

SUBJECT-SPECIFIC COMPLIANCE AUDIT

CHAPTER II SUBJECT-SPECIFIC COMPLIANCE AUDIT

REVENUE AND DISASTER MANAGEMENT DEPARTMENT

2.1. Assignment of Government Land in Kerala

2.1.1. Introduction

Kerala is one of the smallest States in India covering an area of 38,863 sq. km (1.18 *per cent*). Based on ownership, the land in the State is divided into private land³ and Government land⁴. The Kerala Government Land Assignment Act, 1960 (KLA Act) applies to all assignments of revenue land in the State. By virtue of powers vested through Section 7 of the Act, Government of Kerala (GoK) formulated various rules⁵ for the assignment of Government land. The Travancore Cochin Government Assignment Act, 1950 and all rules and orders that were in force relating to assignment of Government land in the Malabar district⁶ were repealed with the enactment (November 1960) of the KLA Act. Assignment of land in Kannan Devan Hills village in the Devikulam taluk in Idukki district is regulated under the Kannan Devan Hills (Resumption of lands) Act, 1971 and rules⁷ made thereunder.

2.1.2. Organisational setup

The Revenue department is headed by the Additional Chief Secretary (ACS) at the Government level. At departmental level, it is headed by the Commissioner of Land Revenue (CLR), who is assisted by Joint Commissioner and Assistant Commissioners. At the district level, District Collectors (DC) are the functional heads, who are assisted by Deputy Collectors, Revenue Divisional Officers (RDO), Tahsildars and Village Officers (VO).

2.1.3. Audit objectives, scope and methodology

The Compliance Audit covering the period 2017-22 was conducted to assess whether:

- the assignments of Government land were carried out as per the provisions contained in Acts, Rules and Government orders;

³ Land owned by individuals, institutions, undertakings, companies, etc.

⁴ Government land includes all public roads, streets, lanes and paths, bridges, rivers, lakes, etc.

⁵ Kerala Land Assignment Rules (KLAR) in 1964 (for panchayat areas), Rules for Assignment of Land within Municipal and Corporation Areas (RALMCA) in 1995 (for Municipal/ Corporation areas), The Kerala Land Assignment (Regularisation of Occupations of Forest Lands Prior to 01.01.1977) Special Rules, Rules for lease of Government lands for Cardamom cultivation 1961, etc.

⁶ Those rules and orders inconsistent with KLA Act, 1960 continued to be in force unless and until superseded by anything done or any action taken under the Act.

⁷ The Kannan Devan Hills (Reservation and Assignment of Vested Lands) Rules 1977

- revenue was realised as per the Rules and Government orders issued from time to time; and
- adequate monitoring mechanism existed in the Department for ensuring the proper usage of assigned land.

The scope of Audit extended to the coverage of assignments made on Government land through registry, lease and licence by the Revenue Department. Audit verified the assignments in selected field offices like Village Offices, Taluk Offices, Revenue Divisional Offices, District Collectrates, etc., with the relevant Acts/ Rules/ orders issued by the Government from time to time, for the period from 2017-18 to 2021-22. Cases of assignment on registry/ leases/ licences prior to 2017-18 were also verified to check the compliance of conditions on which such lands were assigned. Records of Revenue department and office of the CLR were also scrutinised.

Four districts⁸ out of 14 districts in the State and eleven taluks⁹ from these four districts were selected for audit using the SRSWOR¹⁰ method. Three villages from each taluk were selected after verifying the initial records in the taluks. Revenue Divisional Offices controlling the Taluk Offices were also selected for audit. Besides the above, Special Land Assignment Offices in Idukki district such as Assistant Cardamom Settlement Office, Kumily and all Special Land Assignment Offices in the selected taluks in Idukki district were also covered. Details are given in **Appendix 2.1**.

An Entry Conference was conducted with the ACS, Revenue Department on 13 May 2022 wherein the scope, methodology, criteria, etc., were discussed in detail. On conclusion of audit, the audit findings were discussed with the ACS on 24 January 2023 and outcomes were suitably incorporated.

2.1.4. Audit criteria

Audit observations were benchmarked against the criteria derived from the following documents:

- The Kerala Government Land Assignment Act, 1960
- Kerala Land Assignment Rules, 1964
- Rules for Assignment of Land within Municipal and Corporation Areas, 1995
- Kerala Land Assignment (Regularisation of Occupations of Forest land prior to 01 January 1977) Special Rules, 1993
- Rules for lease of Government Lands for Cardamom cultivation, 1961
- The Kannan Devan Hills (Resumption of Lands) Act, 1971

⁸ Thiruvananthapuram, Idukki, Ernakulam and Kozhikode

⁹ Thiruvananthapuram, Nedumangad, Idukki, Thodupuzha, Devikulam, Udumbanchola, Aluva, Muvattupuzha, Kanayannur, Kozhikode and Vadakara

¹⁰ Simple Random Sampling Without Replacement

- The Kannan Devan Hills (Reservation and Assignment of Vested Lands) Rules, 1977
- Government Orders/ Circulars issued from time to time.

Audit findings

“Assignment” means¹¹ transfer of land by way of registry¹² and includes a lease¹³ and a grant of licence¹⁴ for the use of land. While the assigning authority for registry and leases in Municipal/ Corporation areas and panchayat areas is DC and Tahsildar respectively, the GoK is the assigning authority in the case of assignments to institutions. For registry of land in Panchayat areas, assigning authority for beneficial enjoyment is the RDO. Besides scrutinising individual assignments of Government land through registry, lease and licence in all the selected offices, Audit also conducted an exercise to analyse the procedures followed for assigning Government land *vis-à-vis* those prescribed for it.

Though the KLA Act was enacted in the year 1960, the rules for assignment of land in Panchayat areas came into force in 1964 (KLAR) and that for Municipal/ Corporation areas came into force in 1995 (RALMCA). Various Government orders were also issued for the effective implementation of the rules. During the course of audit in the selected offices, Audit noticed deficiencies in assignment through registry, lease and licence, defects in realisation of revenue, improper usage of assigned land and improper monitoring. This included various systemic issues as well as individual cases. Significant observations are brought out in the subsequent paras.

Data on assignments

2.1.5. Details of assignments made on registry and lease

In Kerala, a total of 33,057¹⁵ assignments involving an area of 6,216.25 Ha were made through registry and 2,920 assignments involving an area of 775.78 Ha were made through lease by the Government during the period covered in audit. The details are given in **Appendix 2.2**. The number¹⁶ of assignments made through registry and under lease in selected districts as on 31 March 2022 was 91,852 and 1,183 respectively. Audit noticed that the CLR is not maintaining any consolidated data relating to assignments made on registry/ lease/ licence. However, at the instance of Audit, such data were collected from DCs. The same has been included in the Report. Audit noticed mismatch in figures furnished

¹¹ Rule 2 (c) of KLAR and RALMCA

¹² Referred in revenue documents as ‘*pattayam*’ or ‘*patta*’. Lands assigned on registry are heritable, alienable (subject to conditions) and mortgageable for improvements of land

¹³ Referred in revenue documents as ‘*pattam*’. Lessee can use the leased land for the purpose assigned during the currency of lease.

¹⁴ Licences can be issued for temporary occupations such as for usage of playgrounds, putting of pandals or sheds, for entertainments or cinemas, etc.

¹⁵ Source: Data furnished by CLR

¹⁶ Source: Data furnished by the District Collectorates and Taluk Offices

by the CLR and that furnished by the selected DCs to Audit. During Exit Conference, CLR stated (January 2023) that they would consolidate and update all related data.

Consolidated data of all Government land, already assigned land, details of occupants, revenue realised and pending etc., would assist the Government while formulating policies for land assignment in the future. Such data would also be useful for monitoring the receipts receivable on assigned land.

2.1.6. Non-maintenance of list of Government and assignable land

Rules¹⁷ stipulate that before granting registry, Government should cause to be prepared lists of lands which should be reserved for Government or public purposes in each village and lists of lands which may be made available for assignment in each village. For rural¹⁸ areas, lists prepared should be submitted to the Government for approval and action to assign such lands on registry should be taken only after the Government or any subordinate authority authorised by Government approve such lists. In respect of urban¹⁹ areas, list of assignable land should be prepared by Tahsildar and submitted before the Land Assignment Committee, for consideration. The list, along with the recommendation of the Committee should be forwarded to the DC for his approval.

Audit noticed that a list approved by GoK or DC was not maintained in any of the 33 selected villages, 11 selected taluks and four selected District Collectorates during the period of audit. Owing to this, none of the 21,207²⁰ assignments on registry and 23²¹ assignments on lease made in the selected offices during 2017-18 to 2021-22, were from a list approved by the GoK/ DC. Audit observed that, on receipt of application from encroachers for assignment of land, instead of assigning land from an approved list of assignable land, the land encroached by the applicant was included in the list of assignable land after obtaining approval from the DC and then assigned. Audit further observes that due to non-maintenance of an approved list, the priorities and reservation for assignment such as for ex-service men, SC/ ST population, etc., as required under the rules could not be put into practice. The rules in force requires that land be assigned from a list approved by GoK. In the absence of such a list, the assignments made do not conform to the extant rules and hence irregular.

CLR, in the Exit Conference accepted (January 2023) the findings of Audit.

The fact of non-maintenance of a list of assignable land was pointed out in the Report of the Comptroller and Auditor General of India (No. 6) on Land Management by the Government of Kerala (paragraph 2.7.3) for the year ended

¹⁷ Rule 11(1) of KLAR and Rule 6(1) of RALMCA

¹⁸ Rule 11(6) of KLAR

¹⁹ Rule 6(5) of RALMCA

²⁰ Thiruvananthapuram – 429, Idukki – 19,549, Ernakulam – 841, Kozhikode – 388

²¹ Thiruvananthapuram – 13, Idukki – 2, Ernakulam – 2, Kozhikode – 6

2014. However, even after nine years, the list of assignable land has not been maintained.

Assignments on registry

As per Rules²², Government lands could be assigned on registry to individuals/institutions for purposes of house sites, shop sites or other commercial or charitable purposes, personal cultivation and for beneficial enjoyment of adjoining registered holdings. Rules²³ further stipulate that land held under lease, either current or time expired, granted under any rules or orders in force at the time of such grant and which does not exceed five cents in the Municipal areas and three cents in the Corporation areas shall be considered for assignment on registry to the holder on payment of land value at market rate and in such cases, lease rent if any, outstanding against such land should be cleared before issue of lease or assignment on registry. Assignment on registry or lease shall²⁴ be liable to cancellation for contravention of any of the conditions enumerated in the *patta* and in such cases the land shall be resumed. Rules²⁵ empower the Government to assign land in public interest if it considers necessary. 21,207²⁶ assignments on registry were made in the selected districts during the period 2017-18 to 2021-22.

