wayanad districts etc, what amount added to the exchequer towards lease rent in this regard and how much land was reclaimed. The Committee directs the department to furnish a detailed report covering all the aspects, without delay.
2	10	Revenue	The Committee requires the department to furnish details about the steps taken to update the information/list of assignable land and also a statement pertaining to the rectification measures initiated on the basis of the Audit observations.
3	21	Revenue	The Committee expresses its strong displeasure at the present resurvey processes as several complaints have been arisen from villages where the resurvey work has been conducted. Sensing the seriousness of the



1	2	3	4
			situation, the committee directs the department to take necessary action to speed up and complete the resurvey process impeccably in a time bound manner and furnish a report regarding the progress made in this regard to the Committee.
4	27	Revenue	The Committee seeks a detailed report regarding the performance of Lease Mission in maintaining records of Government land on lease using modern technology and urges to furnish an updated version of the lease register which has been preserved by the Land Revenue Commissioner. The Committee urges that the report should include the survey numbers, area of land leased out, the purpose, period of lease and lease rent arrears.
5	32	Revenue	The Committee directs the Revenue Department to submit a detailed report regarding the present status of the case related to the loss of revenue towards lease rent from Travancore Titanium Products Ltd. and the reason for the non-renewal of lease agreement with the company.
6	40	Revenue	The Committee observes that the defaulters, predominant private entities are reluctant to remit the lease rent arrears even though Government have announced One Time

1	2	3	4
			Settlement Scheme for clearing their liability. Therefore, the Committee directs the department to compile and update the list of defaulters and inform the details to the Committee at the earliest. The Committee recommends that the department shall take urgent steps, in such cases, to cancel the lease if the resumption of land does not affect the public interest.
7	41	Revenue	The Committee strongly recommends that Revenue Recovery proceedings should be initiated against the defaulters in a time bound manner and the progress made in this regard should be reported to the Committee without delay.
8	42	Revenue	The Committee stresses the need for proper maintenance of lease rent registers and directs the department to instruct Village Officers to collect lease documents in a warfoot basis and properly enter the details connected with it, viz, Taluk, area of land on lease, Survey No., to whom leased out and purpose, period of lease, lease rent, date of renewal of lease, so as to check the revenue loss and unauthorized occupancy.
9	52	Revenue	The Committee directs the Revenue Department to submit a report with regard to the lease rent arrears of M/s. Punj Loyd and Sasthri Nagar Residents Association.

1	2	3	4
10	53	Revenue	<p>The Committee observes that Government have to follow certain procedures including Revenue Recovery and to honour all relevant rules prior to write off lease rent arrears. The Committee further notices that consultation with Finance Department and a Cabinet decision are also a pre requisite for such write off. Therefore, the Committee recommends that the Department should scrupulously follow all procedures envisaged in the rules before writing off lease rent arrears.</p>
11	57	Revenue	<p>The Committee opines that it disagree with the application of lease rent at the rate of 2% of the market value for each cent of the land assigned to public sector institutions for Commercial purposes while the rate of lease rent has been fixed at 5% as per rule. The Committee points out that even when the exemption granted to AIR from paying high rate of rent is substantiated, the identical concession extended to SBI cannot be condoned. Therefore, the Committee suggests that the lease rent applicable to public Sector Institutions for Commercial purposes be levied from SBI, Thiruvananthapuram.</p>
12	68	Revenue	<p>The Committee comments that most cases of encroachment of government land has been reported from coastal areas of Kerala.</p>

1	2	3	4
			The Committee directs the department to take urgent steps against the encroachment of Government land in coastal areas other than the land occupied by fishermen families.
13	69	Revenue	The Committee directs the Department to furnish a detailed report about the present system to ensure the compliance of conditions for assignment of Government land and to furnish the replies to the cases pointed out in the audit paras with its present status at the earliest.
14	70	Revenue	The Committee notices with pain that Government have often succumbed to pressure from religious institutions and assigns the very same encroached Government land to these religious groups either after realising nominal amount or free of cost. The Committee vehemently criticizes this attitude and opines that regularising the unauthorised possession of Government land will set a bad precedent and will eventually be taken as a right. Hence the Committee strongly recommends that encroachments made by any religious institutions should be sternly dealt with under the provisions of existing rules.
15	75	Revenue	The Committee recommends that strict instructions should be given and constant

1	2	3	4
			monitoring must be done to prevent encroachments on Government land and suggests that the Revenue Department should update and maintain centralised data on leased lands in the State.
16	76	Revenue	The Committee observes that the culpability on the part of Registration Department in the transfer of leased land had led to the illegal selling and transferring of Government property. Hence the Committee directs the Registration Department to follow all procedures as envisaged in the KLR Act scrupulously and track down all previous land registration records of Government land to avoid such errors in future.
17	82	Revenue	The Committee desires to be furnished with a report on the issue of lack of a system in the Department to monitor the utilisation of leased out land to the non educational entities during the post lease period as pointed out in the Audit Para.
18	90	Revenue	The Committee points out the inordinate delay on the part of the department in filing counter affidavits in the cases of unauthorised occupation and government land encroachment which have been pending with the High Court Since 2008 even when the

1	2	3	4
			Department have a number of pleaders and liaison officers to review, monitor and update such cases. Therefore, the Committee directs the department to inform the reasons for the delay in filing affidavit in many government land encroachment cases at the earliest.
19	93	Revenue	The Committee directs the department to submit a detailed report in respect of the land leased out to Nair Service Society and Kerala Cancer Society.
20	98	Revenue	The Committee directs the department to furnish a detailed report on the above audit paragraphs including the present status of the cases.
21	99	Revenue	The Committee notices that according to the reply furnished by the department, the case regarding M/s Vaigai Threads was under the judicial consideration of Hon'ble High Court of Karnataka, whereas the case was in the Hon'ble High Court of Kerala as per the records of the Accountant General. Moreover it is a disposed case as per the status on the website of the Kerala High Court. Hence the Committee directs the department to submit a clarification regarding this case and also to furnish a detailed report including the present status of M/s Vaigai Threads.

