

CHAPTER I

INTRODUCTION

1.1. Background

- 1.1.1. Government vide G.O. No. (Rt.) No. 309/2010/RD dated: 22/01/2010 (Appendix - I) had appointed Shri. Biju Prabhakar IAS, Vigilance Officer of the Department of Survey and Land Records and the Project Director, Bhoomi Keralam/Kerala Land Information Mission, for verification of the old survey records and resurvey records to find out discrepancies, if any, after demarcating the boundaries of Lakshmi estate and Abad Resorts. Government had entrusted the work with Survey Vigilance Officer on the basis of Letter No. C.10-29488/07(2) dated : 11.01.2010 and 12.01.2010 of District Collector, Idukki, who requested to constitute a team headed by officers outside the Survey department. Earlier Survey Vigilance Officer had pointed out discrepancies/anomalies in the resurvey records prepared by the Department of Survey & Land Records through resurvey using Electronic Distance Meter (EDM) and Electronic Total Stations (ETS) of the KDH Village during the period 1996-2001. The said report is attached as Appendix-II.
- 1.1.2. Earlier the Survey vigilance team had looked into the accuracy of the resurvey records of the survey conducted by the department from 1996-2001 from 1996 and found that the raw (unprocessed) data of ETS is not at all available. The Vigilance wing had made detailed investigation into misappropriation of funds for the resurvey in 1996 - 2001. The report is appended as Appendix-III. In the joint verification of the revenue- survey officials under the Principal Secretary (Revenue) , Dr.Nivedita.P.Haran, found out large scale anomalies in resurvey records were found out in respect of Block no. 30. The report is appended as Appendix-IV.
- 1.1.3. The background for enactment of KDH (Resumption of Land) Act,1971 (henceforth called the KDH Act) included as 'Statement of Objects and Reasons' and the copy of the Land Board award of 1974 is attached as Appendix-V and VI. As per the KDH Act, from the appointed day, i.e. from 21st day of January 1971, all the land

would become vested with the Government. Tea plantation was straight away exempted from vesting u/s 3 of the said Act. The lessees were to approach the Land Board, convince the Board about their rights (for cultivation of plantation crops) in the land and then the Land Board was to decide on the matter and restore the land for the purposes mentioned u/s 4 of the Act. The District Collector of Idukki was to arrange u/s 6, for demarcation of boundaries and survey such land exempted or restored, and it was notified in the official gazette. The truth is that even after the lapse of about 40 years, the Survey department, as it had failed in completing the resurvey of the State, failed here in Munnar too – thus started the chaotic situation in the most pristine place in the State.

1.2. Surveys conducted by the Department of Survey & Land Records: In fact the Department of Survey & Land Records had conducted two surveys of KDH village during these 4 decades, after the enactment of the KDH Act:

1.2.1. Theodolite survey from 1974 to 1992: The survey was started on 16.4.1974 for the 30 resurvey blocks¹ and the section 9(2)² notification of this survey was published in 9.10.1992, after about 18 years. Evidence are not available that any refixing of boundaries of the survey numbers/sub-divisions mentioned in the Land Board award was undertaken in this survey. This survey was conducted by following the boundaries of resurvey blocks of the KDH village as minor circuits³ (MCs). The detailed survey inside the estates was also not undertaken. There were 6 blocks comprising of Government land and 20 blocks comprising of Tea Estate interspersed with Government land, known as the concession land 2 blocks were in Thalayar estate and one belongs to the HML. Based on the findings of this unfinished survey, the final extent of land as per the Land Board award was notified vide No. LB(A)2-5227/71 dated : 29.03.1974.

¹ In order to control the errors from accumulating, the cadastral survey, in any method, is done by following the principle "whole to part". The survey department has divided the entire State into resurvey blocks by connecting the Greater Trigonometric (GT) Stations established by Survey of India dividing the country into several triangles. Thus the errors are limited within the boundaries of the blocks and villages.

² The draft notification under section 9(2) of the Kerala Survey & Boundaries Act, 1961 in respect of survey records for verification by the land holders.

³ Minor circuits- large tract of land, the boundary of which is surveyed through the boundaries using Theodolites and not by chain/cross staff as in the case of individual land parcels.