During the course of audit, Audit noticed various systemic issues as well as individual issues relating to assignments on registry. These include lacunae in rules, irregular assignments, assignment to ineligible persons, purchase of land for assignment at exorbitant rates, deprivation of land due to lapse on the part of revenue officials, etc. These are discussed below.

Systemic issues

2.1.7. Non-prescription of limit for assignment of land on registry in the Rules

As per RALMCA, land can be assigned for house sites, shop sites or other commercial or charitable purposes and for beneficial enjoyment of adjoining registered holdings. Rules²⁷ state that an extent of 10 cents in Municipal areas and five cents in Corporation areas can be assigned for house site. While the Rules envisage that the land value at market rate at the time of assignment should be realised irrespective of income for assigning land for purposes other than house sites, as the extent of land that can be assigned for shop sites or other commercial or charitable purposes were not specified in the Rules, it implies that there is no limit to the extent of land that can be assigned in Municipal and Corporation areas for that purpose. As per RALMCA, land held under lease either current or time expired, granted under any rules or order in force at the

²² Rule 4 of KLAR and Rule 3 of RALMCA

²³ Rule 5 of RALMCA

²⁴ Rule 17 of RALMCA, Rule 8(3) of KLAR

²⁵ Rule 21(ii) of RALMCA and Rule 24 of KLAR

²⁶ Source: Data furnished by DCs

²⁷ Rule 4

time of such grant and the extent of which does not exceed five cents in Municipal areas and three cents in the Corporation areas shall be considered for assignment on registry to the holder on payment of land value at market rate.

In Thiruvananthapuram Corporation area, 25 cents of land in Anchamada village (now Sasthamangalam village) was leased out (March 1967) to Lions Club, Thiruvananthapuram for a period of 20 years at a rate of ₹3.50 per acre per annum. The lease rent was raised (1986) to ₹12,500 per annum and the lease continued till 1997. For not remitting the lease rent, the land was taken back in November 1997. On 20 May 1999, the Club submitted a formal application to Government to assign the land in their favour. Government issued orders (July 2002) assigning the land on registry to the Lions Club, Thiruvananthapuram after realising an amount of ₹63.08 lakh²⁸. The Club was given possession of the land in 2003 and the *patta* was issued to the Club in May 2018 for 25 cents of land. Thus, Government provided undue benefit to Lions Club, Thiruvananthapuram by assigning 25 cents of land against the maximum permitted three cents for land held on lease.

During Exit Conference (January 2023), ACS stated that though the assignment was not illegal, it was not desirable.

While the Rules have not prescribed the area of land that can be assigned for purpose other than house sites, due to this defect in rule, Audit found that Government can assign land without any limits in Municipal and Corporation areas for commercial or charitable purposes.

2.1.8. Assignment of land in the absence of rules

Even though the KLA Act was enacted in 1960, the Rules for Assignment of Land in Municipal and Corporation Areas (RALMCA) were framed only in November 1995. As per the Act, land can be assigned subject to such rules as may be made by Government prescribing the manner in which assignment of land may be made. As RALMCA came into force only in November 1995, there existed no rule between 1960 and November 1995 which authorised registry of land in Municipal and Corporation limits. Two instances of irregular assignment of land without rule provision are discussed below.

- Trivandrum Tennis Club (TTC)²⁹ was formed in the year 1938 and was granted³⁰ four acres and 27.20 cents of land in Anchamada Pakuthy (now Sasthamangalam village) in Thiruvananthapuram for a period of 25 years from August 1950. During the scrutiny of records relating to lease of land to TTC, it was found that in 1979, Sreepandaravaka Special Tahsildar assigned 20 cents of land on registry to Divisional Manager,

²⁸ ₹50 lakh being the market value of the land at the rate of ₹ two lakh per cent and ₹13.08 lakh being the lease rent arrears due from the Club for the period from March 1967 to 10 November 1997

²⁹ TTC is engaged in promoting the game of tennis among its members and limited facilities to common people. Besides this, the Club is running bar, cafeteria, parcel services, renting out rooms, etc.

³⁰ GO dated 14 September 1957 read with GPR dated 18 February 1950 (Order issued by Chief Secretary of erstwhile State of Travancore Cochin)

Hindustan Petroleum Corporation Ltd. (HPCL), Ernakulam from 4.27 acres of land that was earlier assigned on lease to TTC. Audit noticed that HPCL was in possession of the land and has not remitted any land tax till date (August 2022).

The CLR accepted (November 2022) that the 20 cents of land was assigned to HPCL and stated that the files relating to these were not available.

- On the basis of a Government order issued in 1975, 19.25 cents of land was assigned (October 1995) on registry to Rama Varma Club, Ernakulam. Audit noticed that the Club was still in possession of the assigned land (July 2022).

During Exit Conference the ACS replied (January 2023) that Government would look into the matter and take necessary steps.

The CLR accepted (March 2023) that there existed no special rule for assignment of land in Municipal and Corporation areas between 1960 and 1995. The assignments were done by invoking the provisions of KLAR 1964 and without considering whether the lands were lying in Panchayat, Municipality or Corporation areas upto 1995. Audit observes that the assignments made between 1960 and November 1995 by invoking provisions of KLAR was irregular, as these rules were not applicable to the lands situated within the limits of Corporation/ Municipality.

As per the Act, rules are to be framed prescribing the manner in which assignment of land are to be made, eligibility conditions of beneficiaries, order of priority, authority competent to assign land, etc. In the absence of Rules, there was no assurance that the assignments were done as envisaged by the law makers through the Act.

2.1.9. Irregular assignment of land on rent

Land vested with Government after revenue recovery action is known as bought-in-land. On confirmation of sale and issuance of sale certificate, the property vests with Government free of all encumbrances. As per the KLA Act and Rules made thereunder, Government land can be assigned only on registry or lease or on licence. Further, provisions contained in the Rules mention that the lease rent be calculated as a percentage of market value of the land in question. On a scrutiny of bought-in-land register maintained in Ernakulam Village Office, Audit noticed that consequent to revenue recovery action by the Government in 1988, a piece of land (Sy. No. 790/1) and building situated in five cents of land owned by M/s Mether Metals was brought into Government possession (1988) as 'bought-in-land'. Instead of evicting M/s Mether Metals, the land and building was rented out to them by the Tahsildar, Kanayannur for ₹7,200 per year which was revised to ₹9,600 per year in 2005. As per the Act and Rules, the land and building could only be assigned on lease with lease rent to be collected or on registry after realising market value of land and there was no provision of renting out land. The lease rent was to be collected as a

percentage of the market value (five *per cent* of ₹443.28 lakh³¹, i.e., ₹22.16 lakh per annum) instead of rent of ₹9,600.

During Exit Conference (January 2023), ACS admitted that there was no provision in rules to rent out Government land.

Absence of provisions for conduct of review by Government or any authority nominated in this regard led to occurrence and non-rectification of such irregularities.

2.1.10. Deprivation of assignment of land due to lapse on the part of Revenue authorities

Government of India (GoI) enacted the Forest (Conservation) Act in 1980 for the conservation of forests and matters connected therewith. Section 2 of this Act envisages that no State Government or other Authority shall make, except with the prior approval of the GoI, any order directing that any forest land be assigned to private person. GoK ordered (August 1989) a joint physical verification by the Revenue and Forest department officials for identifying occupants who were in possession of forest land as on 01 January 1977 and directed to issue the extract of 'Record of Possession' (RoP) to those found eligible for occupation of forest land.

Scrutiny of files revealed that there were 650 applicants in Thiruvananthapuram district holding forest land before 01 January 1977. Of this, joint verification in the area occupied by 364 applicants only was conducted by the officials of Revenue and Forest Departments. However, the proposals were not sent to GoI for concurrence³². Audit noticed that RoPs were issued to 317 beneficiaries.

On the basis of complaints received from occupants belonging to Scheduled Tribes, Government decided (April 2017) to assign land in lieu of RoPs already issued. However, this did not materialise as a list of eligible beneficiaries was not got approved from GoI and as the basic data on joint verification already conducted was missing. Hence, the exercise of identifying the beneficiaries through a survey is being repeated now.

Audit observed that the Government order issued in August 1989 and the grant of RoP without getting prior approval of GoI was a violation of the stipulations contained in Section 2 of the Forest Conservation Act, 1980 and was without the backing of any Rules.

In the Exit Conference (January 2023), CLR, while accepting that there was delay on part of Revenue authorities stated that the Government had already taken permission from GoI to upload data in bulk and nobody would be deprived of the land. However, the fact remains that the laxity of Revenue authorities in forwarding joint verification list for approval of GoI and non-maintenance of joint verification list resulted in deprivation of assignment of land to the

³¹ As on 30 March 2022

³² As required under Section 2 of the Forest Conservation Act, 1980

beneficiaries. Government should identify the delinquent officials and fix responsibility on them.

2.1.11. Non-conduct of survey to protect ancient monuments

The GoK had notified³³ (May 2006) their intention to declare the Muniyaras³⁴ and certain areas of land comprised in five³⁵ survey numbers holding these Muniyaras in Marayoor and Kanthalloor villages in Devikulam taluk, Idukki district as protected monuments. Final notification in this regard was issued in January 2018. Though the notification was issued in 2006, the Revenue authorities have not surveyed or demarcated the notified areas. It was seen that five assignments were made during the audit period in 73.04 ares (1.8 acres) of land in Sy. No. 277/1³⁶. As the survey and demarcation was not done by the Revenue authorities, Audit could not ensure whether the assignments were done in the protected areas. Laxity on the part of Revenue authorities could possibly endanger the existence of the monuments.

Compliance issues

2.1.12. Issue of ‘Occupied’ form of *patta* instead of ‘Unoccupied’ form

KLAR stipulates³⁷ that in cases where registry is made, *patta* shall be issued in the form in Appendix II to those rules for occupied lands³⁸ and in the form in Appendix II A to those rules for unoccupied lands³⁹. As per Rule 8 of KLAR, occupied lands assigned on registry are heritable and alienable but unoccupied lands assigned on registry are heritable but not alienable for a period of twelve years from the date of assignment on registry.

