



GOVERNMENT OF KERALA

Most Immediate

No.7661/C2/11/F&WLD

Forest & Wild Life (C) Department,
Thiruvananthapuram, Dated: 11-01-2012.

From

The Principal Secretary to Government

To

- | | | | |
|---|--|----|---|
| 1 | Devasia S/o Kurien
Velamkunel House, Mudappallur P.O,
Palakkad 678 705 | 14 | Sudhakaran S/o.Karunakaran,
Pookurissi Veedu,
Kottekulamthu, Thekkekara
Amsom, Melarcode P.O.,
Alathur, Palakkad-678703 |
| 2 | Thomas S/o. Kurien,
Velamkunel House,
Mudappallur P.O,
Palakkad 678 705 | 15 | Anu Sudhakaran
D/o.Sudhakaran
Pookurissi Veedu,
Kottekulamthu, Thekkekara
Amsom, Melarcode P.O.,
Alathur, Palakkad-678703 |
| 3 | Jose S/o. Kurien
Velamkunel House,
Mudappallur P.O,
Palakkad 678 705 | 16 | Anoop Sudhakaran
S/o.Sudhakaran
Pookurissi Veedu,
Kottekulamthu, Thekkekara
Amsom, Melarcode P.O.,
Alathur, Palakkad-678703 |
| 4 | Elsamma D/o. Kurien
Velamkunel House,
Mudappallur P.O,
Palakkad 678 705 | 17 | T.Savithri Sudhakaran
W/o.Sudhakaran, Pookurissi
Veedu, Kottekulamthu,
Thekkekara Amsom, Melarcode
P.O., Alathur, Palakkad-678703 |
| 5 | Johny S/o. Kurian
Velamkunel House,
Mudappallur P.O,
Palakkad 678 705 | 18 | Antony, Kuttiyara House,
Pothundy Village, Nemmara
P.O, Palakkad-678708 |
| 6 | Kurien S/o. Devasia
Velamkunel House,
Mudappallur P.O,
Palakkad 678 705 | 19 | Poulose S/o.Antony
Kuttiyara House,
Pothundy Village,
Nemmara P.O, Palakkad-678508 |
| 7 | Rosily D/o. Kurien
Velamkunel House,
Mudappallur P.O,
Palakkad 678 705 | 20 | Shaji S/o.Antony,
Kuttiyara House,
Pothundy Village, Nemmara
P.O, Palakkad-678508 |
| 8 | Mariyamma D/o. Kurien
Velamkunel House,
Mudappallur P.O,
Palakkad 678 705 | 21 | Thankachan S/o.Antony
Kuttiyara House, Chakkathara,
Old Village, Nemmara P.O,
Palakkad-678508 |
| 9 | Fr. Cyriac
Velamkunel House,
Mudappallur P.O,
Palakkad 678 705 | 22 | Biju S/o.Antony
Kuttiyara House,
Thiruvazhiyode Village Pin-
679514 |

10 Fr. Mathew
Velamkunnel House,
Mudappallur P.O,
Palakkad 678 705

23 V.Sivadasan
S/o.E.K.Viswanatha Mannadiar
Eratt House, Mangod,
Pudunagaram P.O.,
Palakkad - 678 503

11 Eliyamma W/o. Devasia
Velamkunnel House,
Mudappallur P.O,
Palakkad 678 705

12 Mary Sebastian W/o. Devasia
Velamkunnel House,
Mudappallur P.O,
Palakkad 678 705

13 Elikutty W/o. Kurien
Velamkunnel House,
Mudappallur P.O,
Palakkad 678 705

Sir,

Sub:- Termination of the lease of Shernelly Estate in Nelliampathy – Reg.
Ref:- Show Cause Notice dated 07.01.2012

I am to forward herewith the show cause notice cited, on the above subject.
Receipt of the same may be acknowledged.

Yours faithfully,
SUSHAMA KUMARI.S,
Under Secretary,
For Principal Secretary to Government.

