

CHAPTER III
LAND REVENUE

Executive Summary

| | |
|---|---|
| Marginal decrease in tax collection | In 2010-11 the collection of land revenue decreased marginally by three <i>per cent</i> over the previous year. |
| Results of audit conducted by us in 2010-11 | <p>In 2010-11 we test checked the records of 88 units relating to short recovery of value/rent in respect of land assigned, alienated or evicted, non-renewal of leases, non-revision of lease rent, etc involving ₹ 108.30 crore in 161 cases.</p> <p>The Department accepted under assessments and other deficiencies amounting to ₹ 88.41 lakh in 61 cases and collected the amount, out of which ₹ 2.61 lakh involved in one case was pointed out during 2010-11 and the rest in earlier years.</p> |
| What we have highlighted in this Chapter | <p>We conducted a performance audit on “Land administration and collection of land revenue” in the offices of the Tahsildars and the respective Collectorates besides the Commissionerate. In this chapter we present important observations like non-renewal of leases/non-revision of lease rent, delay in alienation of Government lands, encroachment of Government lands, etc., involving a money value of ₹ 82.81 crore.</p> <p>It is a matter of concern that though similar omissions have been pointed out by us repeatedly in the earlier Audit Reports, the Department has not taken corrective action. We are also concerned that though these omissions were apparent from the records which were made available to us, the Department was unable to detect these mistakes.</p> |
| Our conclusion | The Department needs to improve the monitoring mechanism to ensure renewal of leases after the expiry of lease period or to resume the land. It also needs to initiate action to alienate lands where enter upon permission has been given and to take appropriate action against encroachment. |

CHAPTER III LAND REVENUE

3.1 Tax administration

Land revenue in the State comprises revenue from agricultural lands, land cost in cases of alienation of Government lands, lease rent (including local cess and local cess surcharge) in cases of leasing of Government lands, penalty in cases of encroachment on Government lands, cost of survey operations, cost of establishment of survey staff lent to local bodies, etc. The levy and collection of the land revenue is monitored through Board of Revenue Standing Orders and Government Orders, issued from time to time.

3.2 Analysis of arrears of revenue

The arrears of revenue pending as on 31 March 2011 is given in the following table:

| (₹ in crore) | | | |
|-----------------|--|---|---|
| Head of revenue | Amount outstanding as on 31 March 2011 | Amount outstanding for more than five years as on 31 March 2011 | Remarks |
| Land Revenue | 27.51 | 8.17 | Out of ₹ 27.51 crore, demands of ₹ 3.75 crore were stayed by the High Court and other judicial authorities. ₹ 3.42 crore was stayed by the Government. ₹ 14.68 crore was under various stages of collection. ₹ 5.66 crore has since been collected. |

The above details indicate that 53 *per cent* of arrears are under various stages of collection.

We recommend that in the interest of revenue, the Government may fix targets for collection of the arrears in a time bound manner and closely monitor the performance of the Departmental officers vis-à-vis the set targets.

3.3 Impact of Audit Reports

3.3.1 Revenue impact

During the last five years, we had pointed out through our Audit Reports non/short levy, non/short realisation of land cost/lease rent, loss of revenue, with revenue implication of ₹ 12.36 crore in 10 paragraphs. Of these, the Department/Government had accepted audit observations involving ₹ 7.34 crore. The details are shown in the following table:

(₹ in crore)

| Year of Audit Report | Paragraphs included | | Accepted money value | Amount recovered |
|----------------------|---------------------|--------------|----------------------|------------------|
| | Number | Money value | | |
| 2005-06 | 1 | 0.59 | ---- | ---- |
| 2006-07 | 2 | 1.90 | 0.38 | ---- |
| 2007-08 | 1 | 3.09 | 3.09 | ---- |
| 2008-09 | 3 | 0.80 | 0.25 | ---- |
| 2009-10 | 3 | 5.98 | 3.62 | ---- |
| Total | 10 | 12.36 | 7.34 | |

The above table indicates that though an amount of ₹ 7.34 crore has been accepted, no amount has been recovered.

The Government may issue instructions for recovery of the amounts involved in accepted cases.

3.4 Results of Audit

We test checked the records of 88 Departmental offices during the period from April 2010 to March 2011 and found short recovery of value/rent in respect of land assigned, alienated or evicted, non-levy of water cess, betterment contribution and penalty/interest and other observations amounting to ₹ 108.30 crore in 161 cases, which broadly fall under the following categories.

(₹ in crore)

| Sl. No. | Category | No. of cases | Amount |
|---------|---|--------------|---------------|
| 1 | Land administration and collection of land revenue (A performance audit) | 1 | 82.81 |
| 2 | Short recovery of value/rent in respect of land assigned, alienated or evicted | 95 | 23.02 |
| 3 | Non-levy of water cess, betterment contribution and penalty/interest | 3 | 0.01 |
| 4 | Other observations | 62 | 2.46 |
| | Total | 161 | 108.30 |

During the course of the year 2010-11, the Department accepted under assessments and other deficiencies amounting to ₹ 88.41 lakh in 61 cases and collected the amount, out of which ₹ 2.61 lakh involved in one case was pointed out during the year and the rest in earlier years.