Audit verified records relating to assignment of Government land through registry in the selected 11 taluks in four districts. It was noticed that in 16 out of 50 cases in three taluks for which *patta* was issued during the period 2018-21 (**Appendix 2.3**), though the occupation was after 01 August 1971, the form of *patta* issued to the *pattadars* were as prescribed in Appendix II, i.e., it was stated that the land shall be heritable and alienable.

Tahsildar, Nedumangad replied (August 2022) that incorrect form of *patta* was issued due to clerical mistake. Tahsildars, Aluva and Muvattupuzha replied that the form of registry was provided by the District Collectorate, Ernakulam.

³³ GO(Rt) No. 210/2006/CAD dated 25 May 2006. The notification was for the purpose of Kerala Ancient Monuments and Archaeological Sites and Remains Act, 1968.

³⁴ Muniyaras (Dolmens) are the burial monuments of the Megalithic age.

³⁵ Marayoor village – 1) 233/2 - 0.66.4 Ha, 2) 277/1 - 26.51 Ha, 3) 243/5 - 0.48.6 Ha; Kanthalloor village- 4) 54/28 - 44.55.61 Ha, 5) 54/25 - 14.66 Ha

³⁶ Total area in Sy. No. 277/1 – 768.5 acres.

³⁷ Rule 9(2)

³⁸ ‘Occupied lands’ are those lands that were encroached before 01 August 1971. Occupied lands are heritable and alienable.

³⁹ ‘Unoccupied lands’ were those that were assigned to those who had encroached land after 01 August 1971.

During Exit Conference, CLR accepted (January 2023) the findings of Audit and assured corrective action.

Audit observes that in all the 16 cases, there is a risk of alienation before the prescribed period as incorrect form of *patta* was issued due to negligence by Revenue authorities. Negligence on the part of the Revenue authorities in issuing assignment order in incorrect form would have to be viewed seriously by the Department. Department may check for similar cases and take necessary rectification measures to prevent alienation before the stipulated period.

2.1.13. Assignment of land to ineligible persons

As per the provisions⁴⁰ contained in the ‘The Kannan Devan Hills (Reservation and Assignment of vested lands) Rules, 1977’ (KDH Rules), no person who owns or holds either in proprietary right or with security of tenure more than 10 cents in extent of land and whose annual family income exceeds ₹3,000 shall be eligible for assignment of any land under these Rules and assignment can be cancelled for contravention of any of the provisions of the Rules. However, Audit noticed that in all the test-checked 26 cases⁴¹ coming under KDH Rules, land was assigned to persons whose annual income exceeded ₹3,000 and this included one person who possessed more than 10 cents of land in the same village.

Rule 8 of KDH Rules stipulates that lands assigned under these Rules shall not be alienable for a period of 12 years from the date of assignment. Out of 26 cases test-checked, Audit noticed that either a part or full of the assigned land was alienated in four cases⁴². However, no action was taken by the assigning authority to cancel the assignment for violating the provisions of the Rules.

2.1.14. Assignment of land without realising the market value

In the case of assignment of land for purposes other than house sites, land value at market rate⁴³ at the time of assignment should be realised irrespective of income of the assignee. Instances noticed by audit where this have been violated are given below.

2.1.14.1. Assignment of land to a Foundation

On the basis of a request (February 2018) from C. Achutha Menon Foundation⁴⁴, the CLR forwarded (February 2019) a proposal to the Government seeking permission for grant of 1.21 ares of land on registry to the said Foundation at a market value of ₹61.62 lakh. However, GoK issued (November 2020) directions to the DC to grant the 1.21 ares of land on registry, free of cost to C. Achutha Menon Foundation to install a statue of Shri C.

⁴⁰ Rule 6 and Rule 21 of KDH

⁴¹ out of 262 cases during 2017-22

⁴² LA Nos. 40/2020 (no date), 23/2019 (no date), 28/2018 (17.09.2018) and 16/2018 (26.04.2019)

⁴³ Rule 4 (1)(b)(iii) of RALMCA

⁴⁴ A foundation registered under the Travancore Cochin Literary, Scientific and Charitable Societies Registration Act 1955

Achutha Menon in Thycaud village in Thiruvananthapuram taluk. Accordingly, land was assigned to them and in the assignment order, it was mentioned that the land was assigned for institutional purposes. Grant of 1.21 ares of *puramboke*⁴⁵ land valued at ₹61.62 lakh on registry without realising the market value was a violation of the Rules. During Exit Conference, the ACS stated (January 2023) that the assignment was made by Government by invoking the special powers. Land being a scarce resource in the State, assignment of land to a non-government society for installing a statue, that too in a prime location of the capital city by invoking overriding powers of Government necessitates a rethink on the part of Government. Moreover, creation of such precedence could lead to demands for such unjustifiable assignments in future. Further, as the purpose of assignment in the assignment order was mentioned as for institutional purposes, the possibility of utilisation of 1.21 ares of land by the Foundation for any other purpose could not be ruled out. Hence, assigning land without realising cost of land for purposes other than house sites was against the Rules and was irregular.

2.1.14.2. Assignment of land to District Football Association

Twenty cents of *puramboke* land comprised in Vanchiyoor village, Thiruvananthapuram taluk was leased out (December 1976) to the District Football Association (DFA), Thiruvananthapuram for a period of 25 years at an annual lease rent of ₹ one per cent. The lease holder violated the conditions of the lease by not remitting the lease rent arrears and hence Government (November 1999) ordered to cancel the lease. However, DFA continued to occupy the premises. Tahsildar issued (October 2003) a notice to the DFA to vacate the premises as the land was sub-let to a furniture shop. As it was not vacated, DFA was evicted (July 2004) from the premises. The DFA submitted a representation (July 2004) to Government against eviction and the order of dispossession was cancelled (August 2004) and DFA continued to occupy the land (August 2022). Though DC issued (May 2010) demand notice for ₹51.41 lakh, this was not remitted by the DFA. However, Government by invoking Rule 21(ii) of RALMCA, assigned (November 2010) 5.46 ares (13.49 cents) of land on registry to DFA, Thiruvananthapuram free of cost and ordered to waive the entire lease rent arrears of ₹51.41 lakh. The *patta* was issued to the DFA in July 2011. On the basis of a complaint, the VO, Vanchiyoor village conducted an enquiry and reported (July 2020) to the Tahsildar that the land was rented out for furniture sale at a monthly rate of ₹35,000. Joint physical verification (September 2022) by Audit and Revenue authorities revealed presence of a commercial establishment and heaped up furniture. Thus, though the authorities were aware that the assigned land was being let out for commercial purposes, instead of resuming the land, they assigned the same on registry free of cost. The reading of the Rule clearly shows that the above stated provision was to be invoked only in public interest and no public interest was served when a prime land was utilised for commercial activity.

⁴⁵ Government land that can be used or set aside for public or social purposes

During the Exit Conference (January 2023), the ACS stated that the land was assigned using the special powers entrusted on them. Reply was not acceptable as the Rules prohibit assignment of land free of cost for purposes other than house sites and hence assignment of Government land without effecting any land value was irregular.

2.1.15. Purchase of land at exorbitant rates for assignment and non-achievement of intended benefit

Rule 4 read with Rule 6 of KLAR, 1964 states that Government lands can be assigned on registry for purposes of personal cultivation, house sites and beneficial enjoyment of adjoining registered holdings and the extent of Government land that shall be registered in favour of a family as house site shall not exceed 15 cents.

In November 2013, 57 families who were involved in the Chengara strike⁴⁶ and who were assigned land in other districts (especially in Idukki and Kasaragod), started a strike claiming that the land allotted to them was not fit for inhabitation or cultivation. Their names were compared with the eligible list and 52⁴⁷ families were identified for allotment of land in Thiruvananthapuram district. Thirty four out of 52 families were rehabilitated in different parts of Thiruvananthapuram district (2014-15). For rehabilitating the remaining 18 families, advertisements were published in newspapers and four acres⁴⁸ of land belonging to a private individual was identified in Thennur village in Nedumangad taluk. This land was purchased (February 2018) by paying ₹1.56 crore (₹39,000 per cent).

In connection with the assignment of land in Thennur village in Nedumangad taluk, Audit observed the following.

- The rehabilitation package was implemented as per the provisions contained in KLA Act and KLAR. Being a rehabilitation package, the land must have been assigned on registry for the purpose of house sites. Four acres of land was assigned to 18 families, thereby giving a benefit of 22 cents for housing to each family, which was a violation of the ceiling limit of 15 cents prescribed in Rule 6 of KLAR, 1964.

The CLR replied (November 2022) that the allotment of land was as part of stopping the agitation of landless families and hence the allotment should not be treated as violation of ceiling limit under KLAR. Reply furnished was not acceptable as the Rules have not given any exemption for rehabilitation packages.

⁴⁶ A strike by landless people demanding land by forcefully occupying an estate belonging to M/s Harrison's Malayalam Ltd at Chengara in Pathanamthitta district.

⁴⁷ Initially it was 51 families. Later on one more family was included (December 2015) as they claimed that land allotted to them in Devikulam was not inhabitable, thereby raising total number of families to 52.

⁴⁸ Sy. Nos. 3851/3-1, 3852/5-1, 2926/1-2, 3851/3-2, 2926/1-1

- Rules⁴⁹ state that the assignee shall reside in the land if it is granted as house site and such residence shall commence effectively within a period of one year from the date of receipt of *patta*. Audit conducted a joint physical verification (August 2022) of the land given to 18 families (Malamariyal Ambedkar Colony) in Thennur village of Nedumangad taluk along with Revenue authorities. It was observed that out of 18 families who were assigned 22 cents of land each in Thennur village during 2018, only seven families were staying there permanently and the remaining 11 were not residing there as it was informed that they owned land elsewhere. The residents also informed that the place was not cultivatable as they had to face frequent attacks from wild animals.