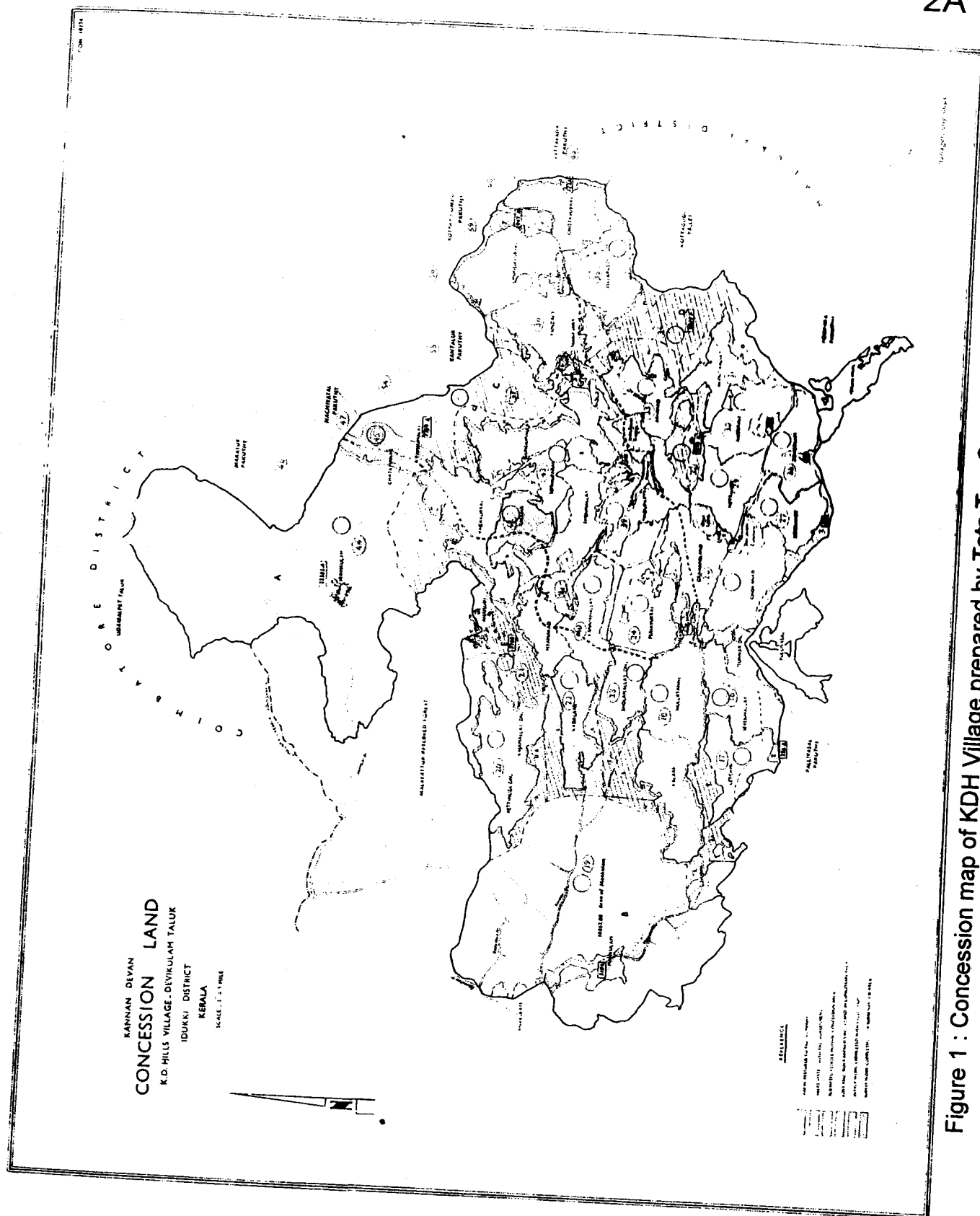


Figure 1 : Concession map of KDH Village prepared by Tata Tea Company used for Land Board Award

