



GOVERNMENT OF KERALA
KERALA STATE PLANNING BOARD

**THIRTEENTH FIVE-YEAR PLAN
(2017-2022)**

**WORKING GROUP ON
LAND RECORDS**

REPORT

PERSPECTIVE PLANNING DIVISION

KERALA STATE PLANNING BOARD
THIRUVANANTHAPURAM

MARCH2017

PREFACE

In Kerala, the process of a Five-Year Plan is an exercise in people's participation. At the end of September 2016, the Kerala State Planning Board began an effort to conduct the widest possible consultations before formulating the Plan. The Planning Board formed 43 Working Groups, with a total of more than 700 members – scholars, administrators, social and political activists and other experts. Although the Reports do not represent the official position of the Government of Kerala, their content will help in the formulation of the Thirteenth Five-Year Plan document.

This document is the report of the Working Group on Land Records. The Chairpersons of the Working Group were Professor V K Ramachandran and Shri P H Kurien IAS. The Member of the Planning Board who coordinated the activities of the Working Group was Professor V K Ramachandran. The concerned Chief of Division was Dr V Santhosh.

Member Secretary

CONTENTS

Chapter 1 Introduction: Context and Background.....	1
Terms of Reference of the Working Group.....	Error! Bookmark not defined.
Chapter 2 Land Administration and the Underlying Principles in Indian Constitution	3
Chapter 3 Issues with Present Day Land Administration Systems	7
Chapter 4 Ideal Future Land Record for Responsible Land Administration	14
The Paradigm Land Record System.....	15
Chapter 5 Summary of Recommendations	17
Chapter 6 Action Plan with Timeline	21
Chapter 7 Source of Funds.....	24
Chapter 8 Conclusion.....	25
Annexure 1.....	26
Annexure 2.....	27
Annexure 3.....	29
Annexure 4.....	48
Annexure 5.....	52

CHAPTER 1
INTRODUCTION: CONTEXT AND BACKGROUND

1. The first meeting of the working group that held on 30th September 2016 under the Co Chairmanship of Prof VK Ramachandran, Vice Chairperson, State Planning Board and Shri P H Kurian, Principal Secretary, Revenue and Disaster Management Department decided that spirit of the next plan would be a mission on Modernization of Land Records.
2. The Working Groups deliberated on the various issues and presented the first draft report in the Third meeting of the Working Group held on the 30th November, 2016. The first draft report was discussed and keeping in view the observations and suggestions of the members of the Working Group, the draft report of the Working Group was prepared and circulated to all members .The Report was finalised thereafter.
3. Land is one of the most valuable and coveted assets in the world. From the time that civilisation started land, its ownership; possession and use have been important issues. Even when living in caves or in huts or river banks, there is need to ensure the ‘rights’, be it the right of possession or of use, of rental or lease or of title, conclusive or otherwise.
4. The economy of a country is heavily dependent on the process of land management. Land-related taxes form a substantial part of public revenue. There is basic land tax, land use tax and land conversion tax. Then there are taxes and fees connected to land transfer and sale, stamp duty and capital gains, mutation and property tax. There are many other taxes, fees and cess connected to land and improvements made on land. Land management is primarily a State subject and each State has passed a large number of legislations on this subject. However, on some land management issues, viz. land registry, the Central Act is applicable.
5. In order to levy any tax on land, the records have to be reliable. The land records in India started with the land survey called the Great Trigonometric Survey (GTS) carried out in the beginning of the nineteenth century. The reason for the survey was to measure the land area mass of the Indian sub-continent, the length of its coastline and most importantly the height of the Himalayan peaks. This was to become the base for laying the railway network for transportation of raw material to the coastal towns and the ports. It was a truly humungous exercise costing thousands of lives due to the harsh weather, to wild animals and to various tropical diseases. The result however, was spectacular. The event is colourfully depicted in the book ‘The Great Arc – The Dramatic Tale of How India Was Mapped and Everest was named by John Keay. The book relates in detail how the GTS survey, the first of its kind for such an extensive land mass, that began from Cape Comorin in 1806 headed by William Lambton traversed 2,400 kms north across 20 degree meridian. After Lambton’s death due to a tropical disease, the work was taken up by George Everest, but even he did not get to see the work completed. It was Andrew Waugh under whose leadership the longest measurement of the earth’s surface was declared completed in 1856.It covered “1600 miles of inch-perfect survey that cost more lives than any contemporary war and involved equations more complex than any in the pre-computer age.”The Indian sub-continent

became one of the first regions to have cadastral maps with geodetic survey points mounted in public places. This survey was the precursor to the setting up of the railway system and the telegraph network in India. It also resulted in Mount Everest being declared the highest peak in the world.

6. Based on the mounted geodetic points called the GTS, each region/ state in India generated its cadastral maps. In Kerala such a field survey was carried out in the early 1900's. Based on the survey the basic land maps were generated: the Village litho map which are to scale (maps to scale printed on textile) that assigned survey number to each holding with the ladder data on distances and angles. The spatial data (i.e. the maps) were accompanied by the textual data registers that contain the land holding details with name of holder, survey number and area, land use and the basic/ land tax payable. For the purpose of good management of lands, certain other registers were also generated that include: Basic Tax Register (BTR), Thandaper register containing details of all private lands and Poromboke register containing the details of public lands.
7. Not only in India, but in every country, public lands are held by a Government department or agency on behalf of the State. Given that land is an inelastic asset, it is essential to utilise public lands in a judicious manner in support of a valid public purpose. Put another way, public lands are held on public trust and Government has to act in the manner of a trustee or custodian in the allocation and utilization of public lands. Unfortunately, public lands have often been allocated for various types of private uses – ranging from commercial purposes to various forms of private organizations - without either a transparent set of norms, an open tender process, lease rent at fair market value, or consideration of whether the allocation of land in question is in the public interest and serves a valid public purpose. These unsound practices have widespread and unrecognized ramifications on the society and economy as a whole, from unnatural increase in the price of land to the monopolization of public assets for a privileged few. This has been the situation in the past decades leading to the anomalies and the lack of well-thought-out policies that now cry for solutions.

CHAPTER 2

LAND ADMINISTRATION AND THE UNDERLYING PRINCIPLES IN INDIAN CONSTITUTION

11. As per Articles 19 and 31 of the Constitution of India the “Right to Property” was originally a fundamental right and on 06.09.1978 through the 44th amendment in the Constitution the above right was removed from the list of fundamental rights. However, the Right to property found a place under Article 300A of the Indian Constitution, stating that no person can be deprived of his property. This otherwise means, the burden of protection of one’s own property got vested with the holder of the land alone and the Government stepped into the shoes of an “arbitrator in disputes” between private persons on land matters from the original “protector’s” role.
12. The Constitution of India through its VII schedule has clearly earmarked the various subjects for the perfect maintenance of federal system in the country especially on enactment of laws on various subjects. The various subjects and descriptions connected with land are enumerated hereunder;

Table 1 *Extract of VII Schedule of Indian Constitution*

Name of the list	Number in the list	Description in the list
Union list	88	Duties in respect of succession to property other than agricultural land
State list	18	Land, that is to say, rights over land, land tenures including the relation of landlord and tenant, and the collection of rents; transfer and alienation of agricultural land; land improvement and agricultural loans; colonization
	45	Land revenue, including the assessment and collection of revenue, the maintenance of land records, survey for revenue purposes and records of rights, and alienation of revenues
	49	Taxes on lands and buildings
Concurrent list	6	Transfer of property other than agricultural land; registration of deeds and documents

13. As per the above, the “rights” granting regulation can be promulgated only by the State Governments, and Kerala being one of the States with maximum density of population it is obligatory on the part of the State Government to introduce such a regulation in tune with the Model Land Titling Bill of 2011 proposed by Government of India.
14. Common Union laws connected with land governance in India. In the legal parlance three Union laws viz. Transfer of Property Act, 1882, Indian Easement Act, 1882 and Limitation Act, 1963 are being commonly used in India to deal with cases pertaining to land governance.

15. Transfer of Property Act, 1882. This was enacted on 01.07.1882 but it prescribed that every State Government by notification in the official gazette shall apply or exempt the provisions of this Act retrospectively or prospectively from time to time, either partly or wholly in the territorial jurisdiction of each State. Though not expressly, the Act lays emphasis on the right and title of the seller of properties under transfer, through the various provisions of this Act. But the Act is silent on by what mechanism the title and right are derived by the seller and the Act deals with Citizens to Citizens [C2C] land transactions only. The Government is a mere spectator or arbitrator in the transfer of properties as per the provisions of this Act.
16. *Indian Easement Act, 1882*. This Act also came into effect from 01.07.1882. An easement is defined as a right which the owner or occupier of certain land enjoys, as such, for the beneficial enjoyment of that land, to do and continue to do something, or to prevent and continue to prevent something being done, in or upon, or in respect of certain other land not his own. No title on land is accrued as per the provisions of this Act but only the right to enjoy some portion of land beneficially.
17. *Limitation Act, 1963*. This Act was enacted on 15.10.1963 to consolidate and amend the law for the limitation of suits and other proceedings and for purposes connected therewith. As per the provisions of this Act, property over which a right is claimed by a private person, if it belongs to the Government then limitation would be thirty years and for the determination of the period for private persons for instituting a suit for possession of any private property, his right to such property shall be extinguished after expiry of twelve years. Here also only the right to land is prescribed citing the limitation of suits.
18. Though, the question how the Union laws can be made applicable for transfer of “rights over lands” as per the above laws is debatable, it can be conclusively proved that, there can be only two basic Land Tenures in India Viz. Government land and Private land.
19. *Private land*. Since, the “rights of individuals over the land” is to be decided by the individual State laws as contemplated under item 18 in the “State list” of VIIth Schedule of Constitution of India, the nature and rights on “private land” has broad meanings in various State laws. Unfortunately none of the States have enacted any law which gives conclusive ‘Title’ to the citizens, citizen’s possession of land is based only upon a presumptive title until now. This makes any title open to challenge in a civil court leading to lakh of pending cases. It also exposes common citizens to the vagaries of the whims and fancies of the most powerful public servants’ triumvirate: Revenue – Survey – Registration. Realising that land title should have greater finality, the Government of India has recommended the model Land Titling Bill, 2011 to be adopted by every State.
20. The so called ‘freehold right’ acquired presumptively over the land is conditional in India, as this right is questionable under the land acquisition Act and under the ‘Doctrine of Eminent Domain’. The imposing of “licenses and permits” by the State for various activities like construction of buildings, digging of wells, etc. over the “Presumptive Freehold land” of the individuals in a way asserts that the ‘rights’ acquired presumptively over the private land is

restricted only to “enjoy it as derived from its predecessor”. So the title of land which one holds as private property in his/ her exclusive possession by creating deeds under the Registration Act, 1908 is ‘presumptive’ in nature and will continue to be so until the same is recognized by any of the title guaranteeing laws to be promulgated by individual States.