Approved for issue



Section Officer

From

Principal Secretary to Government
Forest & Wildlife (C) Department
Thiruvananthapuram

To

- | | | | |
|---|---|----|---|
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Velamkunnel House,
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Palakkad 678 705 | 14 | Sudhakaran S/o.Karunakaran,
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S/o.Sudhakaran
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Veedu, Kottekulamthu,
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Palakkad-678508 |
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Mudappallur P.O,
Palakkad 678 705 | 19 | Poulose S/o.Antony
Kuttiyara House,
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Palakkad-678508 |
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Velamkunnel House,
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Palakkad 678 705 | 22 | Biju S/o.Antony
Kuttiyara House, Thiruvazhiyode
Village-679514 |

- | | | | |
|----|---|----|--|
| 10 | Fr. Mathew
Velamkunnel House,
Mudappallur P.O,
Palakkad 678 705 | 23 | V.Sivadasan
S/o.E.K.Viswanatha Mannadiar
Eratt House, Mangod,
Pudunagaram P.O.,
Palakkad - 678 503 |
| 11 | Eliyamma W/o. Devasia
Velamkunnel House,
Mudappallur P.O,
Palakkad 678 705 | | |
| 12 | Mary Sebastian W/o. Devasia
Velamkunnel House,
Mudappallur P.O,
Palakkad 678 705 | | |
| 13 | Elikutty W/o. Kurien
Velamkunnel House,
Mudappallur P.O,
Palakkad 678 705 | | |

NOTICE

WHEREAS W.SMITH ESQR was a lessee under the Cochin Government as per lease deed 26.9.1867 (11th day of Kanni 1043 – Malabar Year) for an area of more or less 250 acres.

ANDWHEREAS the estate came into the hands of A.H.Krishna Iyer and sons, Ayilur, Palakkad in the year 1944 and by another subsequent transfer in the year 1975, into the hands of M/s. Malanad Enterprises as per deed no.1207/1975 registered in SRO, Nemmara.

ANDWHEREAS the lease rent in respect of the entire extent of 120.92 acres presently held by 23 persons was remitted by Sri.Devassia, S/o. Kurian. Hence same notices are issued to all the 23 persons.

ANDWHEREAS the title and ownership of the property under the above said lease deed devolved upon the Government of Kerala since coming into force of Part B State (Laws) Act 1951 and in sections 5 & 76 of State Reorganisation Act, 1956.

ANDWHEREAS a portion of 120.92 acres of the lease hold property came into hands of the following persons.

			Deed No.
1.	Devassia, S/o. Kurian	7.50 acres	557 dtd 26.5.1978

2.	Thomas, S/o. Kurian	10.00	558 dtd 26.5.1978
3.	Jose, S/o. Kurian	9.50	559 dtd 26.5.1978
4.	Elsamma, D/o. Kurian	8.50	560 dtd 26.5.1978
5.	Johny, S/o. Kurian	8.50	561 dtd 26.5.1978
		4.00	575 dtd 29.5.1978
6.	Kurian, S/o. Devessia	10.50	562 dtd 26.5.1978
7.	Rosily, D/o. Kurian	8.50	563 dtd 26.5.1978
8.	Mariamamma, D/o. Kurian	8.50	564 dtd 26.5.1978
9.	Fr. Syriac	8.72	573 dtd 29.5.1978
10.	Fr. Mathew	8.70	574 dtd 29.5.1978
11.	Eliamma, W/o. Devassia	7.50	576 dtd 29.5.1978
12.	Devassia, S/o. Kurian	7.50	577 dtd 29.5.1978
13.	Mary Sebastian, W/o. Devassia	6.50	578 dtd 29.5.1978
14.	Elikutty, W/o. Kurian	6.50	579 dtd 29.5.1978

ANDWHEREAS from the above extent of 120.92 acres, 20.43 acres were transferred two times in the year 1987 and 1995 vide sale deed nos. 1403/87, 1404/87, 1405/87, 1406/87 dated 15.6.1987 and 3499/95, 3500/95, 3501/95, 3502/95 dated 1.12.1995 respectively and portion of 20.43 acres of land came into the hands of T.Savithri Sudhakaran W/o.Sudhakaran, Anu Sudhakaran D/o.Sudhakaran, Anoop Sudhakaran S/o.Sudhakaran and Sudhakaran S/o.Karunakaran and another portion of 34 acres out of the 120.92 acres was transferred in the year 1996 vide deed no. 2817/96, 2818/96, 2819/96, 2820/96 and the portion of 34 acres of land came into the hands of Antony, Kuttiyara House, Poulouse S/o.Antony, Shaji S/o.Antony, Thankachan S/o.Antony, Biju S/o.Antony and

V.Sivadasan (Power of attorney holder of the above 5 persons) in contravention of the provisions of lease agreement, as there is no provision for the sale or transfer of lease hold which is a reserve forest, without the prior approval of Central Government.