The decision to allot land to beneficiaries who were already in possession of land elsewhere under rehabilitation package lacked prudence. Tahsildar, Nedumangad replied (September 2022) that there existed no mechanism with Revenue Department to ensure whether the assignee owns any other land while granting registry. The CLR replied (November 2022) that the beneficiaries were selected after detailed enquiry and verification by the authorities. Reply was not tenable as it came to the notice of Audit that all the assignees were not residing there and it was stated that those not residing there owned land elsewhere. Further, it is evident from the fact that the inhabitants could not do cultivation in the assigned land due to the attack of wild animals, the land purchased by Government paying ₹1.56 crore for rehabilitating 18 families in 2018 was without ensuring whether the land was safely habitable/ assignable.

- In response to a direction (May 2014) from the CLR to report the area of assignable revenue land under Nedumangad taluk, the Tahsildar reported (May 2014) 127.26 acres of land at Ponmudi in Thennur village (Sy. No. 3994/1, 3994/2) demarcated as '*purayidam*⁵⁰' and '*tharissu*⁵¹'. Though Government land was available as early as in 2014 for assignment, Government initiated action (2015) to purchase four acres of private land at exorbitant rates. The verification of the purchase records of four acres of land revealed that the owner of the land had purchased the entire land of four acres in May and June 2015 for ₹33.26 lakh⁵². This was sold to Government in 2018 for ₹1.56 crore⁵³, i.e., after effecting a hike of 468 *per cent* in just three years. The District Level Purchase Committee had already accepted the rate of ₹39,000 per cent

⁴⁹ Rule 8(2) of KLAR

⁵⁰ Dry land

⁵¹ Government land that can be cultivated and that can be assigned

Survey No.	Document No.	Date of registration	Area (in cent)	Amount paid (₹ in lakh)
3851/3852	551	04.05.2015	199.99	15.83
2926/1	741	15.06.2015	183.00	15.83
2926/1	742	15.06.2015	16.99	1.60
Total			399.98	33.26

⁵³ ₹39,000 per cent x 4 acres = ₹1.56 crore

submitted by the owner during their meeting held on 28 December 2015 itself, i.e., just seven months after purchase.

The CLR replied (November 2022) that the Forest department raised objection against the assignment of 179.87 acres of land in Kummil Reserve in Pangodu village in Nedumangad taluk. CLR further stated that as no other habitable land was available, Government decided to purchase land from the private party and that the price was accepted by the State Level Empowered Committee. The reply was not acceptable as Audit was referring to another 127.26 acres of land identified at Ponmudi in Thennur village, which was already demarcated as 'tharissu' land as per revenue records, that could have been assigned by the Revenue Department. Moreover, the approval for purchase of land with a value appreciation of 468 *per cent* within just seven months from the date of purchase by the seller was against all canons of propriety. Instead of spending ₹1.56 crore on purchase of fresh land, Government could have assigned the 'tharissu' land in Thennur village.

The above indicates lack of due diligence on the part of the Revenue authorities in purchase of land without ensuring habitability as well as in assigning land in excess of prescribed limits.

Assignments on lease

Government lands that are not immediately required for public purposes could be assigned on lease for temporary purposes to individuals/ institutions for commercial as well as for non-commercial purposes. However, as pointed out in paragraph 2.1.6 of this Report, a list of lands required for Government or public purposes were not prepared in the selected offices and hence none of the 23 assignments on lease during 2017-18 to 2021-22 were from an approved list. Audit noticed various systemic issues as well as individual issues relating to assignments on lease. These include continuance of leases under erstwhile rules, non-remittance of rent, non-compliance of various rule provisions relating to lease of Government land, etc. These are enumerated below.

Systemic issues

2.1.16. Irregular continuance of leases under erstwhile rules

The introduction of the new rules and orders would necessitate a review of the existing leases and pursuance to ensure that they are covered under extant rules. While the RALMCA, which was introduced with effect from 11 November 1995 contains provisions for renewal of existing leases, KLAR does not contain any provision for renewal of existing leases from the date of introduction (March 1964). However, Government issued directions to revise or renew all leases in accordance with KLAR.

Audit observed that as of March 2022, out of 584 leases coming under Corporation/ Municipality areas in the selected districts, 445 leases have not

been brought over to the revised Rules (RALMCA). These cases have neither been renewed nor lease rent fixed/ collected. Similarly, as of March 2022, out of 442 leases granted in rural areas in 11 test-checked taluks, 356 leases were not renewed nor lease rent fixed/ collected as per KLAR. These lessees are still possessing the Government land leased out to them (**Appendix 2.4**).

This led to illegitimate occupation of land that could otherwise have been used for Government or public purposes. Moreover, as lease of land is intended for temporary purposes, occupation for long periods without adhering to the provisions in the extant rules is against the spirit of laws made in this regard. In view of the above negligence and complicity of the authorities concerned, Government should take strict action against them.

2.1.17. Illegal occupation of Government land

Government lands can be assigned only as per the provisions contained in the Act and the forms/ agreement authorising its occupation are appended to the Rules. Audit noticed that though Government issued orders for leasing Government land, the following three out of 141 leases test-checked in the selected districts did not execute an agreement and hence the land was illegally occupied.

Table 2.1: Details of illegal occupation

Sl. No.	Name of occupier	Taluk	Survey/ Resurvey No.	Area occupied	Month and year of Government order
1	Muslim Jamaat, Kanjiramoodu	Nedumangad	153/4	68.60 ares	January 2012
2	Munavirul Islam Madrassa, Thrikkakkara North	Kanayannur	Block No. 6 - 280/1	80.40 ares	September 2014
3	Sree Subramanya Swami Kshethram, Thrikkakkara North	Kanayannur	Block No. 6 - 265/1	36.75 ares	

(Source: Records of Taluk Offices Nedumangad and Kanayannur)

Audit noticed that trees were removed from the Government land illegally occupied by Munavirul Islam Madrassa and Sree Subramanya Swamy Kshethram at Thrikkakkara North village.

Tahsildar, Kanayannur replied (October 2022) that an enquiry was conducted through VO and it was found that a madrassa hall was built in the property after 2011 and the trees might have been cut down for the construction.

The CLR replied (November 2022) that the Jamaat has not signed the agreement and the matter has been reported to the Government to inform steps to be taken in this regard and in respect of the others, the CLR replied (November 2022) that directions were given to the DC to take necessary action.

Occupation of Government land without executing agreement by the assigning authority with the occupant tantamount to illegal occupation.

2.1.18. Irregular assignment of non-assignable land

Honorable High Court of Kerala through various judgements⁵⁴ have pronounced that *puzha puramboke*⁵⁵ lands cannot be given out on assignment.

- Sanction was accorded (April 2010) to lease out 15 cents of land (Sy. No. 843) in Ernakulam village of Kanayannur taluk to T.K. Ramakrishnan Samskarika Kendram for a period of 30 years for constructing its head office. Accordingly, a lease deed was executed by the DC, Ernakulam with the lessee on 27 July 2010.

Scrutiny of the records maintained at Village Office, Ernakulam revealed that 15 cents of land leased out to T.K.Ramakrishnan Samskarika Kendram was *puzha puramboke*. The CLR replied that Government had exercised its discretionary power by invoking special provisions under Rule 21(ii) of RALMCA, to transfer the leasehold land on a nominal lease of 30 years for construction of the cultural centre.

Reply furnished by the CLR was not acceptable as it was silent about assignment of *puzha puramboke* land.

- Sixty-four cents of *puzha puramboke* land (Sy. No. 418/1) in Muvattupuzha village was leased out to an individual on *kuthakappattom* lease. This was illegally transferred (1987) to Franciscan Clarist Congregation of Nuns. The VO, Muvattupuzha started collecting lease rent from the congregation instead of from the actual lessee from 1989 onwards. Later, Government accorded sanction (2018) for leasing out this land for 10 years to them at a lease rent of two *per cent* of the market rate.

As the Hon'ble High Court of Kerala has reiterated through various judgements that *puzha puramboke* lands cannot be given out on assignment, assignment of *puzha puramboke* was not in order. Further, absence of any provisions in the Rules/ Acts prohibiting assignment of *puzha puramboke* lands would result in assignment of more such land with consequential detrimental effect on the ecology of the State.

During Exit Conference (January 2023), ACS stated that in cases where the Hon'ble High Court has explicitly stated that *puzha puramboke* cannot be assigned, then Government would have a relook into it. The reply was not tenable as Hon'ble High Court had averred in several judgements that *puzha puramboke* cannot be assigned. Further, activities in *puzha puramboke* would result in serious ecological problems including degradation of water bodies.

⁵⁴ Judgements 17233 of 1996, 16077/1996

⁵⁵ River banks

2.1.19. Irregular assignment on registry/ renewal of lease by a non-competent authority

The GoK, through orders⁵⁶ issued in May and July 2011 reiterated that the authority competent for renewing lease to institutions was GoK. Note 1 under Rule 6(2) of the KLAR provides that the competent authority to assign land on registry for beneficial enjoyment shall be the RDO and the assignment order shall be passed only after personally satisfying himself that the land is absolutely necessary for the purpose. However, during 2017-22, Audit noticed that in the following cases, the assignment on lease/ registry was renewed/ granted by a non-competent authority.

Table 2.2: Irregular assignment on registry/ renewal of lease by non-competent authorities

Sl. No.	Name of taluk	Lease/ Registry	Lease/ Registry No.	Nature of lessee	Area (In Ares)	Rules applicable	Authority competent to execute/ renew lease/ assignment on registry	Authority which executed the lease/ Authority which assigned the land	Purpose for which land was assigned
1	Aluva	Lease	KP-959/73	Institution	9.90	KLAR	GoK	Additional Tahsildar	Temple functioning in the premises
2	Devikulam	Registry	LA 02/2021	Individual	18.01	KLAR	RDO	Tahsildar	Beneficial enjoyment
3	Devikulam	Registry	LA 07/2021	Individual	5.95	KLAR	RDO	Tahsildar	Beneficial enjoyment
4	Devikulam	Registry	LA 08/2021	Individual	20.40	KLAR	RDO	Tahsildar	Beneficial enjoyment

(Source: Records of Taluk Offices at Aluva and Devikulam)

During Exit Conference, CLR stated (January 2023) that the matter would be examined.

Audit noticed that in 1999, a Deputy Tahsildar of Devikulam taluk in Idukki district had overstepped his authority and issued registries irregularly. Subsequently, Government had to cancel those irregular registries⁵⁷. Despite such a precedence, Government failed to take effective measures to ensure that leases are granted only by the competent authorities.