21. The title and/or right over the property may also be garnered by receiving the land as assignment or grant from the Government. This can be done through the provisions contained in various Acts, viz. Land Assignment Acts; Land Reforms Acts, Tenancy Reforms Acts, etc., which basically recognize the possession of private individuals on the land, no matter whether it is public or private in nature.
22. In other words to treat a land as a private land for effecting settlement and thereby a ‘right’ in the claimant’s name, following are the prerequisites;
 1. The possession of the claimant should be unfettered for at least 12 years in the case of private lands and 30 years for Government lands as per the Limitation Act, 1963 and/or
 2. The easement if any should harness the peaceful and beneficial enjoyment of an existing property of the claimant as per the Indian Easement Act, 1882 and/or
 3. The possession should be supported by a valid document under the Registration Act, 1908 and the conveyed property should be in tune with the provisions in Transfer of Property Act, 1882 especially in proving the seller’s and the buyer’s credentials before each other and before the registering authority and/or
 4. Any document prescribed by the State law to declare the right on the land in question for example, *Patta*, *Pattayam*, Purchase Certificate, Deed of Grant, Record of Right, etc. and/or
 5. A title granting document as per titling laws likely to be formulated by the individual States in line with the Model Land Titling Bill, 2011 [Draft] issued by Government of India.
23. Government land: The rest of the land other than those mentioned above within the territorial jurisdiction of a State or Union territory is treated as Government land. In other words, the land within the cadastral limit and administrative territory of a village, which has not been settled in the holder’s name, should be treated as Government land. As per the ‘Doctrine of Public Trust’ it is the bounden duty of the public official to protect these lands for the ‘State’. Administratively the Government lands are of the following types:
 1. State Government owned Lands: These are the lands which are being held by different departments under the State Government. The administration, management and judicious use of these types of lands are vested with the Land Revenue Department in Kerala. These also include escheat land and abandoned properties resumed to Government as part of relevant laws, Bought-in-land resumed to Government as part of revenue recovery process, etc.
 2. Central Government owned lands: The lands which belong to the Central Government departments within the territorial jurisdiction of the State Government like the National Highways, Central Government offices, etc., and also those which are outside the jurisdiction of the States like the Sea ports, offshore refineries, etc. will

- come under this category. The lands which are being notified as forest land coming under the purview of Forest Conservation Act, 1980 also come under this category of lands as divesting of the same requires clearance from Government of India.
3. Land owned by Public Sector Undertakings: The lands which belong to the Central Government PSUs like Railways, Airports, Companies, etc. within the territorial jurisdiction of the State Government. The land owned by the PSUs of the State Government also fall under this category but denoted as “public lands”.
 4. Land owned by autonomous institutions under Government: The lands owned and possessed by Universities, Boards, Corporations, etc. under the direct management and control of the State and Central Government come under this category.
 5. Land vested in and acquired by the Local Self Government [LSG] Institutions and Development Authorities: Pursuant to 73rd amendment in the Constitution of India, the LSGs are empowered to manage public properties like streams, ponds, rivers, lanes, roads other than State and national Highways, etc., within their respective territorial jurisdiction. For managing the same, above types of lands got vested with the LSGs, as per Section 169 and 218 of Panchayat Raj Act, 1994 and relevant provisions in Municipality Act, retaining the status as ‘public lands’. The lands which are required and/or purchased by Development Authorities instituted mostly under the Town Planning Acts or similar Acts should also be treated as public or Government land.
 6. Land which are resumed as excess land as per the provisions of Kerala Land Reforms Act, 1963: The land held in excess of ceiling limits under the Kerala Land Reforms [Ceiling] Rules, 1970 are being resumed and recorded as Government lands.
 7. Land which is not settled in any holders’ names: As per Section 3[2] of Kerala Land Conservancy Act, 1957 the lands which are not settled in the name of any person/family/institution/company will also come under the category of Government lands, till the same is notified as “lands which are not required for public purpose”. The settling process in any person/family/institution/company’s name happens only after finalization of resurvey records as per Section 13 of Survey & Boundaries Act, 1961. In other words, the land in excess held by any person/family/institution/company over and above what appears in the *Thandaper* should also be treated as Government land. To make it more clear all the lands within the cadastral limits of various villages in the State which are not recorded as ‘private lands’ in revenue records by making appropriate entries pursuant to mutation / transfer of registry are to be treated as Government lands.
24. Real estate mostly involves ‘Land’ in the Indian context and there are number of laws which are used to convey the rights over land from the vendor to a vendee and its subsequent possession.

CHAPTER 3
ISSUES WITH PRESENT DAY LAND ADMINISTRATION SYSTEMS

25. The civil cases are on the rise since 1990s, due to multiplicity of issues mostly administrative issues, in the State of Kerala and it needs to be analysed based on different department's perspectives, to arrive at meaningful solutions.
26. *Land administration from Revenue Department's perspective.* There are different elements under this and the most important ones are;
 1. Unparalleled hierarchical structure: Unlike in other States in the Indian union, especially the North Indian States, the entire revenue records in Kerala are being kept and updated at the Village Office level. This has its advantages: the delegated powers to the village level makes land administration available to the people almost at their doorstep. However, this has also paved way for much tampering of records and most of the original records are rendered irretrievable in nature due to this decentralised land record maintenance. Other States could perhaps better preserve such basic records as these records are being kept intact at taluk offices at all times. The situation demands compulsory digitisation of original records, at least for the future.
 2. *Separate administrative mechanism for Registration and Revenue departments.* Unlike in other States, the Registration Department is not under the administrative control of Revenue Minister and Principal Secretary in Kerala. This creates lot of issues at least for creating common database on land transactions and also for introducing timely rule amendments to augment the seamless transaction of land parcels. The encumbrances owing to issue of possession certificates, location sketches, etc., for obtaining credits from nationalised banks are not being reflected in the 'encumbrance certificates' issued to prospective buyers and also while attaching the properties during revenue recovery process. The basic underlying principle of 'identifying the property' by Registration official under Section 21 of Registration Act, 1908 is knowingly or unknowingly overlooked due to the lack of proper single administrative mechanism on land. This causes untold hardship to the honest citizens, loss to the State and opens the door for corrupt practices.
 3. The non-existence of any statute to allow change in land use is another lacuna found in land administration. Government of India has laid down the 9-fold categorisation on land use [Annexure I]. But the data maintained in the records is often out-dated and there is no provision for updating. The reports sent to GoI containing statistical data on crop cultivation also tend to be inaccurate. Parcels of land lying in the midst of urban centres continue to be paddy land as per records with no valid provision to allow conversion to an urban use. The Paddy Land Wetland Act, 2008 was intended to arrest the indiscriminate and unplanned conversion after charting out a database which is yet to be done. The State also loses out on revenue by not imposing any conversion fee for conversion from a less infrastructure intensive to a more intensive use. Being hard-pressed for funds, the conversion fee could be a ready source to meet the cost of construction of roads, power supply, water supply, sewerage, parking and other public utilities required. This is especially relevant for Kerala where the rate of urbanisation is much higher than in other States.

4. *Non-existence of 'Rights' granting regulation.* Though, there is a constitutional obligation on the State to pass 'rights' granting regulation in the State, the State is yet to pass any such regulation. The only regulation available in the State, the Transfer of Registry Rules, 1966 does not have the legal support of a corresponding Act. Moreover, it does not ensure the 'rights' over the land [Rule 16]. So a land holder in the State is still at the mercy of the officials of revenue, registration and survey departments and the outside players like document writers and advocates, who can question their possession on land at any time. This warrants the establishment of a 'rights' granting authority in the State with all the powers to confirm the various 'rights' of holders on the land they 'possess'.
 5. *Dual tax collection on the same piece of land.* The settlements in Kerala being 'homestead' in nature, there is dual control of LSG Department and Revenue Department on the same piece of land. For example, if a person constructs a house in Kerala, he will have to pay "Basic Tax (annually) and Building Tax (one time)" to Revenue Department and "property Tax (annually)" to LSG Department, which is not the case in other States. In other States the settlements are of 'hamlet' type. The 'hamlets' become co-terminus with panchayaths which in turn could grow into municipalities with demographic changes.
 6. *Non-existence of regulations to accommodate flats in the revenue records.* The Department of Revenue has been experiencing another issue with the new age settlement in the form of flats or apartments. There are no provisions in the Kerala Land Tax Act, 1961 to issue 'tax receipts' for the occupiers of flats 'singly', rather it is being issued jointly which is going to be an issue in the near future. It warrants a clear amendment to the Kerala Land Tax Act and also introduction of 'special *Thandaper* registers' among the registers in Village Offices [Annexure II].
27. *Land administration through Survey and Land Records Department's perspective.* The most important views and apprehensions of the Department are as follows;
1. *Lack of clarity in Act and Rule.* The survey and resurvey in Kerala is being carried out by invoking the provisions of Kerala Survey and Boundaries Act, 1961 and Rules of 1964. However, neither the Act nor the Rules have the provision to 'settle' the land or its 'rights' on the holders/possessors of land. Even the preamble to the Act says "*an Act to consolidate, amend and unify the law relating to the survey of lands and settlement of boundary disputes in the State of Kerala*" only and not settlement of 'rights' over the land.
 2. *Lack of awareness on the limitation of Act and Rules.* With the Section 13 notification, the Department of Survey and Land Records hands over the permanent registers like Basic Tax Register [BTR] and the most important temporary register called *Thandaper* Register to the Revenue department for carrying out the revenue administration in the village. After this process there happen to be lakh of resurvey complaints about the survey process which the Department of Revenue redresses through a process called Land Record Maintenance [LRM] cases. On critical analysis and reading of Rule 65 of the Kerala Survey and Boundaries Rules, 1964 would reveal that, the Survey Department is empowered to create only the following three records,
 1. Field Register
 2. Field Measurement Book [FMB] &

3. Litho-map

28. There is no provision in the Act or Rule for the Department Survey to create some of the most important revenue records like Basic Tax Register [BTR] and Thandaper Register and the corrections and associated corruption in such records thus goes beyond the purview of legal scrutiny, in a strict sense.
29. Rules 79 to 84 is not at all applicable in a 'homestead' State like Kerala, as there are no 'towns' as seen in the 'hamlet type settlements' in Kerala.
30. As per the Kerala Land Conservancy Act, 1957 there can be only two tenures in Kerala, viz., Poromboke and Private. But even now the surveyors record tenures like "brahmaswom vaga, kanam, Kuttikanom", etc., in the finalised revenue records.
31. While recording the types of land, instead of writing either as "paddy/wetland and garden land" as per the provisions of Kerala Land Utilisation Order, 1967 or as per the provisions of Kerala conservation of paddy land and wetland Act, 2008 the surveyors tend to write land types based on their usage like "reclaimed/nikathu purayidom" land in the BTR, which creates lot of administrative issues, confusion and again throws open the possibility of corrupt practices. The use category should be streamlined to introduce the 'nine-fold classification' during the survey process, by merging the activities of Kerala Land Use Board and Economics and Statistics Department, with the survey process.
32. *Land record updating should also be an occasion to update land use.* Unfortunately, in Kerala the technical recording of the use of land in each survey number has not been given adequate importance. As a result, even though extensive urbanisation has taken place, no system exists to carry out record change in land use. The State lacks any legislative provision that provides for the change in land use after following a due procedure. Even though the BTR has a column on 'land use', the entry made in it is outdated, inaccurate or depends on the whims and fancies of the survey officer (while doing field survey) or the village officer (at other times). This lacuna had come to notice while drafting the Paddy Land Wetland Act as it was found that in many cases land use was changed without justification. Conversely, there were found to be lands noted as wetland or paddy land in the records even though they were long converted into an urban use or any other use. This has caused immense hardship to the people and is a fertile source for graft. It is high time that there is a formal record of the use of each land parcel. It is true that in the type of settlements found in Kerala where the homestead adjoins the agriculture fields, identifying the land use for each parcel may at times be difficult. But finding a solution to this problem would not be impossible. Once conversion is allowed through due diligence, it would be easier to restrict illegal cases of conversion while allowing genuine cases. It would also allow levy of conversion fee for meeting the cost of infrastructure when use conversion takes place from a lower to a higher intensity use. This is a gap that exists in the land laws in Kerala that needs a solution.