ANDWHEREAS the lease hold is fragmented to smaller pieces and thereby the **unity and integrity of the lease hold is ruined**. This has been done to defeat the purpose of Kerala Land Reforms Act, 1963 and is a fraud committed by lessee for personal gains at the cost of valuable public property.

By **destroying the unity and integrity of the lease hold**, lessee has caused immense ecological imbalance to the ecologically fragile Shernelly Estate which tantamounts to the violation of lease deed conditions.

ANDWHEREAS the act of transfer of the reserve forest is against the law of land as even the State Government who is the owner of the property do not have the absolute right to sell or assign or lease out the reserve forest land without prior sanction of Government of India under the Forest Conservation Act 1980, and as such you cannot claim any right over the above leased property.

ANDWHEREAS such transfer is against GO(MS) 8/2006/F&WLD dated 20.1.2006, which states that any transfer of lease land by way of assignment lease or gift attracts violation of Forest Conservation Act 1980.

ANDWHEREAS Shernelly estate is a reserve forest as per reserve notification of Cochin Government, 1909 and continues to be a reserve forest. Therefore assigning of the forest land by way of lease or otherwise to any private person requires prior approval of the Central Government. This has been re-iterated by Hon'ble Supreme Court in the decision reported in AIR 1997(2) SCC 267 at PP 269 & 270 in Godavarman Thirumulpadu case and also in the decision reported in AIR 1987 SC 1073, AIR 1988 SC 2187 and AIR 1987 SC 228. Hon'ble High Court in judgment dated 9.8.2000 in WA 443/90 had held that leased out estates in the reserve forest area retain their status as reserve forest and hence come under the purview of the Forest Conservation Act, 1980. The expert

committee constituted by the State of Kerala for identifying "forest" area in the state pursuant to the Hon'ble Supreme Court order dated 12.12.1996 in WP(c) 202/95 has also included these area as "forest". Thereby Shernelly Estate is a forest in Government records and attracts all the provisions of the Forest Conservation Act, 1980. The transfers are effected without the prior approval of Central Government and hence are null and void. Therefore the lease is liable to be cancelled.

ANDWHEREAS you have indulged in serious illegal activities in the leased out area for which 8 offences were booked by the department against you for illegal felling of trees, girdling of trees and illicit lopping, amounting a Government loss of Rs.2,05,000/- and you have been convicted in 2 OR cases and other OR cases are under trial/ investigation.

ANDWHEREAS the illegal activities committed by you amount to violation of Kerala Forest Act, 1961 and lease agreement and are detrimental to the ecology of the place and health of the forest.

ANDWHEREAS such illegal activities and felling of trees without permission of Government/ paying seigniorage to Government are against the provision of section 4 of Kerala Grants and Leases (Modification of Rights) Act, 1980.

ANDWHEREAS Devassia Kurian had paid the lease rent in the pre-revised rate upto 2009 for the whole area of 120.92 acres of the above leased land even though he was actually in possession of 67.51 acres as admitted in WP(c) 33987/2011 filed by Devassia Kurian and others and whereas T.Savithri Sudhakaran W/o.Sudhakaran, Anu Sudhakaran D/o.Sudhakaran, Anoop Sudhakaran S/o.Sudhakaran, Sudhakaran S/o.Karunakaran, Antony, Kuttiyara House, Poullose S/o.Antony, Shaji S/o.Antony, Thankachan S/o.Antony, Biju S/o.Antony and V.Sivadasan did not remit any lease rent even though they claim to have in possession of the portion in the above said leased land.

ANDWHEREAS you have cultivated rubber in the leased land which is against the provisions in the letter no. F(c) A/11.6/GL/91 Kerala/ 2715 dated 17.7.2008 from Ministry of Environment and Forests addressed to Chief Conservator of Forests (Special Afforestation).

