

**Chapter-V**  
**Issues in respect of land and**  
**ecological impact -**  
**Aranmula Airport**

## CHAPTER-V: ISSUES IN RESPECT OF LAND AND ECOLOGICAL IMPACT - ARANMULA AIRPORT

### 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>1</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>2</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.

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>3</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 (2011-14) 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,

---

<sup>1</sup> 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.

<sup>2</sup> The name subsequently changed as KGS Aranmula International Airport Ltd.

<sup>3</sup> Poetess Smt. Sugathakumari, Environmentalist, Dr. V.S Vijayan former Chairman of Biodiversity Board etc.

- 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.

## **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>4</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.

---

<sup>4</sup> Aranmula, Mallapuzhassery, Kidangannur and Mezhuveli

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.

#### **5.4 Land for the Airport**

Two societies viz. Kozhenchery Charitable Educational Society<sup>5</sup> and Charitable Educational and Welfare Society<sup>6</sup> and a company (Aranmula Aviations Ltd) registered under the Chairmanship of one ‘individual’<sup>7</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/Tiruvalla	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.

#### **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).

<sup>5</sup> Reg.No.P72/04

<sup>6</sup> Reg.No.Q373/83

<sup>7</sup> 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.



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>8</sup>, consisting of a sole member appointed by the Government - Commissioner of Land Revenue.
- The *Taluk* Land Board<sup>9</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 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>10</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>11</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>12</sup> (November 2009) the Chairman *Taluk* Land Board (TLB), Pathanamthitta to forward proposal to book *suo moto* case under Section 85 (2)

---

<sup>8</sup> Formed under Section 100 of the KLR Act, 1963 to perform the function related to land reforms under the Act.

<sup>9</sup> Constituted under Section 100A of the KLR Act, 1963 to perform the functions under the Act.

<sup>10</sup> Letter No C1-16918/07 dated 17 March 2009.

<sup>11</sup> Letter No.C4.32821/04 dated 21 August 2009.

<sup>12</sup> Letter No. LB.B8 4257/09(1) dated 07 November 2009.

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>13</sup> (April 2012) the primary report proposing booking of *suo moto* case as per the KLR Act, 1963 to the 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>14</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 in Ha
1	Total land as per <i>Taluk</i> Land Board, Kozhenchery	149.96 <sup>15</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.

#### **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>16</sup>, the

<sup>13</sup> Letter No. C8.51855/09 dated 28 April 2012.

<sup>14</sup> Case No. SM 01/2012/KZHRY.

<sup>15</sup> 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.

<sup>16</sup> Letter No C1-51855/09(1) dated 08 March 2010 of District Collector Pathanamthitta to Sub Registrars Aranmula and Kozhenchery.

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.

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>17</sup>, an extent of land of 94.94<sup>18</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
<b>Total</b>		<b>12</b>	<b>94.94</b>

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.

### **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>19</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.

---

<sup>17</sup> Letter No. C1-51855/2009 dated 18 November 2010 to Sub Registrar, Aranmula.

<sup>18</sup> Out of 134.87 Ha. (excluding 24.35 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.

<sup>19</sup> GO(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>20</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>21</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 (2011-14) 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>22</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.

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.

---

<sup>20</sup> In survey nos. 387, 388, 389 and 390 of Aranmula village.

<sup>21</sup> Letter No C4-32821/2004 (3) dated 20 July 2004 of District Collector, Pathanamthitta to The Director, Agriculture Department, Thiruvananthapuram.

<sup>22</sup> Investigation report No. RVC/A1/1932/09/PT dated 19 March 2012.

#### **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>23</sup> which included unclassified Government land (*Poramboke*) as detailed below.

Sl. No.	Type of land	Area (in Ha.)
1	Pathway	9.95
2	<i>Thodu poramboke</i> <sup>24</sup>	12.06
3	<i>Road poramboke</i> <sup>25</sup>	1.52
4	Other Government land	0.82
	<b>Total</b>	<b>24.35</b>

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>26</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 24.35 Ha. of land.

The Legislative Committee on Environment (2011-14) 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,

<sup>23</sup> In Kidangannur, Mallapuzhassery, Aranmula and Mezhuveli villages of Pathanamthitta district.

<sup>24</sup> Government land around river.

<sup>25</sup> Government land around road.

<sup>26</sup> 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).



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.

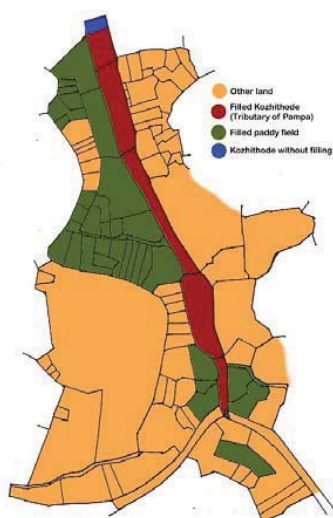
Section 7 (c) of the KLC Act, 1957 prescribes imprisonment for a term not less than three years which may extend upto five years and fine not less than ₹ 50,000 which may extend to ₹ two lakh for dereliction of duty.