22	100	Revenue	<p>The Committee enquired about the contradictory statements in regard to the jurisdiction of the case relating to M/s.Vaigai Threads as it was stated in the reply furnished by the department that the case was under the judicial consideration of Hon.High Court of Karnataka whereas as per the records of Accountant General the case was in the Hon. High Court of Kerala and directs that if there was an error in stating the name of the court in which the judicial process was going on the official responsible for the lapse, if any, should be made answerable through due process without delay.</p>
23	103	Revenue	<p>The Committee directs the Department to furnish a detailed report regarding the proposal for revising ground rent at the earliest.</p>
24	107	Revenue	<p>The Committee observes that the inertia on the part of the department in revising the lease of 1000 Acre of Government land in three taluks shall be regarded as a grave issue. Therefore, the Committee directs the department to furnish a detailed report on the continuance of lease under repealed rules with its current status.</p>

1	2	3	4
25	110	Revenue	The Committee directs the department to submit the final report and current status regarding the audit paragraph.
26	115	Revenue	The Committee directs the Department to furnish a detailed report after examining the subject contained in the audit para.
27	120	Revenue	The Committee directs the department to submit a detailed report explaining the reason for financial loss to government due to failure in renewing the lease rent timely.
28	121	Revenue Registration Land Survey	The Committee opines that there should be an effective system to scrutinize the revenue records while deeds are submitted for registration in the State. Therefore the Committee recommends that the department should ensure that there is effective co-ordination among Revenue, Registration and Survey Departments.
29	135	Revenue	The Committee criticizes the dereliction of duty on the part of the officers at various levels which led to the inordinate delay in initiating land ceiling case against Shri Abraham Kalamannil and resuming the excess holding of land to the Government before transferring the land to Airport Company.
30	136	Revenue	The Committee understands that details regarding excess land holdings of the



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			<p>individual at various villages was not an essential element for initiating land ceiling case against Shri.Abraham Kalamannil as he already owned more than 118 Ha of land in Aranmula village itself. The Committee notices that the individual had clearly violated the land ceiling rules as he did not surrender the excess land to Government or filed a statement as provided in the KLR Act. Hence the Committee expresses its dissatisfaction over the reply furnished by the Government explaining the reasons for the delay in initiating land ceiling case against the person who had violated the provisions of the KLR Act. Therefore the Committee recommends that the department should conduct an inquiry in to the issue and take action against those who are responsible for the passivity.</p>
31	143	Revenue	<p>The Committee views this issue seriously and directs the department to submit a detailed report about the procedural violation as pointed out in the audit paragraph and take necessary action against the persons who were responsible for the misdeed.</p>
32	146	Revenue	<p>The Committee expresses its dissatisfaction over the lackadaisical attitude of the Revenue Department in not furnishing the Remedial Measures Taken Statements regarding the audit</p>

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			<p>paragraphs even at the time of witness examination. It condemns the department for not complying the assurance given at the time of witness examination. The deliberate silence of the department towards the Committee's query could not be tolerated at any cost and the Committee insists that Remedial Measures taken statement regarding the audit para be furnished within no time.</p>
33	148	Revenue	<p>The Committee directs the department to urgently furnish the Remedial Measures Taken regarding the audit para.</p>
34	150	Revenue	<p>The Committee directs the department to submit detailed report about the audit objection.</p>
35	154	Industries	<p>The Committee notices that the Industries Department overstepped their jurisdiction by accepting the application for NOC from the Airport Authority and granting in-principle approval for the construction of Airport at Aranmula, notwithstanding the fact that Transport Department was the authority to issue NOC with respect to the Airport construction as per rule.</p>
36	155	Industries	<p>The Committee criticizes the Industries Department in forwarding the proposal to the cabinet and opines that the officials of the</p>

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			<p>department should have convinced the Cabinet that Industries Department could not grant such an approval bypassing the jurisdiction of Transport Department.</p>
37	157	<p>Revenue Industries</p>	<p>The Committee sharply criticizes the failure on the part of the Industries Department in not consulting the Revenue Department regarding availability/ownership of land with the Airport Company before granting in Principal approval to the proposed airport project.</p>
38	165	<p>Environment</p>	<p>The Committee is disturbed to find that the reply put forth by the department regarding the audit para 5.5.11 was inappropriate and have no relation with the audit objection. The Committee strongly criticizes the irresponsible attitude of the department in forwarding irrelevant replies to the Committee and comments that this action of the department was an absolute disgrace to the Committee. The Committee remarks it as a warning to all departments and points out that strict instruction should be issued to ensure that such lapses does not occur in future.</p>

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