ANDWHEREAS the Government propose to terminate the lease in observance of covenants of the said lease deeds,

NOW THEREFORE you are hereby given notice to show cause why the lease in respect of the whole area of 120.92 acres included in the area of reserve forest land covered under the aforesaid leases should not be terminated as contemplated in the aforesaid lease deeds on or before 20.01.2012 to the undersigned .

Failing which further action will be taken for the termination of the above lease as if you have nothing to offer in the matter.



SAJEN PETER

**Principal Secretary to Government
Forest & Wildlife Department,
Secretariat, Thiruvananthapuram,
Kerala, India Pin-695001**

(for and on behalf of the Government of Kerala)

Thiruvananthapuram
Dated:07.01.2012



GOVERNMENT OF KERALA

Most Immediate

No.7661/C2/11/F&WLD

Forest & Wild Life (C) Department
Thiruvananthapuram, Dated: 11-01-2012

From

The Principal Secretary to Government

To

- | | | | |
|---|---|---|---|
| | M.K.Nebeel
S/o. Late Kochu Thambi
Murikkolil House, Nadakkal P.O.,
Erattupetta, Kottayam District-686121 | 4 | M.K.Resly
S/o. Late Kochu Thambi
Murikkolil House, Nadakkal
P.O., Erattupetta,
Kottayam District - 686121 |
| 2 | M.K.Anas
S/o. Late Kochu Thambi
Murikkolil House, Nadakkal P.O.,
Erattupetta, Kottayam District-686121 | 5 | M.K.Shaila
D/o. Late Kochu Thambi
Murikkolil House, Nadakkal
P.O., Erattupetta,
Kottayam District-686121 |
| 3 | M.K.Faisal
S/o. Late Kochu Thambi
Murikkolil House, Nadakkal P.O.,
Erattupetta, Kottayam District-686121 | 6 | Rahiyath
Murikkolil House, Nadakkal
P.O.,
Erattupetta, Kottayam
District-686121 |

Sir,

Sub:- Termination of the lease of Shernelly Estate in Nelliayampathy – Reg.
Ref:- Show Cause Notice dated 07.01.2012

I am to forward herewith the show cause notice cited, on the above subject.

Receipt of the same may be acknowledged.

Yours faithfully,
SUSHAMA KUMARIS,
Under Secretary,

For Principal Secretary to Government.

Approved for issue

Section Officer

From

Principal Secretary to Government
Forest & Wildlife (C) Department
Thiruvananthapuram

To

- 1 M.K.Nebeel
S/o. Late Kochu Thambi
Murikkolil House, Nadakkal
P.O.,
Erattupetta,
Kottayam District-686121
- 2 M.K.Anas
S/o. Late Kochu Thambi
Murikkolil House, Nadakkal
P.O.,
Erattupetta,
Kottayam District-686121
- 3 M.K.Faisal
S/o. Late Kochu Thambi
Murikkolil House, Nadakkal
P.O.,
Erattupetta,
Kottayam District-686121
- 4 M.K.Resly
S/o. Late Kochu Thambi
Murikkolil House, Nadakkal
P.O.,
Erattupetta,
Kottayam District-686121
- 5 M.K.Shaila
D/o. Late Kochu Thambi
Murikkolil House, Nadakkal
P.O.,
Erattupetta,
Kottayam District-686121
- 6 Rahiyanath
Murikolil House, Nadakkal
P.O.,
Erattupetta,
Kottayam District-686121

NOTICE

WHEREAS W.SMITH ESQR was a lessee under the Cochin
Government as per lease deed 26.9.1867 (11th day of Kanni 1043 –
Malabar Year) for an area of more or less 250 acres,

ANDWHEREAS the estate came into the hands of A.H.Krishna Iyer and sons, Ayilur, Palakkad in the year 1944 and by another subsequent transfer in the year 1975, into the hands of M/S. Malanad Enterprises as per deed no.1207/1975 registered in SRO, Nemmara.

ANDWHEREAS the title and ownership of the property under the above said lease deed devolved upon Government of Kerala since coming into force of Part B State (Laws) Act 1951 and in sections 5 & 76 of State Reorganisation Act, 1956.

ANDWHEREAS a portion of 91.90 acres of lease hold property came to the hands of M.K.Nebeel, M.K.Anas, M.K.Faisal, M.K.Resly, M.K.Shaila and Rahiyanath, after the promulgation of the Forest Conservation Act, 1980. However when notices were issued, the above persons failed to produce the documents to prove their title, before the department or the Hon'ble High Court of Kerala in connection with WP(c) No.33299/2011 filed by them.