2.1.20. Unauthorised possession of land due to laxity in taking action by Government/ Revenue authorities

As per the land assignment rules in force, Government land can be assigned either through registry or lease or licence and the lease rent should be fixed based on the market value of lands at rates specified by Government from time

⁵⁶ G.O (Ms) No.174/2011/RD dated 02 May 2011 and G.O (Ms) No. 280/2011/RD dated 27 July 2011

⁵⁷ Over 530 assignments were irregularly granted by the Deputy Tahsildar. The process of rectifying the mistakes are in progress.

to time. Audit noticed that as of March 2022, 401 assignment cases forwarded from the four selected districts were pending decision from Government. Delay in taking decision by the Government has led to loss of revenue and illegal possession of Government land. Instances noticed by Audit where delay on the part of Government led to loss of revenue are detailed below.

2.1.20.1. M/s Poabs Granites

An area of 0.29 acres (11.82 ares) of land in Peroorkada village (Vattiyookavu panchayat) was leased out (August 2003) to M/s Poabs Granites for construction of a road in the *puramboke* land adjacent to the land possessed by M/s Poabs Granites. Annual lease rent was fixed at ₹28,677 and the same was remitted by the lessee for three years. The lessee submitted (February 2006) a representation to the Tahsildar stating that M/s Poabs Granites was functioning in Panchayat area, but the lease rent was fixed in accordance with rules applicable for Municipal/ Corporation areas. As the authority to sanction institutional leases is the Government, the Tahsildar, Thiruvananthapuram informed (October 2006) the DC that the lease rent applicable to the utilisation of land for the above said purpose was to be fixed by the Government. The matter was referred to Government (April 2007) by the DC and even though reminders were issued (October 2007 and February 2010), no direction was received from Government till date (September 2022).

Audit observes that the matter was pending with Government since April 2007 and though reminders were sent, no action was seen taken to fix the lease rent. Audit noticed (September 2022) that the land was being utilised without renewing the lease agreement and remitting the lease rent as applicable from time to time, and hence the land was under unauthorised possession of lessee.

2.1.20.2. Rifle Club, Kozhikode

In January 1994, the lease agreement for 1.03 acres of land in Nellikode village which was on lease with Rifle Club from 1973 onwards was renewed for another 10 years at the rate of ₹1,000 per acre per annum with effect from April 1993. Out of this, 26.61 cents of land was taken back (June 2004) by Government and the lease rent applicable to Rifle Club was refixed at ₹767 per annum with effect from June 2004. Though a proposal to revise the lease rent was sent (December 2008) to CLR by DC, Kozhikode the CLR approved to refix the rent only on 09 August 2018, i.e., after a lapse of 14 years. Accordingly, DC served (September 2018) a demand notice of ₹72.88 lakh for the period from 01 April 1994 to 31 March 2019 to the Rifle Club. Aggrieved by this demand notice, the Club filed (October 2018) an appeal and CLR directed (February 2019) the DC to provide sufficient opportunity to present the grievances of Club. Accordingly, DC heard the Secretary (June 2019) and recommended (August 2019) CLR for seeking approval to grant relaxation in lease rent considering its excellent performance and poor financial situation. However, orders from Government is still awaited (August 2022). The Club remitted the lease rent (₹0.12 lakh) upto 2016-17 at rates fixed as early in 1994.

Audit observes that delay in taking action by CLR/ Government has resulted in non-renewal of lease rent and consequent loss of revenue to Government.

2.1.20.3. Steel Industrials Kerala Limited, Kozhikode

5.53 acres of land belonging to Ports department were transferred to Revenue department and was leased out (October 1979) for 10 years to Steel Industrials Kerala Limited (SILK) for establishing a ship-breaking unit. As the land occupied by the SILK was required by the Ports Department for further development, the Ports Department requested the DC, Kozhikode (December 1993) to initiate eviction process against SILK. As directed by DC, Tahsildar, Kozhikode issued (December 1998) a demand notice to SILK for ₹99.82 lakh as lease rent arrears for the period 1979 to 1998, but SILK did not remit the amount. Revenue recovery (RR) procedure was initiated against SILK by the DC (December 1999), which was appealed before GoK. GoK (February 2000) issued orders to stay the RR procedure until the lease rent was fixed by GoK. Though reminders were sent by DC⁵⁸ to GoK through CLR requesting to take action at the Government level to remove the stay and to fix the lease rent, no action was seen taken in this regard by the Government. The DC worked out the rent arrears for the period from 26 December 1979 to 31 March 2019 amounting to ₹5.98 crore and the demand notice was served to SILK (27 February 2019), but no amount was remitted till date. Audit noticed that inaction on the part of Government to remove the stay order issued as early as in 2000 has led to non-receipt of ₹5.98 crore (as of 2019) to the exchequer and unauthorised possession of 5.53 acres of Government land by SILK.

During Exit Conference (January 2023), CLR stated that action in this regard was underway.

2.1.20.4. Cochin Club

Government renewed (May 1986) the lease of Cochin Club, Kochi in respect of an extent of 4.44.22 acres of land in Fort Kochi village for a period of 20 years with effect from July 1983 at one *per cent* of land value of ₹15,600 per cent per annum, (₹69,264) and lease rent was to be revised every five years on the basis of prevailing land value. However, lease rent was renewed as per this order only once i.e., from July 1983 to June 1988.

The Cochin Club being a commercial institution⁵⁹, Tahsildar, Kochi calculated arrears of lease rent as on 03 February 2020 at the rate of five *per cent* of market value plus GST after deducting the amounts already remitted by the Club, and it worked out to ₹56.99 crore⁶⁰. The DC referred the matter for further orders to CLR and Government (February 2020). However, no direction was given by the

⁵⁸ 09.06.2014, 13.03.2015, 27.11.2017, 26.12.2017, 21.11.2018 and 29.07.2019

⁵⁹ Club rents halls for marriages, film shooting, etc., besides providing facilities like squash court, badminton court, etc., for its members.

⁶⁰ Total lease rent arrears from 13.11.1995 to 31.03.2020	-	₹48,66,40,110
Lease rent already remitted by Cochin Club	-	₹36,88,392
Balance to be remitted	-	₹48,29,51,718
GST 18 <i>per cent</i>	-	₹8,69,31,309
Total Lease Rent Arrears as on 03.02.2020	-	₹56,98,83,027

higher authorities in the matter even after two and a half years resulting in unauthorised occupation of land and non-receipt of lease rent.

2.1.21. Non-registration of leases

Provisions⁶¹ of the Registration Act, 1908 requires all leases of immovable property exceeding one year be registered compulsorily. However, no action was seen taken by the GoK to enforce this statutory requirement and thus put in place a mechanism for checking potential illegal sale of Government land under lease. Had the original lease been registered as per the provisions of the Registration Act, illegal transfer of leased land could have been avoided. Further, Kerala Stamp Act, 1959 provides for the remittance of stamp duty and fees that is to be payable for leases. As earlier mentioned, there were 584 lease cases coming under Corporation/ Municipality areas in the selected districts and 442 cases under Panchayat areas in 11 test-checked taluks. Out of these, Audit test-checked 141 lease cases. In none of the files test-checked, Audit could find records in support of leases being registered as required under the law. The annual lease rates for areas coming under the KLAR (for Panchayat areas) and that coming under RALMCA (for Municipal/ Corporation areas) have been specified through various orders issued by the GoK from time to time. As the lease rates are fixed as a percentage of the market value of the land, the GoK is at a huge loss by not collecting the stamp duty and registration fees. Moreover, as per RALMCA, leases are to be granted for three years and as per KLAR it varies from two to 10 years.

Compliance issues

2.1.22. Non-remittance of lease rent and consequent unauthorised occupation of leased land

The period for which lease can be granted and lease rents to be charged are specified in the rules and various Government orders. Audit noticed huge arrears of lease rent pending collection and illegal occupation of land by not periodically renewing the leases and by not remitting the lease rent, as shown below.

- Lease rents are to be collected annually and as per the data furnished by the DCs, as of March 2022, lease rent amounting to ₹338.85 crore covering an area of 635.235 Ha was pending collection in the selected districts. However, Audit could not confirm the correctness of the figures furnished by the DCs. During Exit Conference, the CLR stated (January 2023) that the data relating to assignments available with them requires updation and exercise for that is underway.
- The rates for fixing lease rent of land under RALMCA, 1995 have been prescribed under Rule 12(5) and it is fixed as a percentage of the market value of the land depending on the purpose of lessee. Note (iv) to this

⁶¹ Rule 17 (d)

states that the lease rent for the year shall be payable by the lessee within the first quarter of the financial year and that the defaulters would be charged a penal interest of two *per cent* over and above the rates prescribed. Rules⁶² stipulate that the lease granted shall be for a period not exceeding three years and the period of renewed lease shall not exceed three years in urban areas. However, Audit noticed that only four out of 584 lease cases (in Municipal/ Corporation areas) in the selected districts were renewed every three years. Owing to non-renewal, the leased land was unauthorisedly occupied. Eleven cases noticed by Audit where lease rent pending amounted to ₹254.14 crore is given in **Appendix 2.5**.

- As per the provisions contained in the KLAR, the period of lease as specified under Rule 14 varies from two to 10 years and Rule 18 specifies that rents should be charged for lease at such rates as specified by the Government. The rent for lease granted under KLAR was fixed by Government in 1975 and revised in 1985 and 2016. Further, Rules⁶³ state that if the lessees fail to settle their lease rent arrears as prescribed, the DCs should resume such property after following the prescribed procedure. Government issued orders (2018⁶⁴) that leases under KLAR need to be renewed every three years.

However, Audit noticed that out of 442 lease cases (in Panchayat areas) in the selected 11 taluks, details such as the date of assignment, period of lease, etc., were not available in 351 cases. In the remaining 91 lease cases, as against the prescribed period of two to 10 years, lease was granted for periods ranging upto 30 years in 12 cases. Of these, in 43 cases, leases were not renewed/ revised after the prescribed period as required in the rules or in accordance with the order issued in 2018.

Audit observed that the lessees continued to occupy the land even though leases were not renewed, and lease rents were not collected resulting in accumulation of huge arrears. However, no action was taken either to resume the land or initiate revenue recovery proceedings. This led to unauthorised occupation of Government land thereby indicating negligence on the part of the authorities concerned for which action should be taken against them.

Though this was pointed out in the Report No. 6 of the year 2014 of the Comptroller and Auditor General of India, the pendency in remittance of lease rent still persists⁶⁵.