33. The above observations demand replacing the present Survey & Boundary Act and Rules with a 'Settlement Act' to conclusively settle the 'rights' of persons on land they possess, to comprehensively define the roles and responsibility of survey officials, lay down the process of geo-referenced survey and provide provision for documenting land use accurately.
1. *Confusion among officials about the extent of cadastral limit.* The revenue survey needs to be restricted to cadastral limits as this type of survey is basically aimed at collecting the revenue due to Government from the occupiers of land, within the territorial jurisdiction of the State. So naturally the forest lands along the eastern boundary and the beaches to the west beyond the High Tide Line [HTL] of the State cannot be surveyed by the surveyors of the State Department. This is not being followed uniformly in the State, which has been resulting in a lot of confusion among the senior officials to take administrative decisions especially in cases of forest litigations and CRZ violations also weakening the State stand before the court.
 2. *Confusion about the "priority" in survey.* While carrying out the survey, priority needs to be followed as fixed based on Rules 41 and 82 of Survey and Boundaries Rules, 1964 **to survey and demarcate the Government lands first.** This principle has been grossly violated in all the resurveyed villages resulting in the loss of precious Government lands in 881 villages, which are already resurveyed.
 3. *Confusion about the instruments and methodology of survey.* Resurvey process in Kerala started in 1964. The initial aim was to complete the resurvey work in the field and generate the revised maps and registers within 3 years. The target date had to be repeatedly extended. A complete analysis of the work done until 2006-07 showed that 45% of the field work had been carried out until then. The work was spread over different districts and villages. When analysed village-wise, the resurveyed records of less than 40 % villages was available. But while doing so, over 22 lakh complaints had been generated from the land owners/ holders: while taking field measurements, recording use and other details, errors, intentional or otherwise, had cropped up leading to complaints from the people. To redress these grievances, a decision had been taken in around 2004 to attend to the grievances on priority keeping the resurvey work in abeyance. However, sometime later the resurvey work was allowed to be resumed.
34. The resurvey process is the joint work of the Survey and Revenue Departments. The Resurvey and Boundaries Act and the Survey Manual clearly lay down the specific role that each agency performs. But over time, the Revenue Department has virtually abandoned its responsibility or the survey department has grabbed it. This has had some serious ramifications: the fresh registers that are generated post-resurvey ratify all encroachments on public lands as the Revenue Department has absolved its role and the Survey Department claims resurvey is a depiction of 'what-is-the-case'. The Survey Department has thus taken over the preparation of even the Poromboke register which should have the contribution of the Revenue Department. After all, it is the sovereign duty of the Revenue Department to protect all public lands and it is also answerable to the courts in this regard.
35. The resurvey process that should have been completed within a decade or less has now entered its 50th year with less than half the work done. And the work done is strewn with

errors. There exist certain major anomalies on the status of land management departments in Kerala. The State has a 3,000 member strong work-force, by far the largest in any State. Further, there is lack of coordination between the Survey and Revenue Departments as the two departments function as separate line departments. Even though the Survey Department has such a large staff strength, the staff lack technical knowledge and are not amenable to change. Such antiquated posts as that of draftsman continue to exist with resistance to their integration with surveyors. The department has the largest number of GPSs and other technical equipment in-house, more than any other State. But at any point in time a substantial number remain out of function. The last 50 years have been a period of tremendous development in technology including digital technology. The survey of 1856 that started with simple cross-staff and chain, later graduated to a strong 100-foot steel chain and a Cary 36-inch theodolite. Thanks to the development of technology we have now entered an age where survey is based on satellite or aerial maps, Digital GPS and application software that generate survey maps in seconds.

36. There are multiple departments that procure satellite and aerial maps and have surveying equipment. These departments include, Kerala State Land Use Board, KESREC, Forest, Environment, Science and Technology, LSGD and many more. In spite of there being an existing order, multiple payments are made for the same data causing loss to the exchequer. There is need for sharing data with other Government departments/ agencies, when the data is procured with public funds.
37. Due to its size and density of population, the pressure on land in Kerala has always been unusually high. The methodology for cadastral survey here requires result that is accurate to the closest centimetre. The land holdings especially in the coastal area and the mid-lands are highly fragmented where resurvey requires the highest level of accuracy. Further, the State has dense vegetative cover that makes cadastral mapping based on satellite imagery not only difficult but impossible. Using Lidar technology to enable mapping through tree cover was not successful. Aerial survey faces the problem of round-the-year cloud cover. The fragmented land holding on its part entails that land value is very high; so is the demand for land. The transfer of land through sale is moderately frequent. The stamp duty being over 10%, it is a major revenue earner for the Government.
38. The resurvey carried out until now is not geo-referenced. It is claimed that in 7 villages geo-referenced survey was carried out. But analysis shows that it has taken anything between a year and 6 years to complete the resurvey in these villages, counting the time from the date of first notification to final hand over of records to the Revenue Department. In other words, the field data gathered that is not geo-referenced would require re-gathering of data using GPS. This is in addition to the resurvey of the balance 52% of the villages where resurvey is not complete. Projected analysis shows that the work, if at all it were to be taken up in the same mode, would take at least 44 years more, even assuming the work is out-sourced under the supervision of the survey department.
39. Between 2006 and 2012 serious and sincere efforts were made on a war-footing to complete resurvey in the State within a decent time-frame. A large number of surveyors were trained

in use of GPS, tracking and down-loading data and generating field maps and mosaicked village maps. But their ability to carry out or supervise field work and being computer-savvy did not prove to be a success. Even those trained for over a month at the NRSE training centre in Hyderabad were unable to either actually use a GPS or provide the leadership to take up the resurvey work in a professionally competent manner, guiding from the front and innovating to find solutions to possible hurdles. Engaging a specialist-consultant from the Survey of India, attempt was made to update and amend the Survey Manual and to allow out-sourcing of some activities of work. The basic objective was to complete resurvey within a reasonable time-frame of 3 – 5 years. Time-lines were drawn out, activities identified, team formations made and trained and pilots run. In Thycaud (existing maps were digitised), Melmuri (field survey done using GPS), Munnar (used aerial maps) and Palakkad (linked SROs online with Taluk and Village offices). The efficacy of a pilot lies in running it successfully, learn from it and then roll out the scheme universally. Repeated attempts to do so failed. The reasons for failure were many: lack of data accuracy, very poor output in the field, frequent break-down of equipment, the surveyor-draftsman conflict and the resistance of majority of the staff to halt in the villages where survey was in progress on the ground of poor boarding and lodging. More disturbingly, in one village a group of officials was actually caught leaving an expensive GPS in the rain on purpose to sabotage the work. There were other modes employed for sabotage: feigning illness, inclement weather and sheer cussedness in completing the work. Directors are known to have given up their work in frustration.

40. Moreover, the technical staff in the early days was divided into field surveyors and draftsmen, the former stalked the fields, measured the lands and brought back the data to their respective office and the latter using this data drew the sketches and drafted the maps which was verified and vetted by the surveyor. With the advent of modern technology this bifurcation of work is irrelevant and risky. The surveyor who gathers the data in his GPS has to also download the data and prepare the maps based on it as he alone can sight mistakes in case they happen. Given the above, the department proved to be incapable of carrying out resurvey and completing it within a reasonable time. But the work needs to be completed, first, to provide the benefits of good land governance to the people and second, without waiting for a situation where the State is compelled to do it, it is better to take up the exercise in a properly planned manner but on a war-footing.
41. *The old records that are over a century old are in poor condition. Paper maps are crumbling, the writing in the registers are faded with entries made in pencil and multiple cancellations which is a fertile ground for tampering and graft.*
42. The Government in its eagerness to take up land survey that used modern technology, adopted a number of measures and even set up new agencies. The Land Information Mission was one such. It was to take up geo-referenced land survey and complete it within a given time span. But alas, it failed to do so. The age-old problem in Government is that it is self-serving and self-aggrandising. Anything set up continues forever, regardless of whether it is serving the purpose or not. Such agencies and activities that were begun with a given purpose but failed to fulfil them, need to be identified and they need not continue.

43. It is also a fact all over the country and in Kerala that large parcels of public lands have got alienated. Public lands are a source of corrupt practices. to win favours, seek graft and for nepotistic reasons. The process of resurvey makes public lands even more susceptible to alienation. Although the rules for resurvey require that resurvey begins with the perambulation, identification and field measurement of public lands, the process is blatantly violated. All private lands are resurveyed first leaving the public lands for the end. Consequently, all encroachments get adjusted on public lands. In addition, direct encroachments are shown during survey and the Section 9 (2) notice when anyone with interest is supposed to respond. The Revenue department as the legal and administrative custodian of all public lands, fails to respond. Thus the loss of public lands goes virtually by default and the process of resurvey conniving factor in this process.
44. *Land administration in Registration Department's perspective.* There are different issues under this and the most important ones are;
1. *Heavy reliance on Registration Act, 1908.* Since the Act is a Central Act, even the smallest of amendments like introducing a provision to make 'Record of Rights' [RoR] on land a compulsory prerequisite document for registration is being overturned citing cumbersomeness of legal amendments in the Act and even in State Rules.
 2. *'Sufficiency' is not defined in the Act of 1908.* As per section 21(1) of the Act the Registering official shall register the document if "*it contains a description of such property sufficient to identify the same*". This subjectivity paves way for lot of allegations against the registering officials.
 3. *Alienability of a land is decided by a "third party outside Government".* As per Rule 3[1] of the Document writers' licence Rules, 1960 the burden of proving the alienability of land is vested with document writers in Kerala. The Revenue, Survey and even the Registration officials are not empowered under any Act or Rules to decide the alienability of a land in Kerala.
45. The Registration Department was one of the first to get computers, thanks to a Government of India project, but use of computers for property transfer, registration and mutation is yet not followed. If land records are to be digitised and a common database put in place, certainly the Registration Department has to be brought within the loop. At present, the Department remains administratively separate and removed from both Revenue and Survey Departments. Like Survey Department, Registration Department also has to be brought under the same umbrella as Revenue.

CHAPTER 4
IDEAL FUTURE LAND RECORD FOR RESPONSIBLE LAND ADMINISTRATION

46. The need to maintain secure and tamper-proof land records is necessary for every landholder in the State, which is virtually for 80 % of the population. It is the desire and aim of every family to have a house of their own. Every parent wants to bequeath a part of a house or a house or a piece of land to his/ her children. The Government in 2011 launched a programme 'Zero Landless' so that no family in the state is left without a dwelling place of their own. Now, ownership of any land or property is not complete unless one is in possession of valid ownership document which is issued or verified by the Government. There are over 3 lakh court cases pending in the High Court and subordinate courts and every two out of three has a land or property issue. Land and property, apart from gold, is the most common asset for conversion of black money. The uncontrollable increase in land and property price puts the common man in jeopardy, he requires a place to live but cannot afford it. Unreliable land records are also the primary reason to repel foreign direct investment. This is contained in various documents and papers released by think tanks and policy groups. In order to give a strong fillip to India's growth story, the most crucial requirement is to streamline and clean up the land records.
47. When digitisation was not in vogue the Government was of the view that resurvey will need to be carried out every 100 years. But we are lucky to be living in times when technology gives us the ability to prepare cadastral maps that are geo-referenced. Geo-referenced maps where every parcel of land has coordinates based on WGS-84 and a uniquely identifiable number, such data will be immutable and totally tamper-proof. Such maps and survey records will also be forever: the data will be accessible online and printed out as registers and maps for placing in village and taluk offices and in the central survey office records. But more important, this data will be available and usable as the common database for all Government departments, for courts and for all land-related issues. So all departments will function based on a common databank: Revenue, Survey and Registration that will ensure that there is no basis for confusion in land transfer, land titling and determining land use. Further, since the data will be available online there will be transparency and access to data for every citizen. Since data will be accessible online to all, the need for intrusive governance will be minimised with minimum interaction between the people and public servants.
48. The recent demonetisation action by the Government aims at flushing out black money rendering black money valueless. It has been mentioned by the Government of India that land transactions would be the next target. Under such circumstances, clean, accurate and digitised land records are a must. The GoI had launched the NLRMP with this in mind in 2007-08. Many States made a beginning, but the progress is indifferent. In Kerala a beginning was made at various locations for digitised geo-referenced land records over the last decade. But each one remained a one-off case with little success at universalising it.
49. The Survey of India [SoI] has set up major Ground Control Points in all States. In Kerala there are nearly 38 such GCPs [There are a total of 46 GCPs set up by SoI for Kerala &

Lakshadweep]. These are Points whose coordinates are recorded using GCPs whose calibration is checked repeatedly. In order to ensure accuracy of data, readings are taken over 72 hour period using 3 separate GPSs. Such GCPs are based on WGS-84. These GCPs are mounted so that their position is as stable as possible. Based on the Initial GCPs, each State was advised to densify the GCP coverage within the State. A decision was therefore taken to have a minimum of 30 GCPs in each village including along the village boundary to ensure the boundary is geo-referenced through clear coordinates. With such a dense GCP coverage, the survey of all public lands to begin with, and thereafter other parcels of land would become a quicker and a simpler exercise. This was tested out when the concerned staff from the Commissionerate of Land Revenue could get the geo-referenced textual and spatial RoR for a parcel of land prepared and delivered in less than an hour.