ANDWHEREAS the lease hold is fragmented to smaller pieces and thereby the **unity and integrity of the lease hold is ruined**. This has been done to defeat the purpose of Kerala Land Reforms Act, 1963 and is a fraud committed by lessee for personal gains at the cost of valuable public property.

By **destroying the unity and integrity of the lease hold**, lessee has caused immense ecological imbalance to the ecologically fragile Shernelly Estate which tantamounts to the violation of lease deed conditions.

ANDWHEREAS the act of transfer of the Reserve Forest is against the law of land as even the State Government who is the owner of the property do not have the absolute right to sell or assign or lease out the reserve forest land without prior sanction of Government of India under the Forest Conservation Act 1980, and as such you cannot claim any right over the above leased property.

ANDWHEREAS such transfer is against GO(MS) 8/2006/F&WLD dated 20.1.2006, which states that any transfer of lease land by way of assignment lease or gift attracts violation of Forest Conservation Act 1980.

ANDWHEREAS Shernelly estate is a reserve forest as per reserve notification of Cochin Government, 1909 and continues to be a reserve forest. Therefore assigning of the forest land by way of lease or otherwise to any private person requires prior approval of the Central Government. This has been re-iterated by Hon'ble Supreme Court in the decision reported in AIR 1997(2) SCC 267 at PP 269 & 270 in Godavarman Thirumulpadu case and also in the decision reported in AIR 1987 SC 1073, AIR 1988 SC 2187 and AIR 1987 SC 228. Hon'ble High Court in judgment dated 9.8.2000 in WA 443/90 had held that leased out estates in the reserve forest area retain their status as reserve forest and hence come under the purview of the Forest Conservation Act, 1980. The expert committee constituted by the State of Kerala for identifying "forest" area in the state pursuant to the Hon'ble Supreme Court order dated 12.12.1996 in WP(c) 202/95 has also included these area as "forest". Thereby Shernelly Estate is a forest in Government records and attracts all the provisions of the Forest Conservation Act, 1980. The transfers are effected without the prior approval of Central Government and hence are null and void. Therefore the lease is liable to be cancelled.

ANDWHEREAS you have indulged in serious illegal activities in the leased out area for which a major offence was booked by the department against you for illegal felling of 122 trees.

ANDWHEREAS the illegal activities committed by you amount to violation of Kerala Forest Act, 1961 and lease agreement and are detrimental to the ecology of the place and health of the forest.

ANDWHEREAS such illegal activities and felling of trees without permission of Government/ paying seigniorage to Government are against the provision of section 4 of Kerala Grants and Leases (Modification of Rights) Act, 1980.

ANDWHEREAS M.S.Kochu Thampi has paid the lease rent in the pre-revised rate upto 2009 for the whole area of 91.90 acres.

ANDWHEREAS the Government propose to terminate the lease in observance of covenants of the said lease deeds,

NOW THEREFORE you are hereby given notice to show cause why the lease in respect of the whole area of 91.90 acres included in the area

of reserve forest land covered under the aforesaid leases should not be terminated as contemplated in the aforesaid lease deeds **on or before 20.01.2012** to the undersigned .

Failing which further action will be taken for the termination of the above lease as if you have nothing to offer in the matter.


SAJEN PETER

**Principal Secretary to Government
Forest & Wildlife Department,
Secretariat, Thiruvananthapuram
Kerala, India Pin-695001**

(for and on behalf of the Government of Kerala)

