



## GOVERNMENT OF KERALA

### Forest and Wildlife (E) Department

#### NOTIFICATION

No. GO. (P) 64/07/F&WLD. Dated, Thiruvananthapuram, 10<sup>th</sup> October 2007.

S.R.O. No. 837/2007.- In exercise of powers conferred by sub-section (5) of Section 9 and Section 18 of the Kerala forest (Vesting and Management of Ecologically Fragile Lands) Act, 2003 (Act 21 of 2005), the Government of Kerala hereby make the following rules namely:-

#### RULES

**1. Short title and commencement.** - (1) These rules may be called the Kerala Forest (Vesting and Management of Ecologically Fragile Lands) Tribunal Rules, 2007

(2) They shall come into force at once.

**2. Definitions.** - (1) In these Rules unless the context otherwise requires, -

- a) "Act" means the Kerala Forest (Vesting and Management of Ecologically Fragile Lands) Act, 2003 (21 of 2005);
- b) "compensation" means any amount granted in respect of the land vested with Government including the permanent improvements thereon under section 8 of the Act;
- c) "Custodian" means custodian as defined under clause (a) of Section 2 of the Act;
- d) "Dispute" means a dispute referred to in sub-section (1) of Section 10 of the Act;
- e) "Division" means a Forest Division;
- f) "Form" means the form appended to these rules;
- g) "Government" means the Government of Kerala;
- h) "Permanent improvements" means any work or products of work, which add the value of the holding, and includes:-
  - (i) the erection of dwelling houses, buildings, appurtenants thereto and farm buildings;



- (ii) the tanks, wells, masonry kayyalas, random rubble kayyalas, channels, dams constructed and other works for the storage or supply of water for agricultural or domestic purposes;
  - (iii) the preparation of land for irrigation;
  - (iv) the water-outlets made for the protection and reclamation of agricultural land or waste land used for cultivation, from soil erosion or from damage by water, or from flood or from land slides of river and from watershed;
  - (v) The permanent improvements on the land for agricultural purposes; the reclamation, clearance, and enclosure;
  - (vi) the renewal or reconstruction of any of the foregoing works or alterations therein or additions thereto; and
  - (vii) the planting or protection or maintenance of fruit trees or other valuable trees or plants except royal trees such as Sandalwood, Rosewood, Teak.
- i) "residential house" means any building constructed for the purpose of residence and which has been in continuous occupation of the owner or possessor from any date prior to the 2<sup>nd</sup> day of June, 2000;
  - j) "recommendation" means the recommendation of the Advisory Committee constituted under section 15 of the Act.
  - k) "section" means section of the Act.
  - l) "surroundings essential for the convenient use of residential building" means an area of 0.5 hectares of land surrounding the residential building.
  - m) "Tribunal" means the Tribunal constituted by Government as per sub-section (1) of section 9 of the Act.
- (2) Words and expressions used but not defined in these rules but defined in the Act shall have the meaning respectively assigned to them in the Act.

**3. Application to the Tribunal .-** (1) Every application under Section 10 shall be made in Form "A" and shall be accompanied by a fee of five hundred rupees with such number of copies of the application and the documents, as are necessary to be served on the respondents within 3 months from the date decision of the Custodian or within 6 months from the date of communication of compensation under Section 8 as the case may be, submitted before the Tribunal:

Provided that, in the case of petitions already disposed of by the Custodian, the application shall be submitted within three months from the date of notification of these Rules.