A performance audit on “**Land administration and collection of land revenue**” with financial impact of ₹ 82.81 crore is mentioned in the following paragraphs:

3.5 Performance audit on Land administration and collection of land revenue

Highlights

- Non-renewal of leases/non-revision of lease rent resulted in non-realisation of lease rent of ₹ 39.69 crore.

(Paragraph 3.5.9)

- Land cost amounting to ₹ 35.33 crore in respect of Government lands alienated was not collected.

(Paragraph 3.5.10)

- Delay in alienation of Government lands after grant of 'enter upon permission' resulted in non-collection of land cost of ₹ 440.79 crore.

(Paragraph 3.5.11)

- 6,772.54 acres of Government lands valuing ₹ 189.89 crore were encroached in 55 cases.

(Paragraph 3.5.12.1 & 3.5.12.2)

- 7,065 acres of land meant for water courses valuing ₹ 901.76 crore and 685.70 acres of land noted in 'Prohibitive Order Book' valuing ₹ 129.12 crore were encroached in 19,369 and 1,116 cases respectively.

(Paragraph 3.5.12.3 & 3.5.12.4)

- Non-resumption of Government land for violation of conditions of assignment/lease resulted in land valued at ₹ 14.30 crore remaining with the offenders.

(Paragraph 3.5.14.1)

3.5.1 Introduction

Land revenue in the State comprises revenue from agricultural lands, land cost in cases of alienation of Government lands, lease rent (including local cess and local cess surcharge) in cases of leasing of Government lands, penalty in cases of encroachment on Government lands, cost of survey operations, cost of establishment of survey staff lent to local bodies, etc. The levy and collection of the land revenue is monitored through Board of Revenue Standing Orders and Government Orders, issued from time to time.

3.5.2 Organisational set-up

The Principal Secretary, Revenue Department is the head at the Government level. The Department is administered by the Special Commissioner and Commissioner of Land Administration (CLA), Commissioner of Revenue Administration (CRA), Commissioner of Land Reforms (CLR) and Commissioner of Survey and Settlement (CSS). They are assisted by the Collectors at the district level. The district collectors are assisted by the territorial Tahsildars at taluk level who levy and collect land revenue.

3.5.3 Audit objectives

The performance audit was conducted with a view to examine whether

- the Department had followed the laid down procedure for grant/renewal/revision of lease and alienation/assignment of the Government lands;
- adequate system exists for monitoring the realisation of revenue from the Government lands;
- adequate systems exist to assess the efficacy of mechanism to detect, evict and regularise encroachments on the Government lands, resume lands where violation of conditions noticed; and
- adequate system exists to effect cost of survey staff, automatic patta transfers by the Revenue Department with reference to the applications received from the Registration Department.

3.5.4 Scope of audit

We test checked the records of 76 out of 220 taluk offices for the period from 1 July 2005 to 30 June 2010 (*fasli*²¹ 1415 to 1419) between December 2010 and March 2011 with a view to examining the correctness of assessment and collection of land revenue. The selection was made on best judgement basis. We selected Corporation area/district headquarters where there were more lease cases and the value of the land was high.

3.5.5 Acknowledgement

We acknowledge the co-operation extended by the Revenue Department in providing us the necessary records and information. An entry conference was held with the Principal Secretary to the Government, Revenue Department in December 2010, in which we explained the audit objectives, scope and methodology. The statement of facts was forwarded to the Department and the Government in June 2011. The exit conference was held with the Principal Secretary to the Government, Revenue Department in June 2011. The replies of the Government/Department received during the exit conference and at other times have been appropriately incorporated in the performance audit.

3.5.6 Trend of revenue

The budget estimates and the actual receipts under land revenue for the period from 2005-06 to 2010-11 are given in the following table:

²¹ A revenue year commencing from 1st July and ending on 30th June.

(₹ in crore)

| Year | Budget estimates | Actuals | Variation excess(+) or short fall (-) | Percentage of variation |
|---------|------------------|---------|---------------------------------------|-------------------------|
| 2005-06 | 25.46 | 179.48 | (+) 154.02 | 605.00 |
| 2006-07 | 52.63 | 120.68 | (+) 68.05 | 129.00 |
| 2007-08 | 70.77 | 78.03 | (+) 7.26 | 10.00 |
| 2008-09 | 146.18 | 207.73 | (+) 61.55 | 42.11 |
| 2009-10 | 29.88 | 116.66 | (+) 86.68 | 289.13 |
| 2010-11 | 38.79 | 113.28 | (+) 74.49 | 192.03 |

The increase in the year 2008-09 was due to increase in the rates of local cess and local cess surcharge. The decrease in the estimate for the year 2009-10 was due to elimination of local cess, local cess surcharge and all other levies except land revenue. In 2010-11 the collection of land revenue decreased marginally by three *per cent* over the previous year. The Department stated that the reasons for variation in the actuals in 2009-10 and 2010-11 over the budget estimates was due to receipts from *ryotwary* arrears and interest thereon.

3.5.7 Internal control mechanism

In the Department, the system of internal control exists through the annual *jamabandhi*²² conducted at taluk level. Review meetings at District/ Department level are also conducted once in a month in which collection of land revenue, arrears position, encroachments, etc. are discussed. Further, in respect of encroachment of the Government lands, periodical returns are obtained from the districts every month, compiled and sent to the Government.