Thiruvananthapuram
Dated:07.01.2012



GOVERNMENT OF KERALA

Most Immediate

No.7661/C2/11/F&WLD

Forest & Wild Life (C) Department
Thiruvananthapuram, Dated: 11-01-2012

From

The Principal Secretary to Government

To

- | | | | |
|---|--|----|--|
| 1 | K.K.Abraham S/o.Kuruvila
Kuruvinalkunnel Veedu,
Poovathode PO, Erattupetta,
Bharanaganam, Kottayam-686578 | 9 | Jose George, Kuttikaniyil
Thidanadu,
Vellakunnel,
Chennad Post -686581 |
| 2 | Abraham Kuruvila
Kuruvinalkunnel Veedu,
Poovathode PO, Erattupetta,
Bharanaganam, Kottayam-686578 | 10 | Thomas Kuruvila, Moolechalil
Edamattam, Kuruvinalkunnel
Veedu, Poovathode PO
Bharanaganam, Kottayam-686578 |
| 3 | Mathew, S/o Jacob
Kuruvinalkunnel Veedu,
Poovathode PO, Erattupetta,
Bharanaganam, Kottayam-686578 | 11 | Kurian Kurian Moolechalil
Edamattam, Kuruvinalkunnel Veedu,
Poovathode PO
Bharanaganam, Kottayam-686578 |
| 4 | Joseph Antony S/o.George
33/2557 A, Chakkaraparambu,
Cochin -682032 | 12 | Mary George, Perekkat,
Edamattam,
at Kuruvinalkunnel Veedu,
Poovathode PO
Bharanaganam, Kottayam-686578 |
| 5 | Thomas George
33/2557 A, Chakkaraparambu,
Cochin -682032 | 13 | Thomas George Nadamadu
Kizhakkeparambil,
Vellakkunnel, Nadamadath,
Thidanadu PO-686123 |
| 6 | Mariamamma W/o.Abraham
Kuruvinalkunnel Veedu,
Poovathode PO, Bharanaganam,
Kottayam-686578 | 14 | Cicily Sebastian Muttiyil
Edamattam, Sreekandamangalam
Post, Kottayam-686562 |
| 7 | Sheela Mathai, Manthadiyil
Arunapuram, Pala, Chungapurakkal,
Lalam, Pala-686575 | 15 | Mariakutty Kuruvila Kattikaran,
Ernakulam North, Kaloore Cross Road
Cochin - 18 now residing
at Kuruvinalkunnel Veedu,
Poovathode PO, Bharanaganam,
Kottayam-686578 |

8 Mariamma Joseph
Narayanamattath, Kurichithanam
Kuriyanadu,
Vellakunnet,
Chennad Post-686581

16 Anna W/o. Late Avira Mathai
Ittiyankal Edamattam,
Padappurakkal, Edamattam,
Meenachil-686577

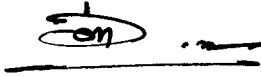
Sir,

Sub:- Termination of the lease of Shernelly Estate in Nelliayampathy – Reg.
Ref:- Show Cause Notice dated 07.01.2012

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Yours faithfully,
SUSHAMA KUMARIS,
Under Secretary,
For Principal Secretary to Government.

Approved for issue



Section Officer

From

Principal Secretary to Government
Forest & Wildlife (C) Department
Thiruvananthapuram

To

- | | | | |
|---|--|----|--|
| 1 | K.K.Abraham S/o.Kuruville
Kuruvinalkunnel Veedu,
Poovathode PO, Erattupetta,
Bharanaganam,
Kottayam-686578 | 9 | Jose George, Kuttikaniyil
Thidanadu now residing at
Vellakunnel,
Chennad Post -686581 |
| 2 | Abraham Kuruville
Kuruvinalkunnel Veedu,
Poovathode PO, Erattupetta,
Bharanaganam,
Kottayam-686578 | 10 | Thomas Kuruville, Moolechalil
Edamattam now residing at
Kuruvinalkunnel Veedu,
Poovathode PO Bharanaganam,
Kottayam-686578 |
| 3 | Mathew, S/o Jacob
Kuruvinalkunnel Veedu,
Poovathode PO, Erattupetta,
Bharanaganam,
Kottayam-686578 | 11 | Kurian Kurian Moolechalil
Edamattam now residing
at Kuruvinalkunnel Veedu,
Poovathode PO
Bharanaganam,
Kottayam-686578 |
| 4 | Joseph Antony S/o.George
33/2557 A, Chakkaraparambu,
Cochin -682032 | 12 | Mary George, Perekkat,
Edamattam now residing
at Kuruvinalkunnel Veedu,
Poovathode PO
Bharanaganam,
Kottayam-686578 |
| 5 | Thomas George
33/2557 A, Chakkaraparambu,
Cochin -682032 | 13 | Thomas George Nadamadu
Kizhakkeparambil now residing
at Vellakkunnel, Nadamadath,
Thidanadu PO-686123 |
| 6 | Mariamamma W/o.Abraham
Kuruvinalkunnel Veedu,
Poovathode PO, Bharanaganam,
Kottayam-686578 | 14 | Cicily Sebastian Muttiyil
Edamattam now residing at
Sreekandamangalam Post,
Kottayam-686562 |
| 7 | Sheela Mathai, Manthadiyil
Arunapuram, Pala, Now residing
at Chungapurakkal, Lalam,
Pala-686575 | 15 | Mariakutty Kuruville Kattikaran,
Ernakulam North, Kaloor Cross
Road Cochin - 18 now residing
at Kuruvinalkunnel Veedu,
Poovathode PO, Bharanaganam,
Kottayam-686578 |
| 8 | Mariamamma Joseph
Narayanamattath,
Kurichithanam
Kuriyanadu, now residing at
Vellakunnel, Chennad
Post-686581 | 16 | Anna W/o. Late Avira Mathai
Ittiyankal Edamattam now
residing at Padappurakkal,
Edamattam,Meenachil-6865 |