- (2) An application, which is found defective on scrutiny, may be returned for re-submission after curing defects within a specified time not exceeding two weeks by the Tribunal.
4. **Issue of Notice.** - When an application has been duly presented to the Tribunal it shall issue a notice in Form "B" along with a copy of the application and the documents each to the respondent directing him to appear before the Tribunal on the day specified in the notice to defend his case.
5. **Government and Custodian to be made parties.** - The Government and the Custodian shall be made as parties in each application before the Tribunal.
6. **Proceedings in General .-** In all proceedings before the Tribunal, the procedure prescribed in respect of applications in the Code of Civil Procedure, 1908 or the Rules made thereunder, shall, as far as practicable be made applicable, except as otherwise provided in the Act or in these Rules.
7. **Appearance and Examination of parties .-** (1) For any appearance, application or other acts required or acts authorized to be made or done before the Tribunal by a party may be made or done by the party in person or through an advocate on his behalf.
- (2) When a party appears through the advocate, a Vakalathnama duly executed, attested, accepted and dated in the form prescribed for Vakalathnama to be filed in a Civil Court of the State shall be filed before the Tribunal after affixing the required court fee stamp.
- Provided that, any such appearance, if the Tribunal so directs, shall be made by the party in person.
- (3) The opposite parties in the application may and if so required by the Tribunal shall, at or before the first hearing or within such further time as the Tribunal may allow, file a written statement dealing with the claim raised in the application and any such written statement shall form part of the record.
- (4) If the opposite parties in the application contest the dispute, and if no written statement has been filed, the Tribunal may reduce the proceedings by examining the parties.
8. **Officer authorized to attend the Tribunal .-** (1) If the Custodian is unable to attend any inquiry before the Tribunal, he may forward to the Tribunal, his statement, in writing along with the document intended to be produced by him.
- (2) In the case where the Custodian has forwarded a statement to the Tribunal under sub rule (1) above, he may depute an officer not below the rank of Forest Range Officer, if it found necessary to explain the same.
- (3) The Divisional Forest Officer, on behalf of the Government and the Custodian, may sign counter affidavits to be filed before the Tribunal



on getting the Statement of Facts approved by the Government in Cases where Government is a party.

**9. Forest Officer to be allowed time to consult higher authorities.** - The Tribunal shall furnish to the Forest Officer attending any inquiry before it, the information regarding the date or leave of posting of applications for hearing and may adjourn hearing to make it convenient for the officer to consult the appropriate higher authorities.

**10. Local Inspection.** - (1) The Tribunal may after giving notice to the parties concerned, at any time during the course of any inquiry before it, visit the disputed land and the adjoining areas for the purpose of making a local inspection.

(2) For the purpose of conducting inspections of any land, the Tribunal may require the assistance of any Revenue or Forest Officer of the District in which the land is situated.

(3) The Tribunal may, when it requires the assistance of any Revenue or Forest Official under sub-rule (2) above, request the concerned District Collector, at least one week before the date fixed for the inspection to provide such assistance and the District Collector shall comply with such request.

(4) Any party in the petition or the representative of any such party may accompany the Tribunal for the local inspection.

(5) The Tribunal after making a local inspection shall note briefly in a memorandum any facts observed and such memorandum shall form part of the record of inquiry.

**11. Procedure in connected cases.**- (1) Where two or more cases are pending before a Tribunal arising out of the same cause of action, or any issue involved is common to two or more such cases, may, in so far as the evidence bearing on the dispute in such issue in respect of such cases, be heard simultaneously.

(2) Where an action is taken under sub-rule (1) above, evidence bearing on the common issue or issues shall be recorded on the record of one case, the Tribunal shall certify by its signature on the records of any such other case, the extent to which evidence so recorded applies to such other case and the fact that the parties to such other case had the opportunity of being present, and, if they were present, of cross-examining the witnesses.

**12. Power of Tribunal to grant interlocutory orders.** - For the purposes of the provisions of the Act and the Rules, the Tribunal shall have power to grant injunctions and such other interlocutory orders as may appear to it be just and necessary to meet the ends of justice.



Provided that no injunction shall be granted or other interlocutory order shall be made by the Tribunal suo moto except, after issuing notice to the Government or the Custodian.

13. *Registers of Tribunal.* - (1) The Tribunal shall maintain the following registers, namely: -

- (a) A register of applications in 'Form C';
- (b) A diary register in 'Form D';
- (c) A register of Interlocutory Application in 'Form E';
- (d) Other registers as are deemed to be necessary by the Tribunal.

(2) The register of applications and the register of interlocutory applications shall contain, the details of applications or the interlocutory applications, as the case may be, received and disposed of by the Tribunal and gist of the orders on each of such applications.

(3) The Tribunal shall send a copy of the orders on each of the applications including interlocutory applications, disposed of by it, to the Government.