In respect of alienation, no returns are obtained from the districts. However, the cases were taken up in review meetings based on the intensity and urgency of the cases. In respect of lease cases, demand collection balance (DCB) statements alone were obtained from the districts every month, which were also discussed during the review meetings. The Department replied (September 2011) that instructions have been issued, based on our observation, to all district level officers to maintain a register to record the details of lease cases and furnish the copies of the same to the CLA.

Further, there is no separate internal audit wing under CLA. An internal audit wing headed by the Chief Audit Officer functions under the control of CRA to check and have a control over the expenditure incurred on establishment, monitoring of schemes, etc.

Audit findings

3.5.8 Absence of database of Government land

As land is a valuable asset of the Government having rapidly increasing market value, it is important for the Department to have a complete and updated database of the actual Government land available, the extent thereof alienated or leased out or encroached upon and pendency of lease/

²² Annual settlement of revenue.

alienation/encroachment cases at different levels of the revenue administration.

We noticed that no such database was available either at the Government level or at the Department level. This indicates that the Department did not maintain the basic information which is required for efficient management of the Government lands in the matter of lease, alienation and encroachment.

After we pointed this out, the Department stated (September 2011) that instructions have been issued to all district level officers to maintain a register to record the details of lease cases and furnish the copies of the same to the CLA.

We recommend that the Government may instruct the Department to maintain a complete and updated database at CLA level of the actual Government land available, the extent thereof alienated or leased out or encroached upon and pendency of lease/alienation/encroachment cases.

3.5.9 Leasing of Government lands

Under the provisions of Revenue Standing Order (RSO) 24-A, Government lands can be leased to individuals, private organisations, trusts, companies and other Government bodies for a specified period with certain conditions.

According to standing instructions²³ of the Government, the proposals for revision of lease should be sent by the District Administration to the Commissioner of Land Administration/Government, as the case may be, three months in advance prior to the expiry of the existing lease period.

As per the Government Order²⁴ issued in 1998 lease rent was fixed at seven *per cent* per annum on the market value of the land leased for non-commercial purposes and at 14 *per cent* for commercial purposes. The lease rent can be revised once in three years with reference to the market value²⁵ of the land leased. However, in specific cases, the lease of land was granted on nominal annual lease rent by the Government, in public interest.

Renewal proposals were to be forwarded six months in advance prior to the expiry of the existing lease by the Tahsildar through the District Collector to the appropriate authority. The value of all the lands had appreciated considerably from 2005-06 onwards throughout the State. Hence, the limit of monetary powers delegated made most of the cases beyond the powers of the lower level and hence decision could not be taken at these levels.

Further, as per the order²⁶ issued (2001) by the Government based on an earlier audit observation, in respect of cases where the lease period have expired and are pending for renewal, the lease rent has to be tentatively arrived at by adding 12 *per cent* every year over the previous lease rent.

²³ Letter (Ms) No.430/2000, dated 31.10.2001.

²⁴ G.O. Ms.No.460, Revenue Department, dated 04.06.1998.

²⁵ Market value is taken as the value of the adjacent patta land.

²⁶ Government order 324 Revenue dated 10 September 2001.

Mention was made in the Comptroller and Auditor General of India's Report for the year ending 31 March 2005 about non-renewal of lease cases, non-revision of lease rent, delay in alienation, etc. However, we observed that in eight cases test checked by us out of 22 cases included in the Audit Report, the cases have still not been finalised.

We further observed from test check of the lease files pertaining to 24 taluk offices²⁷ that in 36 cases (**Annexure III & IIIA**), 47.04 lakh square feet of the Government lands was given on lease in favour of individuals/private enterprises/institutions/Government undertakings with the condition that the lease rent was to be revised once in three years with reference to the market value. In 25 of the above 36 cases, leases were not got renewed after the expiry of the lease period despite continued occupation by the original lessees.

- in 22 cases lease rent at old rates were collected (**Annexure III**). In respect of these cases the order of the Government for adding 12 *per cent* increase every year over the previous lease rent was not followed by the Department
- in three cases lease rent was not collected at all (**Annexure III A**).
- in the remaining 11 cases, the lease rent has not been revised once in three years with reference to the market value (**Annexure III B**).

This resulted in non-realisation of revenue of ₹ 39.69 crore for the period from 2005-06 to 2009-10 in respect of all the 36 cases. The lease rent has been calculated based on the market value of the land as stated by the Department in the proposals.

A few illustrative cases are given in the following paragraphs:

(i) We observed from the lease files at the office of the Tahsildar (LR), Salem, that land measuring 37,995 sq.ft. in Hasthampatti village was leased out to the District Club, Salem from 22 August 1969 to 21 August 1979. The lease was renewed for a further period of 10 years each from 1979 to 1989 and from 1989 to 1999. The lease amount was fixed at ₹ 15,000 per annum during the last lease period. We further observed that the renewal proposal for a further period of 10 years from 1999 to 2009 was forwarded by DRO in November 2003 to CLA fixing the lease rent at ₹ 11.96 lakh per annum for the period from 1999 to 2002 and ₹ 12.33 lakh per annum for the period from 2002 to 2005 which has not been finalised so far. Based on the lease rent proposed in 2003 and applying the 12 *per cent* increase as per the GO issued in 2001, the lease rent for the period from 2005-06 to 2009-10 worked out to ₹ 2.52 crore against which the Department had collected ₹ 75,000 only. The non-renewal of lease resulted in non-collection of lease rent of ₹ 2.51 crore (besides ₹ 71.95 lakh for the period from 1999-2000 to 2004-05).