NOTICE

WHEREAS W.SMITH ESQR was a lessee under the Cochin
Government as per lease deed 26.9.1867 (11th day of Kanni 1043 -
Malabar Year) for an area of more or less 250 acres.

ANDWHEREAS the estate came into the hands of A.H.Krishna Iyer and sons, Ayilur, Palakkad in the year 1944 and by another subsequent transfer in the year 1975 into the hands of M/s. Malanad Enterprises as per deed no.1207/1975 registered in SRO, Nemmara.

ANDWHEREAS the lease rent in respect of the entire extent of 70.44 acres presently held by 15 persons was remitted by K.K.Abraham. Hence same notices are issued to all the 15 persons.

ANDWHEREAS the title and ownership of the property under the above said lease deed devolved upon Government of Kerala since coming into force of Part B State (Laws) Act 1951 and in sections 5 & 76 of State Reorganisation Act, 1956.

ANDWHEREAS a portion of 70.44 acres of the lease hold property came into the hands of the following persons as per the documents registered in SRO, Nemmara as detailed below.

			Doc. No.
1.	Abraham Kuruvila	4.79 acres	640/78 dtd 12.6.1978
2.	Joseph Antony, S/o. George	4.79	641/78 dtd 12.6.1978
3.	George, S/o. Thomas	4.79	642/78 dtd 12.6.1978
4.	Mariamamma, W/o. Abraham	4.79	643/78 dtd 12.6.1978
5.	Mathew, S/o. Jacob	4.79	644/78 dtd 12.6.1978
6.	Sheela, W/o. Mathai	4.79	645/78 dtd 12.6.1978
7.	Mariamamma, W/o. Joseph	4.79	646/78 dtd 12.6.1978
8.	Jose, S/o. George	4.79	647/78 dtd 12.6.1978
9.	Thomas, S/o. Kuruvila	4.79	650/78 dtd 13.6.1978
10.	Kurian, S/o. Kurian	4.79	651/78 dtd 13.6.1978
11.	Mary, W/o. George	4.79	652/78 dtd 13.6.1978
12.	Thomas, S/o. George	4.79	653/78 dtd

			13.6.1978
13.	Cicily, W/o. Sebastian	4.79	654/78 dtd 13.6.1978
14.	Mariakutty, W/o. Kuruvila	4.00	655/78 dtd 13.6.1978
15.	Avira Mathai	4.17	656/78 dtd 13.6.1978

ANDWHEREAS from the above portion Abraham Kuruvila, Mathew and Avira Mathai have transferred the land to K.K.Abraham, Sheela Mathew and Anna respectively as claimed in the WP(c) 33835/2011 filed by K.K.Abraham and 14 others, which is in contravention to the provisions of the Forest Conservation Act, 1980.

ANDWHEREAS the lease hold is fragmented to smaller pieces and thereby the **unity and integrity of the lease hold is ruined**. This has been done to defeat the purpose of Kerala Land Reforms Act, 1963 and is a fraud committed by lessee for personal gains at the cost of valuable public property.

By **destroying the unity and integrity of the lease hold**, lessee has caused immense ecological imbalance to the ecologically fragile Shernelly Estate, which tantamounts to the violation of lease deed conditions.