50. To remove public hardship it is also essential to replace stamp paper with the e-franking system, allowing self-drafting of documents in a simplified format and a system for real time transfer of records and sharing of data. These are improvements that have been adopted in some States are functioning reasonably well. It is high time that Kerala adopts these as aspects of good governance.



The Paradigm Land Record System

51. The objective, therefore, is to ensure that land records are digitised, geo-referenced and accessible online with transfer sale and mutation possible with minimum hassle. The land record for all the future land transactions can be the Record of Rights [RoR] in place of lengthy puzzling documents with the relevant data lost in a maze of redundant repetitive official-jargon, written by writers, advocates and public servants, incomprehensible to the lay-man. These RoRs may be issued by the Land Survey, Settlement & Land Record Modernisation Authority of Kerala based on satellite-based survey for accuracy with respect to area of occupation and classification of land and field inspection to assess the period of occupation and document verification to assess the claimant's right to possess the land.
52. The person who wants to buy or sell a property shall apply to the 'competent authority' prescribed in the proposed Act [Annexure III] to get a digitally signed RoR online, from the Authority. The possessors / occupiers / holders of land can also apply to the Authority in advance, who will be issued with RoR on FIFO [First In First Out] Principle.
53. After the transaction of the property new RoR shall be obtained if the transaction is not 'full area' mentioned in the original parcel and in the case of full area transactions e-stamping can be done straightaway, directly on the RoR by the Registering Official, simplifying the procedure.
54. For making the land transaction smooth and to bring in transparency and speed by avoiding the unnecessary steps, the RoR must be made mandatory for all land transactions by making an amendment in the Registration Rules, 1958. An amendment in Rule 30A may be introduced as item (iv) as given in Annexure IV.

55. The different “rights” on land to be mentioned/not mentioned overleaf of the RoR document can be as follows;

1. Right to hold or possess the land solely or jointly
2. Right to peacefully enjoy or use without causing injury to others
3. Right to dictate use terms with tenants, share croppers, lessees etc.
4. Right to expel the unauthorized from the premises
5. Right to derive benefits
6. Right to make improvements above and below ground after obtaining required permission from appropriate Government/Department[s]
7. Rights of residual nature
8. Right to alienate/sell temporarily or permanently and/or full or partial
9. Right to inherit the rights
10. Right to avert exploitation of land
11. Right to extract surface and sub-surface minerals after obtaining required permission from appropriate Government/Department[s]
12. Right to extract underground and surface water etc. after obtaining required permission from appropriate Government/Department[s] Right of royalty for minerals which are present subjacent to the land
13. Right of resuming the land back to the Government if the land is abandoned or escheated or used for any other purpose other than for which it was assigned on registry or lease.
14. Right of attaching the property if the dues to Government are not paid in time
15. Right of granting or rejecting permits and licenses; if any activity other than original activity for which the land is assigned is undertaken at the assigned site
16. Right of Government on all hidden items below/above ground which value more than Rs25.
17. Right on every trees for which the tree value is not paid by the assignee at the time of assignment. Rights over every royal tree like Teak, Blackwood, Ebony and Sandalwood growing in private lands which has a girth of more than 90 cm at the chest height.
18. Right of entering the premises without permission for the purpose of survey and demarcation of the adjoining lands.
19. Right of use for laying waterlines, gas lines and electricity lines etc. for the interest of public at large.

CHAPTER 5
SUMMARY OF RECOMMENDATIONS

Land Settlement Authority of Kerala <i>[Established under Land Settlement Authority Act, 2017]</i>	
<u>Record of Rights</u>	
UID/PAN/Passport/Election ID Card Number	:
Name of the land holder as given in the above given ID:	:
Address of the land holder as given in the given ID	:
Bank account number of the land holder [KYC]	:
<hr/>	
Land parcel number	: 01 [District] 01 [Taluk] 001 [Village] 30001 [Plot number]
Extent of land	: 1.05 Ares
Classification number	: 3/9
Online geo-referenced sketch	: 
Online liabilities scan	: 
-sd- SECRETARY	
 <i>Rights of land holder are mentioned overleaf</i>	

56. The following are the recommendations made by the Group:
1. Kerala Land Settlement Authority shall be set up in the State. The Authority will be responsible inter alia for carrying out all the activities specified in the proposed Kerala Land Survey, Settlement and Modernisation of Records Bill, 2017 including geo-referenced survey in the State.
 2. The Authority will bring under one head the activities of survey, registration, land use and revenue to ensure unity of purpose aimed towards simplification of procedures,

- reducing multiplicity of authority, ease of business through systemic improvements and conclusive land titling system.
3. Streamlining of the activities of departments of Revenue, Survey, Registration, Kerala State Land Use Board, KESREC and others connected will need to be carried out.
 4. The draft Kerala Land Survey, Settlement and Modernisation of Records Bill, 2017 annexed lays out the role and responsibilities of the Authority. In order to do so, necessary amendments may be made in concerned Acts and Rules and Manuals of various departments and agencies. This Group is convinced that the only way that the land records can be modernised is through the changes proposed through the proposed Kerala Land Survey, Settlement and Modernisation of Records Act, 2017.
 5. As explained in the Report, the staffing of the Authority shall be entirely through existing staff and no post creation is recommended. If anything, as the resurvey gets completed, the size of the survey staff can reduce. With introduction of modern technology, the work of record maintenance, work done manually, etc. will lead to saving of many man hours which can be utilised for other more fruitful activities.
 6. The posts in the hierarchical chain of draftsman may be declared supernumerary with immediate effect. The qualification of the surveyor and other survey staff may be laid down in tune with modern times. Their training and capacity building also needs revisit to make them fit to use modern equipment and technology.
 7. A system of Record of Right (RoR) document may be introduced to prevent confusion in land record management.
 8. The unique land parcel identification system needs to be introduced to prevent the confusion created through sub-divisions and the present *Thandaper* numbering system and also to stop the misuse of 'the *shunya Thandaper*'.
 9. The process of resurvey while collecting field data should include 'land use' based on the categorisation as laid down by GoI. Where necessary, keeping in mind the specific needs of the State, sub-categories may be generated within the given categories. A system or procedure with necessary legal back-up may be put in place to allow change of land use where required and unavoidable.
 10. The resurvey of the entire State may be carried out with clear prioritisation and using multi-pronged approach. A clear but doable road map shall be laid out with monthly targets that should be reached. Where targets are not reached, the concerned officials and others shall be held accountable.
 11. The selection of outsourcing agencies shall be based on a transparent e tender system with fool-proof Service Level Agreements [SLA] that will ensure their accountability too. The aim is to ensure quality records within the given time-frame.
 12. All agencies connected to land management that are not required any longer, need to be discontinued. Government should not have any hesitation in dissolving structures/agencies that are not serving the purpose they are required to serve. This should be done before the beginning of the next financial year.
 13. For good coordination and improved land record management it is necessary to bring the Directorate of Survey under the Commissioner of Revenue as a single line Department. This would ensure unity of command in management of human resource and equipment.

14. Similarly, the IG of Registration and Registration Department needs to be brought under the same administrative head (Secretary) and the same Minister. This would be in tune with the advice issued by the Government of India to the State Governments and as prevalent in all other States in India.
15. Stamp paper may be replaced with stamp duty e-franking system with payment of duty through authorised bank counters alone. Such a system is now well-established in a number of States and for many years now. The needless effort spent on taking delivery of stamp paper from Nasik security press using state police protection and the cost of transportation is a waste of precious resource.
16. There is need to establish online connectivity between all SRO's and Revenue offices for real time transfer of documents for mutation purpose. The system of mutation needs to be streamlined and simplified to reduce public hardship.
17. Any transfer of land may be allowed to be registered only with the production of RoR to show right to transfer. The required Rules may be amended for this purpose.
18. Densification of GCPs may be carried out in a time-bound manner covering village boundary, and placing GCPs in public premises on priority, viz. revenue office, police station, fire station, school and health centre, with a minimum of 30 GCPs in each village. Once this target is reached further densification can be taken up.
19. Geo-referenced maps of all public (Government) lands shall be completed and uploaded on Land Bank website (kslb.kerala.gov.in) on top priority.
20. Similar geo-referenced maps shall be prepared for all public lands held by other departments, PSU's, statutory bodies, local bodies, etc.: public buildings, educational institutions, health institutions, lands in possession of industry, PWD, police, court and PRIs.
21. Privatisation of public undertakings should not lead to alienation of public lands. The law in this regard should be strictly followed. The same will hold for lands acquired for specific purpose but no longer required or used for that purpose and companies that are declared insolvent or bankrupt under the Insolvency and Bankruptcy Code, 2016.
22. Geo-referenced survey of all water bodies and river banks may be carried out to ensure these are protected. Such data should be shared with concerned district authorities so that the data can be used while examining any future works related to bank protection, check dam construction, sand auditing and such other work taken up under the River Management fund. The work done in the past in this regard for six rivers would act as very useful models and should be replicated.
23. Geo-referenced maps of all mining potential areas should be introduced, with system of open tender removing the provision of nominal one-time royalty/ fee.
24. In the first phase in the first two years the work of densification of GCPs, resurvey of public lands, river banks and water bodies may be completed. During the first phase the resurvey of private lands on demand will also be carried out. In the second phase for the next two years the geo-referenced resurvey of all other parcels of land may be completed.
25. Forest department needs to carry out geo-referenced boundary demarcation of all forest lands within a given time-frame.

26. Coordinated work is necessary between Revenue and Forest departments to prepare geo-referenced maps of lands where there is dual control, viz. tea and coffee plantations, CHR lands, etc.
27. A detailed budget may be drawn out for implementing the above recommendations by individual department and agencies.No post creation is warranted; instead savings may be anticipated in future.
28. Levying of conversion fee for change of land use is strongly recommended.Such fees should be utilised for setting up of infrastructure wherever required.Guidelines may be laid down by Government on the mode and proportion of sharing of these funds with local bodies.
29. Ensure complete sharing of data and synergy of activities between all concerned agencies under different statutes: Revenue, Forest, LSGD Departments and Kerala Land Use Board, KESREC, Survey, etc.
30. A notified guideline for lease of Government land with a clearly laid-down lease rent and a lease alert system may be put in place to ensure revenue payment is on time and illegal holders / encroachers are evicted.The Government also needs to take decision on the cases where built-up dues are pending from the past and cases remain undecided with lessee continuing to enjoy the land.The large slew of court cases may also be pursued for early decision.