After we pointed this out (between March 2011 and December 2011), the CLA replied (December 2011) that the proposal for fixation of lease rent for the period from 22 August 1999 to 21 August 2005 was sent to the

²⁷ Alandur, Avinashi, Coimbatore (North), Cuddalore, Karur, Kilvelur, Madurai (South), Maduranthakam, Mambalam-Guindy, Mayiladuthurai, Mettur, Mylapore-Triplicane, Nagapattinam, Panthalur, Ramnathapuram, Salem, Thanjavur, Tharangambadi, Tiruppur, Thoothukudi, Tirunelveli, Tiruvallur, Trichy and Vridhachalam.

Government and the further particulars called for by the Government are awaited from the concerned District Collector. However, the reply was silent about non-renewal of the lease for the period from 1999 onwards.

(ii) We observed from the lease files in the office of the Tahsildar (LR), Maduranthakam, that land measuring 18.11 acre situated in Silavattam village, was leased out to M/s. U.E. Development India Private Ltd. in January 2008 for nine years from 4 March 2003 to 3 March 2012. The original lease rent fixed was ₹ 1.87 lakh per annum for three years from 4 March 2003 to 03 March 2006 and the same was paid by the lessee. We also noticed that the lessee had not paid the lease rent for the period from 4 March 2006 to 03 March 2010. The Tahsildar, Maduranthakam forwarded a proposal in June 2008 fixing the lease rent at ₹ 17.74 lakh per annum. The Collector, Kancheepuram in December 2009/October 2011 fixed the lease rent at ₹ 19.87 lakh per annum and forwarded the same to DRO for submitting a fresh proposal which has not been submitted so far. This resulted in non-realisation of lease rent of ₹ 59.62 lakh for the period from 2006-07 to 2008-09 (based on the lease rent at ₹ 19.87 lakh per annum fixed by the Collector).

We observed that there was no system of monitoring the renewal/revision of leases and non-collection of lease rents at the apex level (CLA). The CLA replied (December 2011) that the above aspects would now be monitored through maintaining a register to record the details of lease cases. Further in respect of renewal/revision of leases pending at district levels, the details of the stage of pendency as on date in each lease case would be obtained from the District Collectors concerned.

The Government may consider formulating a time frame for renewal of lease/revision of lease rent and establish a monitoring mechanism for strict compliance.

3.5.10 Non-collection/levy of land cost

According to the Revenue Standing Order (RSO) 24(1), the Government lands can be granted for public purpose on collection of the land cost. Further as per RSO 24(3) the term market value or value of occupancy right is meant the value that the land would fetch in the open market, if sold subject to an appropriate charge for land revenue.

We observed from test check of the alienation files in nine taluks in respect of 11 cases, that though alienation orders for lands measuring 821.30 acres were issued between November 1988 and March 2010 and possession of the land handed over, in three cases land cost was fixed but not collected and in eight cases, though the proposals for fixation

of land cost have been submitted, they are yet to be finalised. This resulted in non-collection/levy of cost of land of ₹ 35.33 crore (**Annexure IV**) based on cost proposals fixed/proposed.

One illustrative case is given in the following paragraph:

We observed from the alienation file in the office of the Tahsildar (LR), Omalur that land measuring 93.60 acres situated in Karupur and

Kottaigoundanpatti villages was handed over to M/s. Periyar University in September 1997 and the said land was also alienated to the University in April 1999. The proposal fixing the land cost at ₹ 1.05 crore was forwarded by the District Collector, Salem to CLA in July 2006. However, the land cost has not been fixed so far.

3.5.11 Delay in alienation of Government land

According to the RSO 24(1), the Government lands can be granted for public purpose on collection of the land cost. As per RSO 24(2) the authorities competent to grant land may, in cases of emergency, give permission to enter upon the land, pending issue of formal orders sanctioning the grant. Further as per RSO 24(3) the term 'market value' or 'value of occupancy right' means the value that the land would fetch in the open market, if sold subject to an appropriate charge for land revenue. As per RSO 24(5), in all cases, where the value of the land is above ₹ one lakh, the District Revenue Officer/Collector should personally inspect the lands and record their views on the request of the institution. The proposals for disposal of land should be sent to the competent authorities in prescribed form.

As per Government order²⁸ issued in 1997, the Department taking over the land should agree to remit the cost as may be fixed by the Collector/Commissioner for Land Administration/Government in respect of that land.

All applications for settlement of the Government land by way of alienation are required to be filed before the Tahsildars of the area concerned. These are then entered in a prescribed register in form II, containing details like serial number, date of application, purpose,

name and address of the applicant, details of the land sought for alienation, progressive course of action taken until final disposal of the case. The Tahsildars arrange for verification of the record of rights of the land, status, etc. and solicit objections from the public. After consideration of the objections, if any, the Tahsildars forward the proposal to the competent authority.

We observed from test check of the alienation files in 13 taluks that in 17 cases 475.72 acres of Government lands were in possession of the institutions to whom enter upon permissions were granted. The lands were under the possession and enjoyment of those institutions for a period ranging from two to 58 years. However, the alienation proposals have not been finalised so far which resulted in blocking of Government revenue in the shape of land cost of ₹ 440.79 crore (calculated by us based on the guideline value of the land as on 30 June 2010). The details of the cases are given in **Annexure V**.