During Exit Conference, the Government admitted (January 2023) flaws in maintenance of details of leases and stated that the exercise for rectification is underway.

⁶² Rule 12(4) of RALMCA

⁶³ Rule 18(3)(ii) of KLAR

⁶⁴ GO (Rt) No. 276/2018/Rev dated 03 August 2018

⁶⁵ Though the Report was discussed by the PAC, recommendations are awaited (January 2023)

2.1.23. Alienation/ illegal possession of leased land

As per Rule 26(b)(i) of Kuthakapattom⁶⁶ Rules, 1947, the lease holder shall not alienate the lease without obtaining prior sanction from the authority who granted the lease. After the introduction of KLAR, Government issued various orders directing that all *kuthakapattom* leases which were in force prior to the formulation of KLAR, be revised as per KLAR. As per Rule 15(2) of the KLAR, lease or licence granted under these Rules shall be heritable but not alienable and as per Rule 15(4) the grant shall be liable to termination, if the assignee violates any of the conditions of the grant order.

In the following cases in Arakkuzha village under Muvattupuzha taluk, Audit noticed that the land leased out during the Kuthakapattom Rules period were under the possession of persons other than the original lessee or their legal heirs.

Table 2.3: Details of transfer of leased land

Sl. No.	Land in Survey No.	Kuthakapattom lease agreement No.	Area of land	Area illegally possessed by third party
1.	131/1A1	111/63	50 cents	50 cents
2.	131/1A	44/124	66 cents	50 cents
3.	877/1	3/50	61.50 cents	50 cents
4.	131/1A	18/124	257 cents	47 cents

(Source: Records of Arakkuzha village)

Audit noticed that the VO had already reported (2016 and 2017) the fact that the land was in the possession of a third party in all these cases.

The Tahsildar, Muvattupuzha stated (July 2022) that, it was found that the leased lands were not in the possession of original lessee and that the *kuthakapattom* lease land came into possession of the present occupants/ third party through illegal means and it has no legal authority.

The CLR accepted (November 2022) the observation and stated that direction was given to DC to reoccupy the land urgently.

Audit observed that the lease rents were not fixed as per KLAR. Further, though illegal possession was known to the Revenue authorities as early as in 2016, no action was taken to resume the land as per Rules.

During Exit Conference (January 2023), CLR stated that the matter would be examined.

2.1.24. Non-resumption of land required for public purpose

Rules⁶⁷ state that lands which are likely to be required in future for Government or public purposes, but not immediately, may be leased out for any temporary

⁶⁶ Kuthakapattom means and includes lease of *puramboke* and other government land and trees standing on Government land

⁶⁷ Rule 12(1) and Rule 16 of RALMCA

purposes and extension of lease shall be made only if the assigning authority is satisfied that the land is not required for any public purpose.

As stated in paragraph 2.1.20.3 of this Report, an area of 5.53 acres of land in Bypore village in Kozhikode taluk belonging to Ports Department was leased out to SILK by the Revenue Department for a 10-year period. As the land occupied by the SILK was needed to develop the existing port, the Ports Department requested (December 1993) the DC, Kozhikode to return the land. However, the land was not resumed and returned to the Ports Department by the Revenue Department. A joint verification conducted (July 2022) by Audit along with the Revenue authorities revealed that no activities were being conducted by SILK in the leased land.

Non-resumption of leased land by Revenue authorities when required for public purpose is against the interests of the State and a violation of the Act and Rules.

During Exit Conference, CLR stated (January 2023) that the matter would be examined.

Assignment on licence

Licence can be issued for usage of playgrounds, putting up of pandals or sheds, for entertainments or cinemas, etc. Both KLAR and RALMCA had no provision for assigning land on licence basis. Government had issued⁶⁸ orders specifying licence rates on a daily basis. In January 2016, Government issued a notification⁶⁹ stating that all cases of ground rent and licence within the State and coming under RALMCA would henceforth be treated as lease rent.

While there existed rules⁷⁰ specifying rates for leases to co-operative societies, Audit noticed a case of land issued to a co-operative society in a prime location in Thiruvananthapuram city on licence since 2008 as detailed below.

2.1.25. Irregular assignment on licence

Government directed (May 2000) that an extent of 18.750 cents of land⁷¹ be handed over to KERAFED⁷² on advance possession for construction of their headquarters complex. In December 2004, Principal Secretary, Revenue Department directed the DC to levy the lease rent from KERAFED in accordance with the rates notified⁷³ by Government. The Chairman, KERAFED informed (June 2007) that they were not in a position to remit the lease rent. Subsequently, Government issued orders (May 2008) to assign the land to KERAFED on licence basis at the rate of ₹5,000 per cent per annum for the

⁶⁸ GO (Ms) 1028/85/RD dated 19.12.1985

⁶⁹ Inserted by notification GO (P) No. 64/2016/RD dated 28.01.2016 as note (ii) below Rule 12(5).

⁷⁰ Rule 12 of RALMCA

⁷¹ in Sy. No.90/1 of Thycaud village (a prime location in Thiruvananthapuram Corporation)

⁷² Kera Karshaka Sahakarana Federation – A Co-operative society under GoK

⁷³ GO (P) 126/04/RD dated 14 May 2004

construction of their headquarters complex on the condition that the licence be renewed every three years.

Since RALMCA, 1995 had not specified the rates or period of assignment on licence, the criteria adopted by Government for assigning land in a prime location by fixing the licence fee at ₹5,000 per cent per annum which was much lower to prevailing lease rates was against the interests of the exchequer. Moreover, the Department did not realise any rent from KERAFED for the period 12 May 2000 to 29 May 2008. Besides, the assessee was liable to pay a lease rent at two *per cent* of the market value of the land per annum with effect from the date of notification issued in January 2016 which was not done.

In the Exit Conference, ACS agreed to (January 2023) the audit finding that land should not have been granted on licence and informed that steps would be taken to convert this into lease.

Non-realisation of revenue

Audit made an attempt to check whether the revenue due to Government was assessed and collected properly. However, it was observed that Government was not maintaining a reliable and exhaustive data on land leased out or lease rent due and collected. In the Exit Conference (January 2023) conducted to discuss the audit findings, it was admitted by the department that there were lacunae in this regard and they are in the process of streamlining these. In the absence of such data, Audit was unable to quantify the exact loss to exchequer on account of non-collection of lease rent from beneficiaries. Findings relating to non-collection of security deposit, waiver of lease rent, etc., noticed by Audit are given below.

2.1.26. Non-deposit of one year's rent as security

As per Rule 18(2) of KLAR, the assignee has to deposit with the Government in advance an amount equal to one year's rent as security in addition to paying rent at such rates as specified by Government. However, Audit noticed that in 10⁷⁴ out of 11 selected taluks, one year's rent as security in advance was not deposited with Government. Of the 10 taluks, in Muvattupuzha taluk and Udumbanchola taluk, security deposit was collected in certain cases⁷⁵. However, the lessees took possession of the land on lease. Audit observed that security deposit totalling to ₹4.93 lakh was not collected in the seven lease cases⁷⁶ granted under KLAR during the audit period in the selected taluks.

⁷⁴ No lease cases in Idukki taluk.

⁷⁵ Muvattupuzha taluk – not collected in 25 out of 27 leases under KLAR. Udumbanchola taluk, - not collected in 14 out of 21 cases.

⁷⁶ Total number of leases sanctioned during the audit period was 23 of which 16 were granted under RALMCA.

2.1.27. Waiver of lease rent by Government - loss of ₹29 crore to the exchequer

RALMCA describes the procedures and period⁷⁷ for leasing of Government land and prescribes that the annual lease rent should be fixed on the basis of market value of land. The lease is to be renewed every three years and the rates for lease are as notified by the Government from time to time. The assignee is bound to pay lease rent during the period of lease and shall be payable by the lessee within the first quarter of the financial year and that the defaulters would be charged a penal interest of two *per cent* over and above the rates prescribed. Rule 20 of RALMCA states that all amounts due to Government under that rules should, in case of default, be recoverable, as if they were arrears of revenue due on land under the Revenue Recovery Act for the time being in force.

Government land was leased out to the institutions mentioned in **Table 2.4** and they were bound to pay annual lease rent to the Government. It was seen that these institutions neither renewed the lease as required nor paid lease rent and this accumulated to huge amount as arrears. But, instead of recovering the amount as required under Rules, Government accorded (March 2016) sanction for renewal of lease on land in respect of these institutions by realising 0.2 *per cent* of the outstanding lease rent arrears and at an annual lease rent at five *per cent* of the current market value for 30 years subject to the condition that lease rent should be renewed once in three years. The details are shown in the table below.

Table 2.4: Details of lease rent waived by Government

Name of Lessee (Institution)- area of land (village)	Lease rent arrears as on 03.03.2016 (₹)	Lease rent to be paid based on the order dated 03.03.2016 (₹)	Amount of loss to Government (₹)	Government Order No.
Trivandrum Tennis Club - 4 acres and 7 cents (Sasthamangalam village)	11,09,10,955	2,21,822	11,06,89,133	GO (Ms) No. 229/2016/Rev dated 03.03.2016
Mannam Memorial National Club - 1 acre 1 cent (Vanchiyoor village)	18,40,78,001	3,68,156	18,37,09,845	GO (Ms) No. 231/2016/Rev dated 03.03.2016
Total	29,49,88,956	5,89,978	29,43,98,978	

(Source: Data received from the District Collectorate, Thiruvananthapuram)

Though the TTC remitted ₹2.22 lakh, the Club continues (November 2022) to occupy the land without renewing lease every three years. Mannam Memorial National Club⁷⁸ did not remit any amount yet continued to occupy the land without renewal of lease.

Audit noticed that by reducing the arrears of lease rent to ₹0.06 crore from ₹29.50 crore, the exchequer had to suffer a loss of ₹29.44 crore.

⁷⁷ Not exceeding three years

⁷⁸ Activities carried out by Mannam Memorial Club were recreational activities, running of gymnasium, renting out halls, etc.

In the Exit Conference, ACS stated (January 2023) that the lease rent was reduced invoking the special powers of Government. However, reduction of lease rent need to be seen in the context of the commercial activities of the Clubs which generate revenue.