CHAPTER 6
ACTION PLAN WITH TIMELINE

Table 2 *Action Plan with Timeline*

<i>Sl. No</i>	<i>Activity</i>	<i>Targeted Date of Completion</i>	<i>Authority Responsible</i>
1	Vetting of Working Group Report by the Full Board Meeting of Planning Board	Before 31.12.2016	Chief, Perspective Plan
2.	Submission of Working Group Report to Government for Cabinet scrutiny	Before 31.01.2017	Member Secretary and Chief Secretary
<i>Legislative Action</i>			
3.	Enactment of the Kerala Land Survey, settlement and modernization of records Bill, 2017	Before 30.04.2017	Secretary, Law Department
4.	Notification of amendments in Rules and Government orders based on the above Act <u>Revenue Department</u> i) Transfer of registry Rules 1966 ii) Kerala Survey and Boundaries Act, 1961 and Rules 1964 iii) Kerala Village Manual iv) Kerala Survey Manual <u>Taxes Department</u> i) Registration Rules(Kerala), 1958 ii) Document Writers License Rules,1960 iii) Kerala Stamp Act, 1959 iv) Amendment to Rules of Business in Secretariat <u>Planning Department</u> i) Kerala State Land Use Board was established in 1975 under Department of Planning and Economic Affairs, Government of Kerala. The Board has been declared as a State Government Department during 2007 as per G.O. (MS) No. 3/2007/Plg. dated 07-02-2007	Before 31.07.2017	Secretaries concerned in consult with Law Secretary
5	Setting up of the Kerala Land Settlement Authority and its Subordinate Authorities and becomes functional	Before 31.12.2017	Chief Secretary

Administrative Action

6	Merging of Post of Draftsmen with Surveyors declaring Draftsmen post Supernumerary	Before 15.01.2017	Secretary, Revenue
7	Identification of Agencies/institutions/structures /offices and staff to subsume within the Authority	Before 31.03.2017	Secretaries (Revenue, Taxes, Planning)
8	Establish Online Connectivity, for interconnecting offices of Sub Registrars, village officers, survey superintendents, Taluk Tahsildars and Collectors	Before 31.06.2017	Concerned Secretaries
8	Hosting of a common Web Platform in the State Data Centre [SDC] to share the data in the open source format under Content Management Framework (CMF)	Before 31.06.2017	Through Outsourcing
9	Densification and monumentation of GCPs @ a minimum of 30 GCPs in a village	Before 31.12.2018	Secretary, Revenue. Through Departmental resources and if requires outsource the work
10	Conduct georeferenced survey and create digitized records for all public lands on priority basis.	Before 31/12/2017	
	i) as defined in Section 3 and 4 of Kerala Land Conservancy Act 1957		Secretary, Revenue
	ii) Forest land as defined in Forest Conservation Act 1980		Secretary, Forest
	iii) CRZ areas given in CRZ regulation under Environmental Protection Act, 1986		Secretary, Revenue in consultation with Secretary, Ports, GoI
11	Detailed budget preparation for completion of above activities by each department concerned.	Before 31.10.2017	Departments heads and Secretaries concerned & Member Secretary, Planning Board
12	Levy of Conversion Fee for change of land use- issue of statute and guidelines	Before 31.12.2017	Secretary, Finance
13	Complete sharing of available land related data between all concerned departments/agencies	Before 31.12.2017	Chief Secretary
14	Protection of Public Lands through the	Before	Commissioner, Land

	State land bank including georeference maps of each public land parcel- Activity should continue and later taken over by the Authority	31.06.2018	Revenue and Settlement Authority.
15	Introduce Lease alert system for managing leasing of public lands.	Before 31.06.2017	Secretary, Revenue
<i>Budgetary Action</i>			
16	Based on draft budget from concerned departments, the same will be collated and coordinated in Planning Board before finalization of 13thplan budget	Before 30.11.2017	Concerned Secretaries and Member Secretary, Planning Board

CHAPTER 7
SOURCE OF FUNDS

57. Over the last 50 years the Government has spent a total of approximately Rs 2,500 crore on resurvey. The expenditure has gone towards meeting the unusually large staff strength, a major part of it until recently, continued on the basis of temporary sanction, justifying their existence on the on-going re-survey. Funds have also been expended for purchase of equipment, vehicles, construction/ renovation of offices and capacity building.
58. The State has been receiving grant from Government of India for the Centrally Sponsored Schemes especially under DINLRMP. Apart from the annual budgetary allocation for each Department, no additional fund will be sanctioned for implementing the recommendations. The available funds will be utilised in an optimal way. GoI funding will be tapped to the maximum extent.
59. Other source of funding can be from the Consortium of Banks even as a long term credit can also be explored, repaid by way of free access to details of Encumbrance Certificates, Location certificates and Possession Certificates directly by the banks.
60. SPV and PPP options may also be tried to generate funds for accomplishing the planned activities, through a well-defined transparent business model on a rupee sharing basis.

CHAPTER 8
CONCLUSION

61. If the above recommendations are to be taken up with due seriousness the work will need to be done on a war-footing. The practice of the past to prepare plans but repeatedly fail in achieving targets cannot continue. The entire process can be successful only with a strong informed leadership that cannot be misled, engaging officials that are capable of working with a mission-mode commitment with no vested interest and continuous appraisal of target-based performance with total accountability. For this purpose a clear road map may be laid out with frequent milestones even at Department/office level. The reaching of milestones will need to be reviewed at the Chief Minister's level and course corrections built into the plan. Unfortunately, the State has failed to encash on the early start it had made. Now, a stage has been reached where if land records are not streamlined, geo-referenced and digitised, there will be no further chance. The situation then will be disastrous for the development of the State and for its citizens. Hence, this would be the best set of activities to perform, for a citizen-centric Government which is keen to cater the aspirations of the future generations.

ANNEXURE 1

Nine classes of land based on its use in India

1. Forests
2. Land put to non-agricultural uses
3. Barren and uncultivable land
4. Permanent pastures and other grazing lands
5. Miscellaneous tree crops and groves, not included in the net area sown
6. Cultivable waste
7. Fallow land, other than current fallows
8. Current fallows
9. Net area sown

ANNEXURE 2

GOVERNMENT OF KERALA

Revenue (P) Department

NOTIFICATION

G.O.(P)...../2017/RDDated, Thiruvananthapuram,..... March, 2017

S.R.O. No...../2017 .In exercise of the powers conferred by section 20 of the Land Tax Act,1961 (13 of 1961), the Government of Kerala hereby make the following Rules further to amend the Kerala Land Tax Rules, 1972, namely : -

RULES

1. Short title and commencement. – (1) These rules may be called the Kerala Land Tax (Amendment) Rules, 2017
(2) They shall come into force at once
2. Amendment of the Rules. – In the Kerala Land Tax Rules, 1972, Rule 8(v) may be inserted as follows;

Rule 8(v) : [a] *In the case of flats/multiplexes irrespective of the purpose for which it is used the total land area along with the total built-up plinth area [up to maximum allowable Floor Area Ratio{FAR}] should be assessed in ares [100 m²] towards assessing the Basic Tax. For the purpose of accounting the same, Special Thandaper Registers may be maintained at Village Offices and the Transfer of Registries can be carried out in these Special Thandaper accounts.*

[b] *The prospective builders/promoters are required to obtain prior permission from District Collector for transferring the Thandaper Number to Special Thandaper Register before commencement of the project. No transfer of registries subsequent to alienation of flats/units will be carried out in the absence of such a prior permission.*

Provided in the case of already completed projects, an one time regularization process will be carried out, after collecting the required fee prescribed by the Government. This shall be levied from the holder of the unit/flat at the time of assessment.

By order of the Governor,

Principle Secretary to Government

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.)

Even though, just possessing a Tax paid receipt will not confer any title over the land in question, it is a form of recognition which the state is conferring upon a person for maintaining a *Thandaper* account with the state Government. The urbanization in Kerala has been paving way for flats/multiplexes etc. where there are different stakeholders for both the land and air space at

varying proportions of shares. Those who purchase units in flats and those who purchase shops in multiplexes are being denied the Transfer of Registry in their names and moreover Government is loosing lot of income on account of basic tax due to sky scraping. It is high time to address this issue since there are no provisions either Land Tax Act, 1961 or Transfer of Registry Rules, 1966 to accommodate flats/multiplexes.

The notification is intended to achieve the above object.

**THE KERALA LAND SURVEY, SETTLEMENT AND MODERNISATION OF
RECORDS BILL, 2017**

(No. ----- of 2017)

An Act to survey, settle and modernise land records to provide clear and conclusive titles based on a common digitised textual and spatial database, along with clarity on land use, recording real time changes in ownership of land, by bringing officers of Revenue, Survey and Registration Departments so as to ensure easy and equal access to every citizen

Chapter I

Preliminary

1. Short title, extent and commencement;

(1) This Act may be called the Kerala Land Survey, Settlement and Modernisation of Records Act, 2017

(2) It extends to the whole of the State

(3) It shall come into force from the date of notification in the Gazette by the State Government

2. Definitions;

(1) In this Act, unless the context otherwise requires;

(a) 'authority' means State or District or Taluk settlement Authority as the case may be

(b) 'case' includes a petition, appeal or revision pending before a competent authority in Government under the registration, revenue or survey departments as per the relevant provisions in the connected Acts and Rules;

(c) 'District Authority' means a District Land Settlement Authority constituted under Section 6 of the Act;

(d) 'land' for the purpose of this Act means all lands in the proprietary right excluding lands vested in the Government, wherever situated within the State so far as the same are the property of holders of land subjected to payment of Basic Tax to Government as per the provisions of the Kerala Land Tax Act, 1961 and being legally held/possessed with the support of deed, decree, adverse possession, survey settlement records, revenue records etc;

(e) 'land settlement service' includes the rendering of any service in the finalization of any case or other legal proceeding pending before any official authority, court or tribunal or Board on any legal matter associated with settlement of land;

(f) 'notification' means a notification published in the Official Gazette;

(g) 'prescribed' means prescribed by rules made under this Act or referred Acts and rules for the purpose of this Act;

(h) 'Record of Right' in relation to a registered land means certification of ownership issued by the State Land Settlement Authority in the manner notified, maintained and made verifiable in electronic form by the Government, processed on the basis of local inspection and enquiry of possession; and clear supporting documentation relating to the land, the land records maintained by Government, the current recordings relating to the restrictions, conditions, limitations or liabilities and such other data that the Government may notify from time to time, to be incorporated therein or omitted there from

(i) 'registered holder(s)' means the person(s) who is/are having legitimate possession of a land with the support of deed, order of the Courts, decree, Certificate of sale, survey settlement records, revenue records etc, levied for basic tax who shall be entitled to be issued a Bhoorekha/Record of Rights for registration of a document;

(j)'settlement' means issuing of "indefeasible conditional freehold titles" in the form of "Record of Right [RoR]" to holders of land by the State Land Settlement Authority

(k) 'scheme' means any scheme framed by the State Authority or a District Authority for the purpose of giving effect to any of the provisions of this Act;

(l) 'State Authority' means a State Land Settlement Authority constituted under Section 3;

(m) 'Taluk Authority' means a Taluk Land Settlement Authority constituted under Section 9.

(2) Any reference in this Act to any other enactment or any provision thereof shall, in relation to an area in which such enactment or provision is not in practice, be construed as a reference to the corresponding law or the relevant provision of the corresponding law, if any, in practice in that area.

(3) Words and expressions used, but not defined herein and defined in the act, the Code of Civil Procedure, 1908 or the Code of Criminal Procedure, 1973 shall have the meanings respectively assigned to them in those Acts.

Chapter II

LAND SETTLEMENT AUTHORITY

3. Constitution of the State Land Settlement Authority

(1) The State Government shall constitute a body to be called the State Land Settlement Authority to exercise the powers and perform the functions conferred on, or assigned to the State Authority under this Act.

(2) The State Authority shall consist of,

(a) the Chief Secretary of the State who shall be the Patron-in-Chief;

(b) the Executive Chairperson and first Member, a retired or serving judge of the High Court, within 70 years of age

(c) the Chairperson the second Member, a Principal Secretary level serving or retired member of the Indian Administrative Service, above 50 years of age;

(d) Both members shall be selected by a Committee headed by the Chief Minister and consisting of Minister (Revenue) and the Chief Secretary.

(e) such number of other official members, possessing such experience and qualifications, as may be prescribed by the State Government, to be nominated by the Government

(3) The State Government shall, appoint a person to be the Member Secretary of the State Authority, possessing such experience and qualifications as may be prescribed by the Government, from Indian Administrative Service, to exercise such powers and perform such duties under the State Authority as may be prescribed by the Government or as may be assigned to him by the Members of the Authority.

(4) The terms of office, the role and responsibilities and the other conditions relating thereto, of Members and the Member Secretary of the State Authority shall be such as may be prescribed by the State Government

(5) The State Authority may appoint such number of officers and other employees as may be prescribed by the State Government, for the efficient discharge of its functions under this Act.

(6) The functional supervision of survey, settlement, modernisation of records and electronic registration of documents on land shall be carried out by Additional Secretaries, ex officio; who would also be acting as Director of Survey & Land Records, Joint Commissioner of Land Revenue, Inspector General of Registration and Commissioner of Kerala State Land Use Board.

(7) The officers and other employees of the State Authority shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the State Government in tune with the existing service conditions in the State.