A few illustrative cases are given in the following paragraphs:

(i) We observed from the alienation file in the office of the Tahsildar (LR), Salem that land measuring 9.88 acres situated in Bodinayakanpatti

²⁸ G.O.Ms.No.976 Revenue (LDIV) dated 20.10.1997.

village was handed over to M/s. Ramakrishna Sarada School, Salem in January 1991 and the possession of the land is still with the school. However, the Tahsildar (LR), Salem forwarded the proposal for alienation, fixing the land cost at ₹ 21.64 lakh, to RDO, Salem in February 2000. The DRO in December 2004 forwarded the proposal to CLA fixing the land cost at ₹ 1.94 crore as arrived at by adding notional increase every year. The RDO also sent reminders in November 2009/December 2010. The same has not been finalised so far. This resulted in non-collection of land cost of ₹ 25.85 crore as per the guideline value prevailed on 30 June 2010.

(ii) We observed from the alienation file in the office of the Tahsildar (LR), Ambattur that land measuring 33.77 acres was handed over to Small Industries Development Corporation in July 2001. The land cost prevailing at that time was ₹ 33.77 lakh. The proposal for fixing the land cost at ₹ 93.68 lakh was forwarded by the Tahsildar to DRO in November 2010 and the same has not been finalised so far. This resulted in non-collection of land cost.

The CLA stated (December 2011) that in respect of alienation, though no returns are obtained from the districts, the cases are taken up in the review meetings to monitor their status based on the urgency of the cases. We do not agree with the reply as these cases are pending finalisation from two to 58 years.

3.5.12 Encroachment of Government lands

As per the provisions of the Tamil Nadu Land Encroachment Act, 1905, a penalty of ₹ 10 per case is levied on person(s) who have encroached upon the Government land. According to Section 6 of the Tamil Nadu Land Encroachment Act, 1905, any person occupying any Government land may be evicted by any officer authorised by the State Government.

As per the RSO 26(4) unauthorised occupation of Government land may be arranged in the following classes:

(a) Cases in which the occupation, whether permanent or temporary, is unobjectionable.

(b) Cases in which temporary occupation, is

unobjectionable but permanent occupation is objectionable.

(c) Cases in which the occupation, whether permanent or temporary, is objectionable.

In cases of encroachments mentioned against item (a), action may be taken to assign the land subject to conditions as may be prescribed. In cases of encroachment mentioned against item (b), the question of granting temporary permission may be considered, but in cases of encroachments which fall in the third category, it should be evicted under RSO 26(4).

At the time of annual *jamabandhi*, the District Collector/nominated Officer was required to check, *inter-alia*, whether the taluk authorities have followed all the procedures envisaged in the Encroachment Act, particularly for prompt

eviction of encroachment of lands or transfer of lands under unobjectionable encroachment.

The meagre penalty provided in the Act for encroachment of Government land has not been revised since 1905 i.e., for over 10 decades. It no longer serves as a deterrent. It is pertinent to note that in the neighbouring State of Kerala the penalty leviable is far higher (maximum of ₹ 200 is leviable in cases of encroachment and if the contravention continues, penalty of ₹ 200 is leviable for every day of such contravention). This has been in vogue since 1957.

The Government while replying (August 2003) to the audit observations included in the Audit Report for the year 2002-03, stated that repeal of the old Act (1905) and re-enactment of a new Act with necessary provisions like levy of higher rate of penalty, punishment for land grabbing, simplifying the procedure for eviction, etc., was under their consideration. However, even after eight years of their reply, the Act has not been amended so far.

3.5.12.1 Encroachment by individuals and commercial organisations

We observed from test check of the account number seven and *adangal*²⁹ meant for accounting the Government *poromboke* (waste) lands, in 24 taluks, that in 39 cases, 6,712.53 acres of Government lands valuing ₹ 178.65 crore were under encroachment for more than five years, for commercial/industrial purposes, as detailed in **Annexure VI**.

A few illustrative cases are given in the following paragraphs:

➤ We observed during test check of account number seven and *adangal* records in the office of the Tahsildar (LR), Uthamapalayam that land measuring 9,894.62 acres was given to a company under conditional assignment in 1931 for cultivation of tea, coffee and cardamom. The Authorised Officer (Land Reforms), Coimbatore in his proceedings in 1979 identified the above land under various categories like non-agricultural lands, plantation lands, etc and determined 6,389.42 acres of this land as surplus as the land was not used for the purposes of assignment and converted the said lands as “*kadu poromboke*³⁰” and necessary changes were also made in the village records. However, the original assignee was allowed to occupy the land since 1979 to date. The cost of the land encroached worked out to ₹ 143.76 crore (as on 30 June 2010 as per the guideline value).

➤ We observed during test check of account number seven and *adangal* records in the office of the Tahsildar (LR), Perundurai that land measuring 10,900 sq.ft. in Chennimalai village was encroached by a person for more than 15 years and is operating a petrol retail outlet in the encroached land. The cost of the land encroached worked out to ₹ 12.35 lakh (as on 30 June 2010).