2.1.28. Defective calculation of lease rent

GoK leased out (January 1961) 54 cents⁷⁹ of land to the Women's Club, Thiruvananthapuram. A demand notice of ₹51.30 lakh for the period from April 1996 to March 2007 was issued (April 2007) by the DC, against which the Club filed (August 2007) an appeal for stay. The CLR allowed (September 2007) the request for stay which was subsequently vacated in December 2009. Demand notices for the periods up to 31 March 2010 (₹73.58 lakh) and 31 October 2014 amounting to ₹141.24 lakh were issued in May 2010 and November 2014 respectively by the DC. However, no lease rent was remitted by the Club.

Against the demand notice issued in November 2014, the Club approached the Hon'ble High Court and the Court ordered (August 2015) an interim stay on further proceedings on the condition that the petitioner remit ₹ five lakh within a period of two weeks. The petitioner remitted the amount in September 2015. Though demand notices were issued thereafter (25 February 2020, 24 June 2022), no remittances have been made by the Club so far. Audit noticed that the stay has not been vacated till date (November 2022). On this being pointed out the DC replied that the matter of stay order came to their notice only during July 2022.

On a scrutiny of the lease rent calculation made, Audit noticed that in the demand notice issued in April 2007 for ₹51.30 lakh, lease rent due for the period from April 1997 to March 1998 amounting to ₹21.60 lakh was not reckoned for calculation. It was also noticed that during the period 14 November 1995 to 31 March 2004, the rates for lease rent was taken as 10 *per cent* instead of 20 *per cent* as was applicable for commercial institutions. Audit found that this had an impact on further demand notices and in the demand notice issued in November 2014 on the basis of which Hon'ble High Court pronounced their judgement, the lease rent arrears for the period from 14 November 1995 to 31 March 2014 was mistakenly⁸⁰ calculated as ₹141.24 lakh instead of ₹174.23 lakh resulting in a short demand of ₹32.99 lakh. Details are shown in the **Appendix 2.6**.

The CLR replied (September 2022) that they had not initiated any action to vacate the interim stay issued by the Hon'ble High Court in August 2015 as they were not aware of it and accepted that the omission of not reckoning ₹21.60 lakh was a clerical mistake. Regarding application of rate of lease rent at 20 *per cent* of the market value for the calculation upto the period 31 March 2004, CLR replied that it was computed at the rate of 10 *per cent* as applicable for non-commercial purpose as per RALMCA.

⁷⁹ In Sy. No. 208, 212, 213 and 214 of Anchamada village (now Sasthamangalam village)

⁸⁰ For the period 13.11.1995 to 31.03.2004, the rate of lease rent was taken as 10 *per cent* instead of 20 *per cent*.

Reply was not acceptable as the Tahsildar in his statement of facts on the appeal against the demand notice for the period upto March 2007 had reported that the land was being used for commercial purposes. During a joint verification (September 2022) along with the Revenue authorities, Audit noticed that the Club is still continuing commercial activities. However, no action was seen taken by the authorities against violation of rules.

Thus, mistakes in calculation of lease rent resulted in short demand of ₹32.99 lakh as of March 2014. Audit observed that the authorities, who were also a party in the case were not aware of the court stay and hence no action was taken for vacating it. This resulted in blocking up of revenue due to the Government. Government should initiate action against officials who are responsible for causing monetary loss to Government.

Monitoring

No provisions have been incorporated in KLAR or RALMCA for monitoring the assignments already made. Audit noticed instances of assigned land being used for other purposes highlighting the requirement for an effective monitoring mechanism. Further, deficiencies noticed by Audit in the internal regulatory mechanism, such as shortage of leased land, non-implementation of PAC recommendations, non-conduct of periodical inspections, non-maintenance of registers, etc., are detailed below.

2.1.29. Shortage/ loss of leased land

Audit noticed that in three cases, there was loss/ shortage of Government land originally leased out. However, no action was seen taken by the Government in this regard. Instances noticed are as below.

An extent of 17.092 cents of Government land in Survey No. 2699, 2704 and 2707 of Thycaud village in Thiruvananthapuram taluk was leased out to the Proprietor, City Theatres, Thiruvananthapuram in 1948 for the purpose of using it as car parking area in front of Sreekumar theatre. The lease was renewed only upto 1978 (till the death of the proprietor) and continued in possession and enjoyment of his legal heirs without renewal of the lease (January 2023).

In 2006, nine cents of land was resumed⁸¹ for road widening and the remaining 8.092 cents continued to be in the possession of M/s City Theatres. Audit noticed that after resurvey (Resurvey No. 49 in Block No. 113) in 2008, the leased land of 8.092 cents was seen recorded in the revenue records in the name of the son of original lessee. It was also noticed that a *thandaper* number⁸² (TP 8787) was allotted to this land in his name and he was remitting land tax since 2008.

⁸¹ GO (Rt) 2411/06/RD dated 04 April 2006

⁸² Reference number used by the Revenue Department of Kerala to track property tax information linked to the land.

Other two instances are given in table below.

Table 2.5: Instances of shortage/ loss of land

Sl. No.	Name of lessee	Survey No.	Area originally leased out	Year of leasing out	Land resumed by Govt. for other purposes	Balance to be with the lessee	Area now under possession of lessee	Shortage/ loss
1	Kerala Tourism Development Corporation (Bolgatty Palace)	404	13.12.250 acres	1972	NIL	13.12.250 acres	12.9365 acres	0.186 acres
2	Fort High School, Thiruvananthapuram	560/3	1.48 acres	1904	0.54 acres	0.94 acres	0.699 acres	0.241 acres

(Source: Records of Taluk Offices at Ernakulam and Thiruvananthapuram)

In the case of Fort High School, the CLR replied (November 2022) that a report has been submitted to the Government recommending the cancellation of lease and to reclaim the leased land. Though a report was submitted in 2014 by the DC for cancellation of lease and reclaim the land, no action was taken. In the case of City Theatres, CLR replied (January 2023) that the *thandaper* was given to the lessee due to a clerical mistake that occurred in the resurvey process. During Exit Conference (January 2023) CLR stated that procedure to examine the difference in extent of land was already underway.

2.1.30. Alienation and utilisation of assigned land for non-assigned purposes

The GoK enacted the Act in 1960 to regulate the assignment of land in Kerala. The rules made thereunder specifies that Government lands can be assigned only for the purpose of house sites, cultivation, beneficial enjoyment or for commercial purposes. The area that can be assigned is also specified and it varies from three cents for house sites to three acres for cultivation. The Government in 2011⁸³ stated that land for housing was to be given only for the landless. Using such assigned lands for other purposes such as mining is against the spirit and intention of the Act.

Rules⁸⁴ stipulate that unoccupied lands assigned on registry shall be heritable but not alienable for a period of 12/ three⁸⁵ years from the date of assignment on registry and require the assignee to personally cultivate the same if it is granted for cultivation. It again specifies that the registry shall be liable to be cancelled for contraventions of provisions in Rules.

Instance of alienation and utilisation of land for other purpose are detailed below:

⁸³ GO (Ms) 280/2011/RD dated 27 July 2011

⁸⁴ Rule 8 of KLAR

⁸⁵ Restriction of three years was applicable during 1971 to 2009.

2.1.30.1. Utilisation for unauthorised purpose by M/s Poabs Granites

The Tahsildar, Thiruvananthapuram granted (March 1994) 3.50 acres⁸⁶ of land in Aayiravalli Mala of Peroorkada village⁸⁷ as eight land assignment⁸⁸ cases. The purpose of registry, i.e., whether it was for cultivation/ house site/ beneficial enjoyment was not ascertainable from the assignment order. The Revenue authorities had no documentary proof to substantiate whether the *patta* was issued on occupied land or unoccupied land. However, Audit concluded that the land was unoccupied land on the basis that the land tax realised⁸⁹ was only for one year. After two and a half months from the date of assignment (March 1994), this 3.50 acres of assigned land was sold⁹⁰ (June 1994) to M/s Poabs Granites and the same was used for mining⁹¹ activities instead of cultivation/ house site/ beneficial enjoyment. Though this came to the notice of Revenue authorities in the form of a complaint and even though an enquiry was conducted by the Additional Tahsildar, the land was not resumed.

2.1.30.2. Misuse of assigned land

As per Rules⁹², Government land leased out for cultivation of cardamom shall not be used for other purposes. Instances of misuse of assigned land including a case of land leased out for cardamom cultivation being used for other purposes are given in **Appendix 2.7**.

In the issue indicated under item 3 of **Appendix 2.7** for instance, sale of land (assigned originally for cardamom cultivation) was registered⁹³ by heirs of the original assignee in favour of Kattapana Rotary Trust which subsequently proceeded to commence construction of recreation club and badminton court on the land. Stop memo was issued by the Special Village Officer on 23 July 2019 based on a complaint. Since the construction of buildings of such nature was clear violation of the Rules for lease of Government lands for Cardamom Cultivation, 1961, the land was liable to be resumed to Government, but no action had been taken as at the time of audit. In response to audit enquiry (July 2022), the DC informed that directions had been given to Tahsildar in July 2022 to take necessary action in accordance with relevant Act and Rules.

⁸⁶ Survey number 2469/132 (re-survey numbers 447/1, 447/2, 447/3)

⁸⁷ Peroorkada village was under panchayat area during 1994

⁸⁸ LA II 24/94 to LA II 31/94. Area of assignment ranged from 25 cents to 80 cents.

⁸⁹ As per Rule 9(3) of KLR, 1964, it was specified that in cases where the land granted on registry is already held by the assignee, the arrears of assessment recoverable by the Government should be limited to the amount of basic tax due on the land for the period of actual occupation. When any person is in occupation of Government land by way of encroachment not considered objectionable, such land if such occupation is before 01 August 1971, shall be assigned on registry (occupied land). In the eight registry cases, land tax was assessed only for one year as against the arrears for the period of actual occupation.

⁹⁰ vide sale deed number 1944/94 of Sub-Registrar Office, Sasthamangalam

⁹¹ M/s Poabs Granites was holding mining licence till 2018.