(8) The administrative expenses of the State Authority, including the salaries, allowances and pensions payable to the Member Secretary, officers and other employees of the State Authority, shall be met from the non plan fund of the State.

(9) All orders and decisions of the State Authority shall be authenticated by the Member Secretary or any other officer of the State Authority duly authorized by the Executive Chairman of the Authority.

(10) No act or proceeding of the State Authority shall be invalid merely on the ground of the existence of any vacancy in or any defect in the constitution of the State Authority.

4. Functions of the State Authority:

The State Authority shall perform all or any of the following functions, namely

(1) lay down policies and principles for making land settlement services available under the provisions of this Act;

(2) frame the most effective and economical schemes for the purpose of making land settlement services available for all the land holders under the provisions of this Act;

(3) ensure digitised land database for all parcels of land in the State with Revenue, Survey, Registration Departments and Kerala State Land Use Board working under the common database with online and offline connectivity;

(4) plan, guide and supervise the conversion of all land data into geo-referenced digitised data, with land use recorded in the 9 fold classification, with a laid down strategy and a time bound action plan to be prescribed by Government;

(5) utilise the funds at its disposal and make appropriate allocations of funds to the District Authorities and Taluk Authorities;

(6) encourage the settlement of land disputes by way of negotiations, arbitration and conciliation at taluk level;

(5) undertake and promote research in the field of land governance with special reference to the need for such services among the poor;

(6) to do all things necessary for the purpose of ensuring commitment to the fundamental duties of citizens under Part IVA of the Constitution;

(7) monitor and evaluate implementation of schemes implemented in whole or in part by funds provided under this Act;

(8) provide grants-in-aid for specific schemes to District Authorities, from out of the amounts placed at its disposal for the implementation of land settlement services schemes under the provisions of this Act;

(9) develop, in consultation with the State Government for land governance education and promote guidance and supervise the establishment courses in universities, colleges and other institutions;

(10) take appropriate measures for spreading land governance literacy and awareness amongst the people and, in particular, to educate weaker sections of the society about the rights, duties, benefits and privileges guaranteed by land legislations and other enactments as well as administrative programmes and measures;

(11) Coordinate and monitor the functioning of District Authorities and Taluk Authorities

5. State Authority to work in coordination with other agencies:

In the discharge of its functions under this act, the State Authority shall, wherever appropriate, act in coordination with other governmental and non-governmental agencies and others engaged in the work of promoting the cause of land settlement services.

6. Constitution of District Land Settlement Authority

(1) The State Authority shall with the approval of the State Government, constitute a body to be called the District Land Settlement Authority for every District in the State to exercise the powers and perform the functions conferred on, or assigned to the District Authority under this Act.

(2) A District Authority shall consist of:

(a) the District Collector who shall be its Chairperson; and

(b) such number of other Members, possessing such experience and qualifications as may be prescribed by the State Government, to be nominated by State Government

(3) The District Authority shall, in consultation with the Chairman of the District Authority appoint a person belonging to the State Judicial Service not lower in rank than that of a Civil Judge posted at the seat of the District Judiciary as Secretary of the District Authority to exercise such powers and perform such duties under the Chairman of that Committee as may be assigned to him by such Chairman.

(4) The terms of office and other conditions relating thereto, of Members and Secretary of the District Authority shall be such as may be determined by regulations made by the State Authority

(5) The District Authority may appoint such number of officers and other employees as may be prescribed by the State for the efficient discharge of its functions.

(6) The officers and other employees of the District Authority shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the State Government

(7) The administrative expenses of every District Authority, including the salaries, allowances and pensions payable to the Secretary, officers and other employees of the District Authority shall be defrayed out of the plan Fund of the State.

(8) All orders and decisions of the District Authority shall be authenticated by the Secretary of the District Authority duly authorized by the Chairman of that Authority.

(9) No Act or proceeding of a District Authority shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of, the District Authority.

7. Functions of District Authority

(1) It shall be the duty of every District Authority to perform such of the functions of the State Authority in the District as may be delegated to it from time to time by the State Authority.

(2) Without prejudice to the generality of the functions referred to in sub-section (1) the District Authority may perform all or any of the following functions, namely;

(a) co-ordinate the activities of the Taluk Land Settlement Authority and other settlement related services in the District;

(b) organize Adalaths within the Districts; and

(c) perform such other functions as the State Authority may fix by regulations.

8. District Authority to act in co-ordination with other agencies and be subject to directions given by the State Authority in the discharge of its functions under this Act, the District Authority shall, wherever appropriate, act in co-ordination with other governmental and non-governmental institutions, and others engaged in the work of promoting the cause of land settlement services to the needy and shall also be guided by such directions as the State Authority may give to it in writing.

9. Constitution of Taluk Land Settlement Authority

(1) The District Authority may constitute an authority, to be called the Taluk Land Settlement Authority, for each Taluk

(2) The Authority shall consist of

(a) the Deputy Collector [Land Reforms] of the district shall be the ex-officio Chairperson; and

(b) such number of other Members, possessing such experience and qualifications, as may be prescribed by the State Government, to be nominated by the District Authority

(3) The State Authority may appoint such number of officers and other employees as may be prescribed by the State Government for the efficient discharge of its functions.

(4) The officers and other employees of the Authority shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the State Government.

(5) The administrative expenses of the Committee shall be defrayed out of the service charges collected by the Taluk Authority.

10. Functions of Taluk Land Settlement Authority:

The Taluk Land Settlement Authority may perform all or any of the following functions, namely;

(a) co-ordinate the activities of land settlement services in the taluk;

(b) organize Adalaths within the taluk; and

(c) perform such other functions as the District Authority may assign to it.

Chapter III

POWERS AND FUNCTIONS OF LAND SETTLEMENT AUTHORITY

11. Powers of Land Settlement Authority:

(1) The settlement authority shall, for the purposes of holding any determination under this Act, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 Procedure, 1908 (5 of 1908), while trying a suit in respect of the following matters, namely;

(a) the summoning and enforcing the attendance of any witness and examining him on oath;

(b) the discovery and production of any document;

(c) the reception of evidence on affidavits;

(d) the requisitioning of any public record or document or copy of such record or document from any court or office; and

(e) such other matters as may be prescribed.

(2) Without prejudice to the generality of the powers contained in sub-section (1), every Land Settlement Authority shall have the requisite powers to specify its own procedure for the determination of any dispute coming before it.

(3) All proceedings before a Land Settlement Authority shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code (45 of 1860) and every Land Settlement Authority shall be deemed to be a Civil Court for the purpose of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

12. Award of State Land Settlement Authority:

(1) Every award of the State Land Settlement Authority shall be deemed to be decree of a civil court or, as the case may be, an order of any other court

(2) Every award made by a State Land Settlement Authority shall be final and binding on all the parties including the Departments, and no appeal shall lie to any court against the award, below the High Court of Kerala.

13. Cognizance of cases by Land Settlement Authority

(1) Any party to a claim on the rights over the land may, before the claim is brought before any court, make an application to the Land Settlement Authority for the settlement of claim:

Provided that the Land Settlement Authority shall not have jurisdiction in respect of any matter relating to an offence not compoundable under any law:

Provided that the Land Settlement Authority shall also not have jurisdiction in the matter where the value of the property in claim exceeds one crore rupees:

Provided also that the State Government may be notification, increase the limit of one crore rupees specified in the second proviso in consultation with the State Authority.

(2) After an application is made under sub-section (1) to the Land Settlement Authority, no party to that application shall invoke jurisdiction of any court in the same claim.

(3) Where an application is made to a Land Settlement Authority under sub-section (1), it

(a) shall direct each party to the application to file before it a written statement, stating therein the facts and nature of claim under the application, points or issues in such claim and grounds relied in support of, or in opposition to, such points or issues, as the case may be, and such party may supplement such statement with any document and other evidence which such party deems appropriate in proof of such facts and grounds and shall send a copy of such statement together with a copy of such document and other evidence, if any, to each of the parties to the application;

(b) may require any party to the application to file additional statement before it at any stage of the conciliation proceedings;

(c) shall communicate any document or statement received by it from any party to the application to the other party, to enable such other party to present reply thereto.

(4) When statement, additional statement and reply, if any, have been filed under sub-section (3), to the satisfaction of the Land Settlement Authority, it shall conduct conciliation proceedings between the parties to the application in such manner as it thinks appropriate taking into account the circumstances of the claim or dispute.

(6) It shall be the duty of the every party to the application to cooperate in good faith with the Land Settlement Authority in conciliation of the claims or dispute relating to the application and to comply with the direction of the Land Settlement Authority to produce evidence and other related documents before it.

14. Procedure of Land Settlement Authority

The Land Settlement Authority shall, while conducting proceedings or deciding a claim on merit under this Act, be guided by the principles of natural justice, objectivity, fair play, equity and other principles of justice, and shall not be bound by the Code of Civil Procedure, 1908 and the Indian Evidence Act, 1872 (1 of 1872).

Chapter III

ENTITLEMENT TO LAND SETTLEMENT SERVICES

15. Criteria for offering Land Settlement Services:

Every Indian national / institution / Company that has to file or defend a case shall be entitled to land settlement services under this Act if that person is -

(1) a person[s] or institution or company claiming “freehold possession” by virtue of a valid document executed under the Registration Act, 1908 and the conveyed property should be in

tune with the provisions in Transfer of Property Act, 1882 especially in proving the seller and buyer credentials before each other and the registering authority and/or

(2) a person[s] or institution or company claiming “freehold possession” by virtue of unfettered possession for at least 12 years in the case of private lands and 30 years for Government lands as per the Limitation Act, 1963 and/or

(3) a person[s] or institution or company claiming “freehold possession” by virtue of finalized survey and land records as per Section 13 of Survey and Boundaries Act, 1961 and/or

(4) a person[s] or institution or company claiming “freehold possession” for beneficial enjoyment of other lands under “freehold possession” in an indispensable manner after paying the land value to Government for the settled land in his/her/their favor and/or

(5) a person[s] or institution or company claiming “freehold possession” by virtue of a *Thandaper* account created as per the provisions of Transfer of Registry Rules, 1966 [Kerala] and/or

(6) a person[s] or institution or company claiming “freehold possession” by virtue of any document prescribed by the State law to declare the right on the land in question for example Record of Right [RoR], Patta, Pattayam, Purchase Certificate, Deed of Grant etc.

16. Entitlement to Land Settlement Services:

(1) Persons who satisfy all or any of the criteria specified in Section 11 above shall be entitled to receive land settlement services provided that the concerned Authority is satisfied that such person has a prima-facie case to defend.

(2) An affidavit in prescribed form made by a person / institution / company as to his credentials may be regarded as sufficient for making him eligible to the entitlement of land settlement services under this Act unless the concerned Authority has reason to disbelieve such affidavit.

Chapter IV

DETERMINATION AND FINALISATION OF CLAIMS

17. Preliminary scrutiny at Taluk Land Settlement Authority:

The claims shall be scrutinized preliminarily at Taluk Land Settlement Authority within 14 days of receipt of the application/petition with respect to the veracity of the claims on the ground like the extent and nature of possession and enjoyment of the property through site inspection reports and land survey using geo-referencing tools.

18. Scrutiny of records

(1) The records produced before the Authority shall be subjected to verification with respect various claims as mentioned in Section 11 above

(2) Valid claimants will be allotted with a temporary RoR number and passed on for further scrutiny with respect to possession and enjoyment

19. Settlement survey and maintenance of record

(1) Survey of land shall be ordered to assess veracity of the claim with respect to possession, enjoyment, tenure and type by imparting modern survey techniques using satellite technology

Provided that the possession and enjoyment shall be manifested by clear boundaries of land on ground

Provided further that the tenure to be recorded is either Government or private and type shall be any one of the items in 9 fold classification in Appendix I.

(2) The State Government or State Authority may, whenever it thinks fit, order, by notification in the Official Gazette that a survey shall be made of any area within the State or any part thereof shall thereupon be deemed to be under survey.

(3) The State Government or State Authority may, by the same or a subsequent notification, direct that an officer of Survey and Land Records Department shall be in supervisory charge of the survey so ordered.