3.5.12.2 Encroachment by educational institutions

We observed during scrutiny of account number seven and *adangal* meant for Government *poramboke* (waste) lands in 10 taluks, that in 16 cases, 60.01 acres of the Government lands valuing ₹ 11.24 crore were under encroachment

²⁹ Account number seven is a register in which details of encroachments are entered and *Adangal* is a book containing the accounts of a whole village.

³⁰ *Kadu Poromboke* means Government waste lands.

for more than five years by educational institutions as detailed in **Annexure VII**.

A few illustrative cases are given in the following paragraphs:

- We observed during test check of account number seven and adangal records of the Tahsildar (LR), Salem that land measuring 26.01 acres was encroached by an educational and charitable trust from 1997. The encroacher agreed for grant of lease at nominal lease rent in October 2009. The lease proposal was forwarded by the District Collector to the Government in November 2009 proposing the lease rent at ₹ 30.59 lakh per annum. However, the same has not been finalised and the land is still under the occupation of the encroacher without any income to the Government. The cost of the land worked out to ₹ 4.37 crore (value as on 30 June 2010).
- We observed during test check of account number seven and adangal records of the Tahsildar (LR), Tiruchengodu that land measuring 2.32 acres in Kumarapalayam Amani village was encroached by a person for the purpose of running an engineering college, from 1991 onwards and the encroacher had built permanent structures and overhead tank on the said land. The cost of the land worked out to ₹ 1.11 crore (value as on 30 June 2010).

Failure of the Department to evict the encroachers or dispose of the cases resulted in lands to the value of ₹ 189.89 crore (value as on 30 June 2010) being occupied by encroachers without any income to the Government.

3.5.12.3 Encroachment of water courses

The Government of Tamil Nadu in GO.Ms.No.186, Revenue L.D.1 (2) Department dated 29 April 2003 issued instructions to the District Collectors/District Revenue Officers for the preservation of water resources in the State and for eviction of encroachments in ponds, lakes, tanks, channels, etc., and protect these water bodies with a view to conserve water resources required for irrigation and for maintaining ground water levels.

The Honourable High Court Chennai in WP No.20186/2000 dated 27 June 2005 had emphasised the need for the State Government to protect the water course *poromboke*³¹ lands by identifying all natural water resources in different parts of the State and wherever illegal encroachments were found, to initiate appropriate steps for restoring such natural water storage resources to their original position so that the suffering of the people of the

State due to water shortage is ameliorated.

We observed from test check of the account number seven and adangal meant for Government *poromboke* lands in 49 taluks relating to 18 districts³², that 7,065 acres of land meant for water courses were encroached upon in 19,369

³¹ Government waste land.

³² Coimbatore, Erode, Kanchipuram, Karur, Nagapattinam, Namakkal, Nilgiris, Ramanathapuram, Salem, Thanjavur, Theni, Thoothukudi, Tirunelveli, Tiruppur, Tiruvallur, Tiruvannamalai, Trichy and Vellore.

cases. The land was under encroachment for more than five years and the cost of the said land as on 30 June 2010 amounted to ₹ 901.76 crore as detailed in Annexure VIII.

Despite the instructions of the Revenue Department, the eviction of encroachments in water courses has not been carried out resulting in continuous blocking of water courses.

3.5.12.4 Encroachment of Government lands noted in Prohibitive Order Book

According to RSO 15-2(2), a land is said to be “reserved” when it is earmarked as being required or likely to be required for special purposes. An entry to this effect is to be made in the “A” register³³ and village adangal, and also in the Prohibitive Order Book (POB). Such lands are:

- a) land that may be required for a scheme evolved or to be evolved,
- b) land adjacent to the school, road, railway station etc., and which is likely to be required for future expansion,
- c) land containing major minerals,
- d) land containing archaeological monuments and
- e) land, disposal of which may lead to law and order problem.

In such cases, the Department/Government may prohibit the disposal or use of the land in any form by any one. The lands identified and earmarked for future special purpose of Government should not be allowed to be encroached.

We observed from the POB register and *adangal* of nine districts³⁴ that in 1,116 cases, 685.70 acres of Government lands noted in the ‘Prohibitive Order Book’ were encroached by various institutions/bodies/individuals. The cost of the land as on 30 June 2010 worked out to ₹ 129.12 crore.

As these encroachments were objectionable, they should have been evicted. However, no action was initiated to evict the encroachers.

In view of the extensive nature of encroachments of Government lands in the State, we recommend that the penalty be substantially increased. Action also needs to be taken to evict encroachments on priority basis along with strong action to act as a deterrent to encroachments.

³³ ‘A’ Register contains information on all lands about its classification, assessment, etc. of a village

³⁴ Coimbatore, Kanchipuram, Madurai, Nilgiris, Salem, Theni, Thoothukudi, Tirunelveli and Trichy.

3.5.13 Non-resumption of lands under Bhoodan Act

According to Section 19 of the Tamil Nadu Bhoodan Yagna Act, 1958 (Tamil Nadu Act XV 1958), the State Bhoodan Board may, in the manner prescribed, and as far as possible taking into consideration the wishes of the donor, grant any land which is vested in it to a landless poor person who is able and willing to cultivate the land or to the Government or a local authority for community purposes. The grantee of the land shall acquire therein such rights and liabilities and subject to such condition, restrictions and limitations as may be prescribed, and the same shall have effect, any other law to the contrary notwithstanding.