ANDWHEREAS residential address of the following persons who are present holders of Shernelly Estate are seen fabricated and unknown.

Persons are:-

Abraham Kuruvila

Mariamamma, W/o Abraham

Mathew, S/o Jacob

Sheela, W/o Mathai

Mariamamma, W/o Joseph

Thomas, S/o Kuruvila

Kurian, S/o Kurian

Mary, W/o George

Sicily, W/o Sebastian

Mariyakutty, W/o Kuruvila

Avira Mathai (unknown name)

Hereby you have indulged in fraud to misappropriate the lease hold which is in contravention to the lease deed conditions.

ANDWHEREAS K.K.Abraham has paid the lease rent for the whole area of 70.44 acres and he claims to have the power of attorney for an area of 56.69 acres.

ANDWHEREAS the act of transfer of the reserve forest is against the law of land as even the State Government who is the owner of the property do not have the absolute right to sell or assign or lease out the reserve forest land without prior sanction of Government of India under the Forest Conservation Act 1980, and as such you cannot claim any right over the above leased property.

ANDWHEREAS such transfer is against GO(MS) 8/2006/F&WLD dated 20.1.2006, which states that any transfer of lease land by way of assignment lease or gift attracts violation of Forest Conservation Act 1980.

ANDWHEREAS Shernelly estate is a reserve forest as per reserve notification of Cochin Government, 1909 and continues to be a reserve forest. Therefore assigning of the forest land by way of lease or otherwise to any private person requires prior approval of the Central Government. This has been re-iterated by Hon'ble Supreme Court in the decision reported in AIR 1997(2) SCC 267 at PP 269 & 270 in Godavarman Thirumulpadu case and also in the decision reported in AIR 1987 SC 1073, AIR 1988 SC 2187 and AIR 1987 SC 228. Hon'ble High Court in judgment dated 9.8.2000 in WA 443/90 had held that leased out estates in the reserve forest area retain their status as reserve forest and hence come under the purview of the Forest Conservation Act, 1980. The expert committee constituted by the State of Kerala for identifying "forest" area in the state pursuant to the Hon'ble Supreme Court order dated 12.12.1996 in WP(c) 202/95 has also included these area as "forest". Thereby Shernelly Estate is a forest in Government records and attracts all the provisions of the Forest Conservation Act, 1980. The transfers are effected without the prior approval of Central Government and hence are null and void. Therefore the lease is liable to be cancelled.

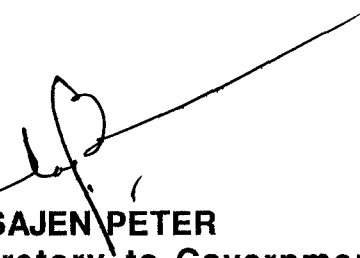
ANDWHEREAS you have availed loan from SBI, Agricultural Development Branch, Palakkad by mortgaging the leased out forest land as under the sale deeds bearing No. 644 dated 12.6.1978, 645 dated 12.6.1978, 654 dated 13.6.1978, 646 dated 12.6.1978, 655 dated 13.6.1978, 643 dated 12.6.1978, 647 dated 12.6.1978, 642 dated 12.6.1978 and 640 dated 12.6.1978, sale deeds are executed without the knowledge and approval of the lessor. Hence they are null and void.

Loan from SBI has been availed on mortgaging the lands covered under the above documents. Availing of loans by pledging the above said documents is fraud since they are null and void. Moreover you have pledged the documents covering the lease hold without the knowledge and approval of the lessee and also in violation of the Forest Conservation Act, 1980. Therefore leases are liable to be terminated.

ANDWHEREAS the Government propose to terminate the lease in observance of covenants of the said lease deeds,

NOW THEREFORE you are hereby given notice to show cause why the lease in respect of the whole area of 70.44 acres included in the area of reserve forest land covered under the aforesaid leases should not be terminated as contemplated in the aforesaid lease deeds on or before 20.01.2012 to the undersigned .

Failing which further action will be taken for the termination of the above lease as if you have nothing to offer in the matter.


SAJEN PETER
Principal Secretary to Government
Forest & Wildlife Department, Secretariat,
Thiruvananthapuram, Kerala, India Pin-695001
(for and on behalf of the Government of Kerala)

Thiruvananthapuram
Dated:07.01.2012