(4) The officer in charge of such survey, shall, in relation thereto, exercise such powers and perform such duties as may be specified in the notification referred to in sub-section (2).

(5) The survey ordered under sub-section (1) shall be conducted in the prescribed manner by such officers and servants as are appointed by the State Government or State Authority temporarily through outsourcing for the purpose and after such appointment such officers and servants shall be the officers and servants conducting survey under the notified supervising survey officer.

(6) The State Government may appoint additional officers and servants as it may think necessary to assist the officers appointed under sub-section (5) and every officer appointed under this sub-section shall exercise such powers and perform such duties as may be prescribed.

(7) Entry upon land: The officer conducting the survey shall, for the purposes of this Act, have power, either by himself or by other officers or servants employed in the survey, to enter, between the hours of sunrise and sunset, upon any land or premises within the area or part thereof under survey, without being liable to any legal proceedings whatsoever on account of such entry or anything done on such land or premises in pursuance of the provision of this Act:

Provided that no such entry shall be made upon any land or premises which may be occupied at any time, unless with the consent of the occupier thereof, or without previously giving the said occupier twenty four hours notice of the intention to do so.

(8) Notice of survey: Before entering on any land or premises for the purposes of survey, the officer conducting the survey shall cause a notice in writing under his hand to be served on the owner or occupier of the land or premises about to be surveyed and on the owners or occupiers of coterminous lands or premises, calling upon them to attend either personally or by an authorized agent on such land or premises before him or before such officer as may be authorized by him in that behalf within a specified time (which shall not be less than three days after the service of such notice) for the purpose of pointing out boundaries and of affording such information as may be needed for the purposes of this Act, and every person on whom

such notice may be served shall be bound to attend as required by the notice and to give any information which may be required so far as he may be able to give it.

(9) Survey may be proceeded with after service of notice under section 8: After due service of notice under section 8,

(a) the officer conducting survey or any other officer or servant authorized by him in his behalf may proceed with the survey whether the persons upon whom such notice has been served are present or not; and

(b) every such person who fails to appear or present as required by the said notice shall be bound by the results of the survey in the same manner and to the same extent as if the survey were made in his presence.

20. Preparation of geo referenced survey map and digitised register:

(1) The officer conducting survey shall prepare a geo referenced map and digitised Basic Tax Register, Land Use Register and RoR Register of the area under survey.

(2) Lands and premises of such area or part thereof shall be shown on the already prepared digitised village or block maps with clear connections to monumental Ground Control Points and an indicative plot number shall be assigned to every piece of land and be shown separately in the website in the prescribed manner for a period of one month towards raising objections if any by the concerned before the State Authority.

(3) The officer conducting survey shall also prepare for the area or part thereof under survey, a digitised Basic Tax Register, Land Use Register and RoR Register of all lands and premises therein which have been surveyed.

(4) The register prepared under sub-section (3) shall specify, in relation to each indicative plot number assigned under sub-section (2), the name of the person or persons appearing at the time of survey and producing the supporting documents to be the owner or person having interest and any other particulars as may be prescribed.

21. Erection of boundary marks: The officer conducting the survey may at any time cause to be erected on any land, which is to be or has been, surveyed under this Act, temporary or permanent boundary marks of such materials and in such number and manner as he may determine to be sufficient for the purpose of survey.

22. Maintenance of temporary boundary marks:

(1) When any temporary boundary mark has been erected under section 21, the officer conducting the survey may cause a notice to be served on owner or occupier of land or premises whereon, or adjoining which, such boundary mark is situate, requiring him to maintain and keep in repair such boundary mark till the survey is completed.

(2) Where such owner or occupier does not comply with such notice, the officer conducting survey may repair the boundary mark and expenses incurred in doing so shall be recoverable from such owner or occupier as arrears of land revenue.

23. Disputes as to boundaries:

(1) If in the course of a survey under this Act, a dispute is found to exist as to the boundaries of any land or premises to be surveyed, an inquiry shall be held by the revenue official specifically authorized in this behalf, for the purpose of determining such dispute.

(2) The officer authorized under sub-section (1) shall cause a notice in writing under his hand to be served on the parties concerned requiring them to appear before him, in person or by authorized agent, on a specified day and to produce evidence of possession of the land or premises in dispute.

(3) On the specified day or on such other day to which the hearing may be adjourned, the officer authorized under sub-section (1) shall hear the parties, receive the evidence produced by them respectively, consider the effect of such evidence, take such further evidence as he may think necessary and without reference to the merits of the claim of any of such parties to a right to possess the land or premises in dispute, decide which party is in possession of said land or premises at the time of the survey.

(4) For the purposes of the inquiry, the officer authorized under sub-section (1) shall have power to summon and enforce attendance of witnesses and compel the production of documents by the same means and in the same manner as is provided in the case of a court under the Code of Civil Procedure, 1908 (Central Act No. 5 of 1908).

(5) After the inquiry has been completed, the officer authorized under sub-section (1) shall pass an order in writing defining clearly the subject of dispute and recording his decision and assigning clearly the reasons for such decision. (6) An appeal against the order passed under sub-section (5) shall lie to the District Authority and such appeal may be preferred within sixty days from the date of such order.

24. Record of survey to be uploaded in the website:

(1) As soon as may be, after completion of survey operations in any area, the officer in charge of survey shall upload all maps and registers in the website and other documents including files on which decisions were recorded and other papers connected with survey to such Taluk Land Settlement Authority in whose local area the survey was conducted or to such other authority or department of the State Government as the State Government may specify by general or special order for safe custody of record of survey.

(2) If the State Government or State Authority is satisfied with the survey and approves it, the fact of such satisfaction and approval shall be notified in the Official website by giving an approved plot number.

25. Maintenance of record:

(1) All maps and registers shall be uploaded in the website and other documents including connected files and other papers which were part of survey operations and are deposited with the concerned Taluk Land Settlement Authority or any other authority or department of the State Government, shall be kept in safe custody by such body, authority or department of the State Government and shall be maintained by such body, authority or department in the manner as may be prescribed.

(2) The Taluk Land Settlement Authority, any other authority or department of the State Government which is entrusted with the safe custody and maintenance of the survey records shall cause such records and entries in maps and registers to be revised and corrected at such intervals and in such manner as may be prescribed and by such officer as may be appointed or authorized in this behalf by the State Government or State Authority by notification in the Official Gazette.

(3) The revision or correction of entries in the register, maps and other record shall be carried out by the officer appointed or, as the case may be, authorized under sub-section (2) in the prescribed manner.

(4) The officer appointed or authorized under sub-section (2) for the purpose of revising or correcting maps and registers under this Act shall exercise such powers and proceed in such manner as may be prescribed.

26. Survey fees:

(1) The owner, title holder or occupier of the land or premises which has been surveyed under this Act shall be liable to pay to the officer or authority in charge of the survey, a fee at such rate, in such manner, within such time after the completion of survey and to such extent, as the State Government may prescribe and any survey fee not so paid shall be recoverable as arrears of land revenue:

Provided that

(a) the aggregate amount of survey fee leviable from owners, title holders or occupiers of lands or premises or part thereof under survey shall not exceed one tenth of the total cost of the survey; and

(b) no survey fee shall be payable

(i) by the Central Government or the State Government or

(ii) in respect of any such land or premises, area or value of which not exceed such limits as may be prescribed; or

(iii) in respect of land or premises held exclusively for religious worship or purely charitable purposes.

(2) Every owner, holder of title or occupier of land or premises who has paid the survey fee under this section shall be entitled to receive free of charge, and every owner, holder of title or occupier who is not liable to pay such survey fee shall be entitled to receive on payment of such charges, as may be prescribed, a digitally signed and certified extract from the map and a digitally signed and certified extract of the Basic Tax Register, Land Use Register and RoR prepared under this Act so far as they relate to such land or premises.

27. Cost of survey:

Subject to the provisions of section 26, the cost of every survey made under this Act shall be met

(i) in case of a Taluk Land Settlement Authority in whose local area the survey is conducted, by such Taluk Land Settlement Authority; and

(ii) in other cases by the State Government: Provided that in the cases covered by clause (i), the State Government may agree

(a) to pay a portion of such cost out of Consolidated Fund of the State, or

(b) to advance loan to the Taluk Land Settlement Authority for meeting such cost upon such terms and conditions as may be mutually agreed upon.

28. Penalty for failure to comply with requisition in notice:

Whoever fails to comply with a requisition contained in any notice issued under this Act and duly served shall be liable to fine not exceed rupees one thousand.

29. Inspection of, and copies of extracts from maps, registers and other documents.

(1) All maps, registers and other documents referred to in sub-section (2) of section 20 shall be open for public inspection in such manner, within such hours, at such places, subject to such conditions and on payment of such fee as the State Government may prescribe.

(2) Certified copies of, or, as the case may be, extracts from, such maps, registers and documents shall be granted on payment of such copying fee and in such manner as the State Government may prescribe.

30. Rules: The State Government may, by notification in the Official Gazette, make rules not inconsistent with the provisions of this chapter

(i) for preparation of maps and registers, the forms and notices thereof, and the collection and record of information in respect of any land or premises within the area under survey;

(ii) for regulation of all proceedings to be taken under this Act;

(iii) for the manner of all inquiries to be made thereunder;

(iv) for regulation of all matters which are required to be, or may be, prescribed under this Act; and

(v) generally for proper performance of all things to be done under this Act and carrying out of the purposes and provisions thereof.

31. Proceedings not to be affected by informality:

No proceedings under this chapter shall be affected by reasons of any informality, provided that the provisions thereof have, in substance and effect, been complied with.

32. Presumption as to maps and entries in registers:

All maps and all entries made in the registers prepared under this Act shall be presumed to be correct unless the contrary is proved: Provided that no such map or entry shall affect the right, title or interest of any person to or in any land or premises or shall preclude him from enforcing such right, title or interest in High court of Kerala in accordance with law.

33. Verification at District Land Settlement Authority:

The reports received on the 15th day from the taluk Land Settlement Authority shall be scrutinized for its legal sustenance along with the maps uploaded in the website with indicative plot number as per sub-section (2) of Section 20 before further expiry of 30 days of receipt of such reports and also through random field checks

34. Determination of claims:

(1) The State Land Settlement Authority on receipt of report from District Land Settlement Authority after further scrutiny of records settle the land in favour of the applicant in an indefeasible manner or reject the claims within a period of 30 days.

(2) No civil court shall have jurisdiction to entertain any suit or other legal proceedings against the Authority in respect of any decision taken by it for the settlement of claims never to be questioned in any State authority or department including the civil courts below the High Court of Kerala

(3) No suit, prosecution or other legal proceedings shall lie against the authority or any other officer of the Authority for anything which is done in good faith or intended to be done in pursuance of this Act or any rule or order made thereunder.

35. Punishment for wrong claims and reports:

Notwithstanding anything contained in this Act,

(1) whoever commits the offences or abets with the intention of wrongly obtaining the conditional freehold title under the Act shall be punishable with imprisonment of either description for a term which shall not be less than three years but which may extend up to five years and shall be liable to pay a fine which shall not be less than fifty thousand rupees, but which may extend to two lakh rupees.

(2) the offences and abetments shall include;

(a) Fraudulently or dishonestly creating documents and or records in support of any claim or title to such land

(b) Whoever being an officer entrusted with the responsibility to factually report the facts on the claims fail to report in time and in substance

(3) the offences shall be cognizable and non bailable and is triable by a Court of Chief Judicial Magistrate

Chapter V

RECORD OF RIGHT IS MANDATORY

36. Record of Right is mandatory for effecting transfer of registry in the name of transferee:

The duplicate copy of Record of Right issued by the Authority shall be part of the document registered under the provisions of Registration Act, 1908 and the Rules thereunder

37. Entries to be made in Book I:

The details of RoR shall be entered in Book I maintained at office of Sub Registrar along with the details of document involving transfer of land under the provisions of Transfer of Property Act, 1882

38. Copies shall be kept as reference records:

A copy of the RoR accessed directly from the website shall be kept as hard copy record at the office of sub Registrar as has been done for any other manual document for future reference

39. Registering officer not to register to certain cases:

Notwithstanding anything contained in the Registration Act, 1908 (Central Act 10 of 1908), the registering officer shall not register any document involving transfer of land if the same is not accompanied by the Record of Right issued, by the State Land Settlement Authority.