According to Rule 15 (2) of the Tamil Nadu Bhoodan Yagna Rules, 1959, the grant may be cancelled and the land resumed by the State Board for violation of any conditions specified in Rule 15 (1) of the rules *ibid* without payment of any compensation and on resumption the land shall revert in the State Board and the State Board may re-grant it to any other eligible person.

We observed that 28,060.41 acres of land were gifted to the Tamil Nadu Bhoodan Board, out of which 20,485.35 acres of land were allotted to landless poor persons in the State. The remaining 7,575.06 acres of land is with the Board and is yet to be distributed to landless poor persons as on December 2011 as reported by the Director of Land Reforms.

However, it was observed from the Bhoodan land allotment records in 12 taluks³⁵ that in 66 cases 88.64 acres of land allotted to landless poor people between 1956 and 1984 were occupied by other persons for more than 10 years. The cost of the land, as on 30 June

2010, was ₹ 7.56 crore.

These lands should have been taken back by the Government and re-allotted to the same or other eligible persons with reference to the provisions contained in the Act. However, this has not been done so far.

After we pointed this out, the Commissioner of Land Reforms stated (June 2011) that instructions have been issued to make necessary enquiry, inspect the lands in question and to take action to evict the unauthorised occupation. Further the District Collectors have also been requested to send the list of eligible persons for re-allotment of such Bhoodan land. We are awaiting further report (December 2011).

³⁵ Aravakurichi, Coimbatore (North), Cuddalore, Manapparai, Mettur, Omalur, Perundurai, Ramanathapuram, Salem, Sriperumbudur, Sullur and Tiruchendur.

3.5.14 Other points of interest

3.5.14.1 Non-resumption of Government land for violation of condition

According to RSO No. 24, Government lands may be placed at the disposal of a person, or an institution or a local body. If any condition imposed by the Government in respect of such grant are violated, the Government may resume such lands without any compensation.

As per RSO 24(7A) the Collectors will ensure that the subordinate officers inspect annually the lands placed at the disposal of the institutions to find out whether the conditions of the grant have been properly implemented and pursue further action, where violations are noticed.

(i) Government land measuring 30,928 sq.ft. was granted (13 September 1973) on conditional assignment in favour of a person in Tiruchengode taluk for setting up a dairy farm. We observed from the records of the Taluk Office, Tiruchengodu, that the said land was noted as having violated the assignment conditions in the year 2005, itself. We cross verified from the documents in the office of the Sub-Registrar, Tiruchengode that the assigned land was converted into house sites and sold to 12 persons between 2001 and 2010. The value of the land worked out to ₹ 6.14 crore.

After we pointed this out, the CLA replied (December 2011) that only 6,500 sq.ft. of the land has been sold out of the total area of 30,928 sq.ft. Further, the CLA stated that the DRO, Namakkal forwarded only a factual report in this regard and not a resumption proposal. Though the land was noted as having violated the assignment condition in 2005, the Department had not taken action to resume the land even though more than five years have elapsed.

(ii) Government land measuring 40,793 sq.ft. was granted on lease in favour of a Sabha in Thanjavur taluk in 1926 for a period of 99 years for Sabha activities. Though it was Government land, the Municipal Council in November 1973 resolved to cancel the lease and to resume the land for violation of lease conditions. Against this, the Sabha had filed a suit in 1974. The Hon'ble Subordinate Judge, Thanjavur in his judgment dated 31 March 1975, restrained the Municipality from interfering in the leased land. Thereafter, the Municipality filed a suit in the District Munsiff Court in 1976 for recovery of possession of the leased land. The suit was dismissed on 6 April 1978 and in the judgment it was pointed out that "the suit was not maintainable since the lease was granted by the District Collector of Thanjavur and the Municipality was not the owner of the suit site. The Government in August 2005, directed the District Collector/Thanjavur District to collect the lease arrears of ₹ 46.46 lakh from the lessee and also resume the land after observing the procedures for violation of lease conditions.

We, however, observed that even after five years after the issuance of the Government order, no action was taken to resume the land worth ₹ 8.16 crore and also to collect the lease rent arrears of ₹ 46.46 lakh.

After we pointed this out, the Government replied (July 2011) that the Collector, Thanjavur has given instructions to the Municipal Commissioner, Thanjavur to take appropriate action to collect the lease rent arrears and evict the lessee from the land. Further, the CLA replied in December 2011 that the District Collector, Thanjavur has been requested to send a report in this regard. We are awaiting further report (December 2011).

3.5.14.2 Non/short levy of interest for belated payment of land cost

According to RSO 24-6 (11), when land is placed at the disposal of the institution on payment of the cost of the land, the said cost should be paid within a period of 30 days from the date of issue of orders. In case of failure, interest at prevailing rates will have to be paid by the beneficiary, till the cost of the land is fully paid.

(i) We observed in Arakkonam taluk that cost of the land alienated (04 December 2007) to CISF in Arakkonam taluk was fixed at ₹ 1.71 crore. After adjusting an amount of ₹ 93.07 lakh already paid by the CISF, an amount of ₹ 77.57 lakh was demanded on 26 December 2007. The CISF remitted the amount on 31 October 2008 after a lapse of 10 months. Though

interest of ₹ 7.76 lakh at 12 *per cent* per annum for the belated payment was leviable, an amount of ₹ 0.93 lakh only was levied due to clerical error. This resulted in short levy of interest of ₹ 6.83 lakh.