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

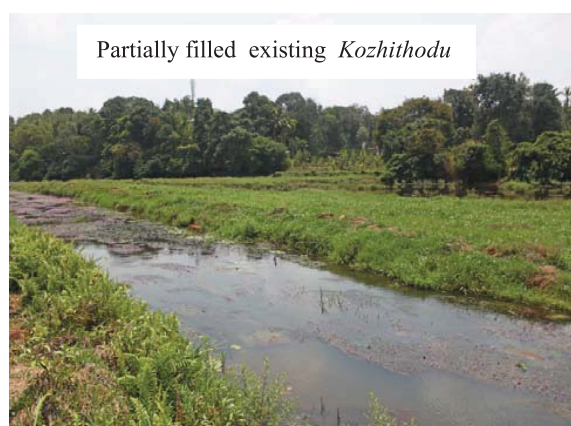
### 5.5.5 Illegal encroachment of 'Kozhithodu' and its environmental impact

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



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>27</sup> had come to an end since the supply of water from *Kozhithodu* was stopped.



about 800 mtrs of the *poromboke* 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



<sup>27</sup> Cultivation in water logged paddy field.

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.

#### **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>28</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.

#### *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	<i>Thodu</i> <sup>29</sup>	Self Property	Kozhenchery	1385/10
Mallapuzhassery	3.24	Paddy land	Dry land without road	<i>Thodu</i>	Self Property	Kozhenchery	1382/10
Mallapuzhassery	3.57	Paddy land	Dry land without road	<i>Thodu</i>	Self Property	Kozhenchery	1383/10
Kidangannur	4.28	Paddy land	Dry land without road	<i>Thodu</i>	Self Property	Aranmula	1929/10
Kidangannur	1.63	Paddy land	Dry land	<i>Thodu</i>	Self Property	Aranmula	1932/10

<sup>28</sup> Deeds other than a will or a testament.

<sup>29</sup> Stream.



Village	Area in Ha.	Nature of land	Alteration in nature	Nature of boundary	Alteration in boundary	SRO	Altered Document
			without road				
Aranmula	1.05	Paddy land	Dry land without road	<i>Thodu</i>	Self Property	Aranmula	1931/10
Aranmula	3.40	Paddy land	Dry land without road	<i>Nilam/ Kozhithodu</i>	Self Property	Aranmula	1928/10
<b>Total</b>	<b>19.05</b>						

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).

#### **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.

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

Construction of Aranmula Air Port 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>30</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.

#### **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>31</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

---

<sup>30</sup> GO(RT)No. 1262/2010/ID dated 08 September 2010.

<sup>31</sup> GO(MS)No. 04/2013/Trans dated 16 January 2013.

ecological problems. They also agreed to give more *poramboke* land necessary for the project.

#### **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>32</sup> (February 2011) 200 Ha.<sup>33</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’.

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

Under the Environment Impact Assessment Notification<sup>34</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>35</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:

---

<sup>32</sup> GO(P)No.54/1/ID dated 24 February 2011.

<sup>33</sup> At Aranmula, Mallapuzhassery and Kidangannur villages in Pathanamthitta district.

<sup>34</sup> 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).

<sup>35</sup> Letter No. 565/B1/12/Envvt dated 13 September 2013.

*Report on Land Management by the Government of Kerala with special focus on land for Aranmula Airport and Smart City Kochi*

Sl. No.	Information/recommendation furnished by the Department	Factual position/result
1	The Department intimated Ministry of Environment and Forest, GOI that the Legislative Committee on Environment has not categorically expressed any reservation against the project.	This was factually incorrect since the Committee in July 2012 had categorically commented that the <i>Puncha</i> cultivation had come to an end since the supply of water from <i>Kozhithodu</i> (Stream) had been stopped and recommended that the soil from the land filled paddy fields and <i>Kozhithodu</i> 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.
2	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.	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 <i>fait accompli</i> is not in line with the spirit of the existing land conservation orders or rules.
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>36</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>37</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.

#### **5.5.13 Public interest adversely affected by the proposed project**

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.

---

<sup>36</sup> At Kozhikode, Kochi, Thiruvananthapuram, one under construction at Kannur.

<sup>37</sup> Letter No. AV.20015/015/2009-AD dated 04 September 2012 issued by the Ministry of Civil Aviation, AD Section.





- The temple mast (*kodikaram*) 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.