Chapter VI

FINANCE, ACCOUNTS AND AUDIT

40. Grants by the State Government:

The State Government shall, after due appropriation made by legislative assembly by law in this behalf, pay to the State Authority, by way of grants, such sums of money as the State Government may think fit for being utilized for the purposes of this Act.

41. State Land Settlement Services Benevolent Fund:

(1) The State Authority shall establish a fund to be called State Land Settlement Services Benevolent Fund and there shall be credited thereto -

(a) all sums or money given as grants by the State Government

(b) any grants or donations that may be made to the State Authority by any other person for the purposes of this Act;

(c) any amount received by the State Authority under the orders of any court or from any other source.

(d) any amount received as service charge for the land settlement services rendered by the authority

(e) any amount received as part of projects / programmes connected with land governance of State and Central Governments

- (2) The State Land Settlement Services Benevolent Fund shall be applied for meeting;
- (a) the cost of land settlement services provided under this Act including grants made to District and taluk Authorities;
- (b) any other expenses which are required to be met by the State Authority.

42. Accounts and audit:

(1) The State Authority or the District Authority or Taluk Authority, as the case may be, shall maintain proper accounts and other relevant records and prepare an annual statement or accounts including the income and expenditure account and the balance sheet in such form and in such manner as may be prescribed by the State Government

(2) The accounts of the Authorities shall be audited by the Comptroller and Auditor General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority concerned to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the auditing of the accounts of an Authority under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the auditing of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authorities under this Act.

(4) The accounts of the Authorities, as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon, shall be forwarded annually by the Authorities to the State Government

(5) The State Government shall cause the accounts and the audit report received by it under subsection (4) to be laid, as soon as may be after they are received, before the House of Assembly

CHAPTER VII

MISCELLANEOUS

43. Members and staff of Authorities to be public servants

The members including Member-Secretary or, as the case may be, Secretary of the State Authority, the District Authorities, the taluk authorities and officers and other employees of such Authorities shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

44. Protection of action taken in good faith

No suit, prosecution or other legal proceeding shall lie against—

- (a) the State Government;

(b) the Chairman, Member-Secretary or officers or other employees of the State Authority, District Authority and Taluk Authority;

for anything which is in good faith done or intended to be done under the provisions of this Act or any rule or regulation made thereunder

45. Act to have overriding effect

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of law other than this Act.

46. Power to remove difficulties

(1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date on which this Act receives the assent of the Governor.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before House of Assembly.

47. Power of State Government to make rules

(1) The State Government may, by notification, make rules to carry out the provisions of this Act in general.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely;

(a) the number, experience and qualifications of other members of the Authority

(b) the experience and qualifications of the Member-Secretary of the Authority and his/her powers and functions

(c) the terms of office and other conditions relating thereto, of members and Member-Secretary of the Authority

(d) the number of officers and other employees of the Authority

(e) the conditions of service and the salary and allowances of officers and other employees of the Authority

(f) any other matter which is to be, or may be, prescribed.

STATEMENT OF OBJECTS AND REASONS

State of Kerala is yet to enact a comprehensive legislation which would determination the rights through settlement in or over land and maintenance of land records including record of rights as also transfer and alienation etc. The survey, transfer of registry and registration of documents are

governed by various laws in the State and is creating lot of hardship for the landholders in the State especially the marginal holders in the State. The title holders base their title on series of documents of successive transfers and at times person dealing with them are in a dilemma as to the actual state of title of the property and for that the documents of transfers are couched in clumsy and lengthy legal phraseology to safe guard the interest of the transferee serving as an assurance to the transferee. In order to ward off such a situation and to maintain the record of rights of private and public lands in an authentic manner by a single agency and to certify the said rights, the necessity of enacting a law on the subject is being felt as a measure of good governance and to ensure hassle free transaction of private lands for attracting better investment in the State. These may also help in proper assessments of taxes levied on such transaction besides providing clear title to the persons holding lands within the State. The Bill seeks to achieve the aforesaid objectives

ANNEXURE 4

KERALA GAZETTE

EXTRA ORDINARY

PUBLISHED BY AUTHORITY

VolThiruvananthapuram,Date.....No.

G O V E R N M E N T O F K E R A L A

Taxes Department

Notification

G.O (P)

No./2017/TDDated,.....Thiruvananthapuram.....

..

S.R.O No./2017 – In exercise of powers conferred by sub section (1) of Section 69 of the Registration Act 1908 (Central Act XVI of 1908) the Government of Kerala hereby make the following rules further to amend the Registration Rules (Kerala), 1958.

Rules

1. Short title and commencement- (1) These rules may be called the Registration (Amendment) Rules (Kerala), 2017.

(2) They shall come into force at once.

2. Amendment of the rules – In the Registration Rules (Kerala), 1958:-

After Rule 30A (iii) the following provision shall be instated, namely:-

“30A(iv). The Registering Officer shall not accept any document involving of transfer of immovable properties including land, for registration, unless the same is accompanied by a Record of Rights [RoR] issued by the Land Settlement Authority of Kerala.”

By order of the Governor,

Principal Secretary to Government

Explanatory Note

*(This does not form part of the notification but is intended to indicate
the General purport)*

The holders of land in the territorial jurisdiction of Kerala do not possess a valid document which conclusively gives the extent of “rights” enjoyed by the parties over the land. Now as per the provisions of Kerala Land Survey, Settlement and Modernization of Records Act, 2017 Government have conclusively declared that, the possessors of RoR are the true holders of land conclusively. Towards streamlining the process of land registrations in Kerala and towards creating a common database for co-ordinating departments in land administration, the amendment in Registration Rules (Kerala), 1958 becomes imminent.

This notification is intended to achieve the above objects.

ABSTRACT OF EXPECTED EXPENDITURE CONNECTED WITH CREATION OF DIGITISED LAND RECORDS ALONG WITH USE CLASSIFICATION OF LAND FOR BETTER LAND REVENUE AND LOCAL SELF GOVERNMENT ADMINISTRATION

Item number	Planned activity	Plan period	Estimated expenditure in crore [Rs]	Expected outcome
1	Setting up of Kerala Land Settlement Authority	2017-18	0.50	Will co-ordinate all the activities as per the provisions contained in the proposed Bill
2	Setting up and monumentation of Ground Control Points [GCPs] at the rate of 30 GCPs per village in all the 1664 villages	2017 -18	20.00	49 920 GCPs will be drawn from the 38 master Control points of Survey of India in Kerala and the monumentation of the same will be done with 2 X 2 sq.ft. concretized platforms
3	Training of untrained surveyors and draftsmen on modern survey techniques under NLRMP Scheme at ILDM. 104 batches with 30 participants in each batch	2017-19	2.00	In two years the entire workforce in Survey Department will be made proficient in doing survey of land parcels with latest technology
4	Survey, demarcate and digitize the records of all Government lands on priority basis as and when GCPs are fixed in a village	2017-19	10.00	This will permanently protect Government land and will give a clear understanding of the land reserves of the Government for developmental activities
5	Hosting details in the website	2017-2021	2.00	The interactive website will give all the details of public and private lands along with sketch and textual data for limited third party reference. This will replace the issuance of possession/location/encumbrance etc., certificates once for all.
6	Integrating the website with Registration	2020-21	1.00	Through e franking/stamping the entire land documentation

	process			will be digitized and seamless transaction of land will be ensured in the most transparent and easy platforms
7	Covering at least 30 % of the land area through demand based survey	2019-2021	50.00	The demand based survey of the private lands will be done on a 50:50 cost sharing basis for the non BPL and non SC/ST categories. For BPL and SC/ST it will be 100% free.
		2017-21 Period		85.50 crore

**PROCEEDINGS OF THE MEMBER SECRETARY
STATE PLANNING BOARD
(Present: Sri. V. S. Senthil IAS)**

Sub:Formulation of Thirteenth Five Year Plan 2017-22 – Constitution of Working Group on **Land Records** - Orders issued.

Order No. 129/2016/PPD/SPB

Dated: 19 .09.2016

As part of the formulation of Thirteenth Five Year Plan, State Planning Board has decided to constitute Working Groups for various key sectors of development. Accordingly Working Group on **Land Records** is constituted with the following composition.

Co-Chair

Prof. V. K. Ramachandran, Vice Chairperson, State Planning Board

Co-Chair

Sri. P. H. Kurien IAS, Principal Secretary, Revenue & DM, Government of Kerala,
Thiruvananthapuram, Ph- Mob: 9496107100, prlsecy.rev@kerala.gov.in

Members

1. Dr. Nivedita P. Haran, Former Additional Chief Secretary, Government of Kerala
08943440525
2. Sri. C. Reghu IAS (Rtd.), Director ILDM, PTP Nagar, Thiruvananthapuram 9847112293
reghuc@gmail.com
3. Sri. E. Devadasan IAS, IG of Registration, Vanchiyoor Mob: 9447015266 dir-tvm.syr@kerala.gov.in
4. Sri. A. T. James IAS, Commissioner, Land revenue, Public Office Building,
Thiruvananthapuram 0471-2322830 lrcommissioner@gmail.com
5. Sri. Mir Muhammed Ali, District Collector, Civil Station, Kannur. 0497-270024391 M-
9447029015 dcknr.ker@nic.in
6. Dr. D. Sajith Babu, Secretary/Administrative Officer, ILDM,
Trivandrum 8547610005 sajith.ildm@gmail.com
7. Dr. Aparajita Bakshi, Assistant Professor, Centre for Study of Developing Economies,
Tata Institute of Social Sciences, Mumbai Campus, V.N. Purav Marg, Deonar, Mumbai
400088 Telephone: 91-22-2552 5000, aparajitab@tiss.edu

Convener

Dr. V. Santhosh, Chief, Perspective Planning Division, State Planning Board
drsanspb@gmail.com Chiefppdspb@gmail.com 8547434266

Co-Convener

Sri. M. Kalamudeen, Research Officer, PP Division, State Planning Board

Terms of Reference of the Working Group would be as follows:

1. To comprehensively review the status of programmes for modernisation of land records in Kerala with special emphasis on the 11th and 12th Five Year Plan periods.
2. To evaluate achievements with regard to plan projects launched to modernise land records, both by the State Government and the Central Government, in the State during the 11th and 12th Five Year Plan periods.
3. To list the different sources of data on land and provide a critical evaluation of these data sources, including measures for improvement.
4. To identify and formulate a set of output and outcome indicators (preferably measurable) and base the analysis of the previous plans on these indicators
5. In particular, the Group will examine the following issues
The completion of the process of Land Surveys in the State
Modernization and Standardization of all land records
The merger of information on land use and different forms of tenurial status in an integrated record.
Any administrative issues that arise in this sector.
6. To suggest, in particular, a set of projects which can be undertaken during the 13th Plan period in the sphere of modernisation of land records.
7. The Chairperson is authorised to modify Terms of Reference with the approval of State Planning Board. The Chairperson is authorised to invite, on behalf of the Working Group, experts to advise the Group on its subject matter. These invitees are eligible for TA and DA as appropriate.
8. The Working Group will submit its draft report by 1st December 2016 to the State Planning Board.
9. The non- official members of the Working Group will be entitled to travelling allowances as per existing government norms. The Class I Officers of GOI will be entitled to travelling allowances as per rules if reimbursement is not allowed from Departments.

Sd/-
VS Senthil IAS
Member Secretary

To

The persons concerned

Copy to:

The Accountant General, Kerala (A&E) with C/L

The Sub Treasury Officer, Vellayambalam.

P.S. to Vice Chairperson, State Planning Board

C.A. to Members

C.A. to Member Secretary

C.A. to Sr. Administrative Officer

P.P.O, Publication, Computer, Accounts Sections

File/Stock File.

Forwarded/By Order

Sd/-

Chief, PPD

State Planning Board