(ii) We also observed in three taluks³⁶ that the cost of land alienated to M/s ELCOT was fixed at ₹ 32.38 crore. Though the Government allowed M/s ELCOT to pay the land cost in four equal instalments on specified dates after excluding five *per cent* of initial payment of the cost, M/s. ELCOT paid the land cost belatedly attracting interest of ₹ 1.12 crore, which was also not levied.

3.5.14.3 Non-recovery of cost towards survey staff

According to the instructions issued by the Government in 1989 and Survey manual, the cost of establishment charges incurred on the officials lent to Corporation/ Municipalities/Panchayats has to be worked out by the Department of Survey and Settlement at the end of each year and the same should be recovered from the borrowing institutions.

On verification of records in the office of the Director of Survey and Land Records, Chennai, it was noticed that the demand for the payment of cost of survey staff lent to local bodies, for the period upto *fasli* 1419 (30.06.2010) was ₹ 53.29 crore. Out of this ₹ 11.68 crore was collected

³⁶ Madurai (North), Madurai (South) and Tiruverumbur.

by the Department, leaving a balance of ₹ 41.61 crore uncollected, as detailed in the following table:

| (₹ in crore) | | | |
|------------------|--------------|--------------|--------------|
| Local Body | Demand | Collection | Balance |
| Municipalities | 38.44 | 7.10 | 31.34 |
| Corporations | 8.81 | 3.22 | 5.59 |
| Panchayat Unions | 6.04 | 1.36 | 4.68 |
| Total | 53.29 | 11.68 | 41.61 |

Further demand of ₹ 60.43 lakh has been raised for the year 2009-10 in respect of a Corporation, 35 Municipalities and 12 Panchayat Unions out of seven Corporations, 99 Municipalities and 93 Panchayat Unions respectively.

After we pointed this out, the Department replied (between December 2010 and March 2011) that the demand for the year 2009-10 was not raised for the remaining local bodies due to implementation of sixth pay commission report.

Had timely action been taken to raise the demand for the remaining local bodies, the Government would have realised revenue of ₹ 7.37 crore for 2009-10 alone.

3.5.14.4 Non-linking of records of Revenue and Registration Departments

According to RSO No. 31 (9), in every case of absolute transfer of landed property by a deed of conveyance, or of transfer of possession by any other kind of instrument, registered in an office of Registration of assurances, it is the duty of the registering officer to obtain from the party presenting the instrument an application in the required form for the transfer of ownership in the revenue records. All applications presented to registering officers and notices prepared by them shall be transmitted to the Tahsildar of the taluk concerned in which the property is situated, who will take action on them as if they had been received by revenue officers directly.

The registering officer collects ₹ 60 per application, if the property is situated in corporation area and ₹ 40 per application if it is in other than corporation area towards transfer of ownership to be carried out by the Revenue Department.

However, we observed in 18 districts³⁷, that out of 11.32 lakh *patta* transfer applications received from various sub registries during the period from 2005-

06 to 2009-10 *patta* transfers were made only in respect of 6.30 lakh cases, leaving 5.02 lakh cases as rejected.

³⁷ Coimbatore, Cuddalore, Erode, Kanyakumari, Madurai, Nagapattinam, Namakkal, Ramanathapuram, Salem, Thanjavur, Theni, Thoothukudi, Tirunelveli, Tiruppur, Tiruvallur, Tiruvannamalai, Trichy and Vellore.

The main reason stated for the rejection was the non receipt of proper documents. However, the same was not reported to the Registration Department for getting the relevant documents. This shows that the existing system of collecting *patta* transfer applications at the time of registration had not served the purpose for which the amount was paid by the public.

It is pertinent to mention that the issue was earlier reported in Audit Report 2007-08 (Paragraph 4.2.4.3) regarding inter-connectivity between the taluk offices and SR offices (computer connectivity). However, it is seen that there is still no computer connectivity between the Revenue and Registration Departments (collecting agency).

3.5.15 Conclusion

The performance audit revealed that Government did not have a database of its own premium asset i.e. land. The Department did not follow the orders of the Government for renewal/collection of lease rent. The Government lands were not alienated even after grant of enter upon permission resulting in blocking of Government revenue in the shape of land cost. Where violation of conditions were noticed in the cases of lands allotted under *bhoodan* scheme, no action was taken to resume/reallot the lands. No action was taken to evict the objectionable encroachments.

3.5.16 Recommendations

The Government may consider the following:

- **instruct the Department to maintain a complete and updated database at CLA level of the actual Government land available, the extent thereof alienated or leased out or encroached upon and pendency of lease/alienation/encroachment cases;**
- **a time frame may be devised for renewal/revision of lease rent;**
- **a fixed time limit may be prescribed to alienate the Government lands after grant of enter upon permission;**
- **stringent penal provisions may be introduced to discourage the encroachment of Government lands;**
- **a suitable mechanism may be evolved to watch violation of conditions on allotment of Bhoodan lands and also to take timely action to resume the land in case of violation; and**
- **implementing the scheme of inter linking (computer connectivity) the taluk offices with the Sub-Registrar offices for updating of transactions in revenue records.**