⁹² Rule 2(c) of the "Rules for lease of Government Land for Cardamom Cultivation, 1961" read with condition No. 7 under Appendix II (Rule 28)

⁹³ Even though a sale deed was registered, no changes were made in the revenue records transferring ownership

Audit observed that matters relating to use of assigned land for unauthorised purposes such as construction of resorts in Idukki district had come up for consideration of Hon'ble High Court of Kerala. In line with an interim High Court judgement, the Government issued (August 2019) an order stating that amendment to Building Rules is required and an No Objection Certificate (NOC) from the VO attesting the purpose of land assignment should be made mandatory for issuing building permits so as to prevent use of land for commercial purposes. Audit observed that though Local Self-Government Department issued order on 25 September 2019 insisting on production of an NOC showing the purpose for which such land was assigned, the Building Rules were not amended. The Hon'ble Court directed Local Self-Government Department to issue a Government order extending its order dated 25 September 2019 to the entire State within three weeks. The Hon'ble High Court also noted that there was lack of coordination among the different⁹⁴ departments of the Government. Hence, with regard to the issue of permit by the Local Authority for construction, the Court directed the Government to explore the possibility of having a single window clearance for the purpose. Though the Government issued (August 2019) orders directing the DC Idukki to submit a report on usage of land for non-assigned purposes, violations of conditions of assignment, etc., no report was submitted by the DC (December 2022).

Audit observed that even as on date, no mechanism has been put in place by the Government to ensure that assigned land is not misused for other purposes by intervention at the initial stage itself. For instance, even in September 2021, Revenue Department had issued a memo to stop construction of a resort in Munnar without obtaining necessary NOC and the same was challenged in the High Court. Number of stop memos issued by DC, Idukki in 2021-22 and 2022-23 for stopping constructions on assigned lands was 23.

In some cases though NOC had been issued, the violation of land assignment terms (construction of resort on land assigned for cultivation) had been commented upon by the Court observing that subsequent assignees of *pattadar* could not claim any right other than that conferred on the original assignee. Audit observes that the issue of NOC by the Revenue officers in such cases clearly reveals the inadequacy of the existing system.

2.1.30.3. Issue of irregular certificates by Revenue authorities

As per Kerala Minor Mineral Concession Rules, 2015, a certificate from the VO to the effect that the land in respect of which quarrying permit is applied for, is not assigned for any special purpose by the Department of Land Revenue should accompany the application for quarrying permit. Audit noticed that in two cases shown in **Appendix 2.7** (Sl. No. 1 and 2), the VO has irregularly issued a certificate to the effect that the land was not assigned for any special purpose.

Even though Government lands assigned on registry for a specific purpose was utilised for other purposes, no action was taken by the authorities to resume the land. Government should fix responsibility and initiate action against officials

⁹⁴ Revenue, Local Self-Government, Forest, Police

who failed to monitor and ensure the utilisation of assigned land for intended purposes.

2.1.31. Non-adherence to recommendations of Public Accounts Committee

Trivandrum Tennis Club (TTC) was formed in the year 1938 and it was granted 4.27.20 acres of land in Anchamada Pakuthy village (now Sasthamangalam village) for their activities.

A mention was made in the Comptroller and Auditor General's Report (Revenue Receipts) for the year ended 1997 regarding the rent received by TTC by letting out Government land leased out to TTC. It also mentioned that the land let out by the Club was assigned on registry to an oil company. Public Accounts Committee (2008-11) in its 111 Report (Para 50 and 51) recommended penal action against those officials who committed serious lapse in carrying out the orders for the collection of lease rent arrears and of eviction of land in violation of lease conditions. It was also recommended to take necessary steps to resume the land with respect to TTC in view of the illegal transfer of a portion by the TTC to an oil company. In the Action Taken Report furnished (January 2015) by the Revenue Department, it was stated that the resumption of land was in progress and with respect to penal action against the officials concerned, Revenue (D) Department was recommended for taking further follow up action. However, Audit noticed that the Department did not resume the land with respect to TTC even after being recommended by Public Accounts Committee 10 years ago. Instead, the Government issued (March 2016) orders to reduce the lease rent arrears to ₹2.22 lakh from ₹11.09 crore being the lease rent upto 31 March 2016.

During Exit Conference (January 2023), ACS replied that it was not possible to resume the land given to a GoI Public Sector Undertaking and informed that necessary action would be taken to regularise the assignment. However, Audit noticed that remarks of Government did not comply with the recommendations of the Public Accounts Committee.

2.1.32. Laxity in follow up of court cases

Out of 1,183 lease cases as on 31 March 2022 in the selected districts, 49 lease cases amounting to ₹166.71 crore were under orders of stay by various Courts and the period of stay ranged from one to 23 years. Considering the long period of pendency, Audit observed that there was laxity on the part of Revenue authorities in getting the stays vacated. This has resulted in blocking up of lease rent on Government land.

2.1.33. Improper maintenance of records

Records/ documents relating to lease need to be maintained during the currency of lease. As the Government land let out on lease to Women's Club and Sri Mulam Club were still being occupied by the Clubs, Audit called for lease files

relating to these from the Government for scrutiny. However, it was replied that the files relating to Women's Club had been destroyed while those relating to Sri Mulam Club was not traceable.

Audit noticed that records/ files in respect of 95 *per cent*, i.e., 325 cases out of a total number of 343 lease cases were not available in Idukki district.

Improper maintenance of records, both at the Government level and at the subordinate level would be detrimental to Government in case of any litigation or when assessing the currency/ lease rent of lease cases at a later stage. The large-scale loss of vital records could also be a deliberate attempt to weaken the position of Government in respect of claim to land.

2.1.34. Non-conduct of periodical inspection

As per Rules⁹⁵, the assigning authority should conduct periodical inspections to ensure that no violation of any of the conditions has taken place.

Audit noticed that in respect of lands assigned on registry, in seven⁹⁶ out of 11 taluks, no periodical inspection was conducted by the assigning authority. Similarly, in respect of lands assigned on lease, in seven⁹⁷ out of 11 taluks, no periodical inspection was conducted by the assigning authority.

2.1.35. Non-maintenance of registers and accounts

Rule 22 of KLAR stipulates that the registers and accounts necessary for the purpose of these Rules are to be maintained by the authorities concerned. The Tahsildar has to maintain a register⁹⁸ showing the land assigned in each taluk with particulars of the assignee and conduct periodic check to ensure that the conditions of the assignment were not violated. Further, Rule 19 of RALMCA stipulates that the assigning authority⁹⁹ has to maintain a register showing the details of land assigned under these rules with particulars of the assignee, survey number, village, taluk, etc., and conduct periodical inspection to ensure that no violation of any of the condition has taken place. Audit noticed that in District Collectorate, Idukki, the lease register was not being maintained. In the remaining districts, though a lease register was maintained, it was not seen updated. Audit also noticed that no periodical inspections were conducted by the Tahsildar or by the assigning authority to ensure that no violation of the conditions of assignment took place.

Due to improper maintenance of records, Government is not aware of the actual extent of land assigned, nor is it aware of the actual amount due to it. Two

⁹⁵ Rule 22 of KLAR and Rule 19 of RALMCA

⁹⁶ Thiruvananthapuram, Nedumangad, Kanayannur, Idukki, Udumbanchola, Kozhikode, Vadakara

⁹⁷ Thiruvananthapuram, Nedumangad, Aluva, Kanayannur, Idukki, Udumbanchola, Kozhikode

⁹⁸ Register for assignment of land on registry and on lease

⁹⁹ For institutional leases, the assigning authority is the Government. While DC is the assigning authority under RALMCA, Tahsildar is the assigning authority under KLAR.

instances noticed by Audit where land was occupied during the pre-independence period are enumerated below.

- A piece of land measuring 33.62 cents situated within 100 metres from the Government secretariat was leased out to the Hindu Mission in 1920. The fact that this was leased out came to the notice of the authorities only when an encroacher applied (November 2017) for grant of lease for a portion within that land. Hindu Mission was evicted from the land in February 2022.
- 5.2 acres of Government land was in possession of Trivandrum Club (earlier 'The Club', Trivandrum) since 1902. When directed by the Government in 2022 to establish the title of the said land, the Club could not establish it. The possession of Government land by the Club had come to notice of Government only when a private person had approached the court against the possession of Government land by the Club.

2.1.36. Conclusion

An approved list of Government and assignable land was not prepared in any of the test-checked districts in the State. RALMCA did not prescribe any limit on the area of land assignable for purposes other than house sites resulting in Government assigning land without limits in Municipal and Corporation areas. Land was being assigned to ineligible persons. Land was transferred on registry to various agencies without collecting the market value and such lands were even being used for commercial activities. Audit noticed instances of irregular assignment of non-assignable land. Failure of Government/ Revenue authorities to take decision regarding renewal of lease rent resulted in unauthorised occupation of land as well as loss of revenue to Government. No mechanism was in place (involving co-ordination with Registration Department) to ensure that all leases were getting registered which could have a deterrent effect on potentially fraudulent alienation of assigned lands. Lease rents of land were neither being revised as per the periodicity set by extant rules nor being collected regularly causing loss to exchequer. Government has not taken rectification measures like resumption of the land in violation of conditions. Waiver of lease rent on land provided to Clubs and other agencies caused monetary loss to Government. Similarly, assigned land were being utilised for other purposes and there were instances of alienation of assigned land in violation of Rules. Large number of court cases relating to land lease were under stay and the stay period ranged from one to 23 years. The maintenance of records and registers relating to lease of land was deficient resulting in loss of vital information.

2.1.37. Recommendations

- i) Government should take steps to maintain an updated consolidated data of all land assignments made in the State and assignments on registry should not merely be a tool for regularisation of land encroachments.
- ii) Government should prescribe a limit for the area of land that can be assigned on registry for purposes other than house sites in Municipal/ Corporation areas as is done in cases of assignments on registry of the land already held under lease.
- iii) Government must fix responsibility in cases of assignment of land to ineligible persons, non-collection of market value in cases of assignment on registry and in cases of assigned land not being used for intended purpose.
- iv) Government should adhere to the provisions of Registration Act and ensure that all leases of immovable property exceeding one year are registered.
- v) The illegalities relating to the assignment of Government land are to be dealt with strongly and action must be taken against delinquent officers who have by negligence or complicity abetted these violations. Accordingly, Government must take rectification measures to set right the irregularities so that public interests are served and fix responsibility on the officials concerned for such lapses.
- vi) Government should take steps to incorporate necessary provisions in the Rules for effective monitoring of land assignment activities as well as the utilisation of land post assignment and devise a mechanism for proper maintenance of records including digitisation of the documents.
- vii) As the irregularities pointed out by Audit are only illustrative, Government should take steps to identify similar irregularities across the State. Further, concrete steps must be taken to ensure that violation of rules on land assignment does not take place. Government should also resume land from habitual defaulters.