(4) The gist of all applications received by the Tribunal including interlocutory applications and the orders therein shall be entered in the diary register.

(5) The diary register shall contain concise and faithful entries relating to every application or interlocutory application and the stage of such application beginning with the institution and ending with its final disposal.

By Order of the Governor

L.RADHAKRISHNAN  
Secretary



**FORM A**

[See Rule 3 (1)]

**Form of Application**

- (a) Name or Names (with full address) of claimants/ applicants  
Name or Names (with full address/addresses) of person/persons who shall be impleaded or brought on record as Respondent/Respondents.
- (b) Description of Land involved in the application with extent (in hectares).  
Survey No.  
Village  
Taluk  
District.
- (c) Description of tree growth available in the land:
- (d) (i) Wasteland (in hectares).  
(ii) Wooded area (in hectares).  
Planted area  
Natural growth area
- (e) Habitation or other building if any available within the said land with the name of the habitated
- (f) Extent of cultivated area owned by the applicant in other villages, taluks or districts.
- Details (i) Wet – Nilam.  
(ii) Dry—Garden- with particulars of crops raised.  
(iii) Plantation crops.  
(iv) Cash crops.
- (g) Details of the documents produced in support of the applications.
- (h) Ground for filing the application.
- (i) Any other relevant particulars connected with the dispute
- (j) Area claimed as ancillary land—Extent of cultivation for which this is claimed.

**Affidavit.**

I/ We..... the above named applicant/applicants/claimant/claimants solemnly affirm and state that the particulars given above are true and correct to the best of my/our knowledge and belief.

Place:

Date:

Signature  
(Claimants/applicants)



**FORM B**

[See Rule 4]

Before the Forest Tribunal .....

O.A. No. / of 200

Between

Petitioner

And

Respondent

**NOTICE TO RESPONDENT/S**

Whereas the above named applicant/s has/have made application to this Tribunal under section .....of the Kerala Forest (Vesting and Management of Ecologically Fragile Lands) Act, 2003 (21 of 2005).

Please take notice that the above application is posted on ..... (date, time) for your appearance either in person or by a duly authorized representative and for hearing your objection, if any. In default of your appearance either in person or by a duly authorized representative on the aforesaid date or within such further time as is allowed by the tribunal the said application will be heard and decided ex parte.

A copy each of the application and the documents, produced by the applicant are enclosed.

Given under my hand and seal of the Tribunal on the day of ..... 20....

Forest Tribunal

.....

To

Respondent/s..... (H.E. name and designation etc of the respondent/s)

**FORM C**

## REGISTER OF APPLICATIONS.

[See Rule 13 (1)]

Application No ..... of 20..... presented on .....

Applicant/claimant (Name and address) name of the advocate	Respondent (Name and address) name of the advocate	Gist of claim and other details of the application	Date of respondent's appearance	Date of final order and a gist of the order	Review No. and result with date	Remarks
1	2	3	4	5	6	7

**FORM D**

[See Rule 13 (1)]

## DIARY OF REGISTER

No. .... of ..... 20.....

Date of application	Gist of the application	Adjourned date	Purpose of adjournment	Gist of order passed	Date of final order	Initials of the Tribunal
1	2	3	4	5	6	7

**FORM E**

[See Rule 13 (1)]

## REGISTER OF INTERLOCUTORY APPLICATIONS

No. of application	Date of Presenta tion	No. of main matter	Name of petitioner	Main Prayer in the applic ation	First order with date	Final order with date	No. of appeal if any	Remarks
1	2	3	4	5	6	7	8	9



### Explanatory note

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

As per Section 9 of the Kerala Forest (Vesting and Management of Ecologically Fragile Lands) Act, 2003 (Act 21 of 2005) the Government of Kerala is empowered to constitute one or more Tribunals for the purposes of the said Act. Under sub-section (1) of section 9 of the Act, the Tribunal, in exercising its powers, shall follow such procedures as may be prescribed. Moreover section 18 of the said Act, empowers Government to formulate the Rules. Government have, therefore, decided to exercise such powers and to make the Rules namely, the Kerala Forest (Vesting and Management of Ecologically Fragile Lands) Tribunal Rules, 2007.

The notification is intended to achieve the above object.