- 1.2.2. Total Station survey from 1996 to 2001. The survey, using modern survey equipments, which were introduced for the first time in department, was done to quantify the land being used for tea plantation by the company for assessing plantation tax. The survey was ordered vide G.O.(Rt) No.2083/96/RD of 17-05-1996, copy of which is appended as Appendix-VII. The block boundaries of the 1974 survey, measured using the theodolites, was said to be followed as such in this survey. There was no detailed survey in the blocks belonging to the Government and only the blocks awarded by Land Board to the KDHP company was subjected to detailed survey – which classified it into tea, fuel trees etc as per the seven classification categories adopted in Land Board award. The survey was initially started by using Electronic Distance Meters (EDM), an electronic form of a theodolite. Thereafter, the Electronic Total Station of SOKISHA make was used, without any memory storage. Later memory storage was introduced and more number of total stations (3 Nos Sokisha set 3-C and 5 nos leica TC-805) were used. Confusion still exists on the methodology followed as the department since hard copy field records could not found. The situation in the department till now that only a few department staff are familiar with the modern technology, especially on the use of Electronic Total Stations and the processing using computer aided design (CAD) softwares.⁴ During the KDH Village resurvey, the processing of data was done by one or two of department staff. This detailed survey was restricted only to the blocks belonging to KDHP company (except block no.19 Mankulam). The 9 (2) notification of block no.19 was notified on 04-06-1990 and bifurcated from KDH village as Mankulam village as per Government order (Ms) No.463/85/RD dated 8.5.1985. After this resurvey, it was reported by the department that Tata tea company or the KDH company is in short of 278.2369 hectares i.e., 687.55 acres and there was no major encroachment into Government land seen on the ground. The report of Deputy Director of Survey & Land Records, Idukki vide Letter No.G2-13733/97 dated : 03.03.2004 is attached as Appendix-VIII. The figures were later corrected to include the said

⁴ The top officers of the department of survey and land records including the Additional Director of Survey and the regional Joint Directors were deputed for 1 ½ months training on modern survey equipments to the training Institute of Survey of India at Hyderabad during 2008 only. Modern survey equipments were introduced in 1998.

shortage area, as the estate roads inside the tea plantations and allowed to be kept under with the Tata Tea Company as roads as per the Land Board award, considering them as ancillary to the tea making process, as Government land as 'nalathu vazhi' (public road as on date).

- 1.3. The above report of the Deputy Director in 2004 may be read along with the D.O. No.Sy.B2-29678/94, dated : 27.10.1994 of Survey Additional Director, Shri. K.M.Soman, which informed District Collector as;

"It is seen that the Superintendent of Survey & Land Records, Devikulam is entrusted with the survey of land in KDH village. Elaborate study was conducted during the above period and survey was found impracticable due to the huge cost and factors like time and manpower. Hence the Land Board decided to test check the maps given by the Tata Tea Company, so as to find out the acceptability of the maps prepared by the then K.D.H.P Company. Accordingly verification was conducted by the surveyors of survey department and the records prepared by the company was found acceptable. The Land Board award was prepared based on the records furnished by the Company. Now I would recommend not to re-open the issue."

The copy of the letter of the Additional Survey Director is attached as Appendix-IX.

- 1.4. The 1974 Land Board award also states that;

"Unfortunately, this preliminary survey and demarcation of the concession area into various blocks has not been done for reasons not known. Therefore, the land board has had to perform its functions under section 4, on the basis of the survey records already available for the area with the Government and the Company"

- 1.5. The maps printed in the Central Survey Office of the Department of Survey & Land Records, including the concession maps, the estate maps etc all still bear the designations a "Manager, Engg department,



Figure 2: Maps of the department showing evidences that it was made by Engineering department of Tata Tea company and printed at CSO of the Directorate of Survey & Land Records

Chief Engineer etc", which again shows that no reliable survey records prepared by the department are available before or even after 1971. Should we need any further evidence to understand that the records adopted for the Land Board award and the survey records claimed to be prepared by the survey department and available till date are the ones prepared by the Engineering Department of the Tata Tea Company?

- 1.6. In short, the demarcation and survey of the village as stipulated under Sec 6 of the KDH (Resumption of Land) Act, 1971 could not be done by the department of survey and land records, even after the lapse of nearly 40 years of the enactment. As on date, there are no accurate survey records prepared by the Government and hence no proper revenue records and this is the root cause of all the problems of Munnar area. And the Tata Tea Company every day challenges this sovereign state to prove any encroachment by them into the Government land.

Chapter II

ENQUIRY AND FIELD INSPECTIONS

- 2.1. The Survey Vigilance Officer held discussions with the District Collector and made extensive field studies on 3 occasions during the last one month. The enquires were to look into the following issues;
 - 2.1.1. Whether the resurvey records prepared by the survey department and which is under section 9(2) notification can be finalized and section 13 notification published?
 - 2.1.2. Whether any modification/alteration made on the KDH Village boundary at the Lakshmi Estate side, made during or after the resurvey?
 - 2.1.3. To find out the exact location of the 'Abad Resorts' at the KDH Boundary near the Lakshmi estate.
- 2.2. The details of the visits and field inspections conducted are as follows;
 - 23rd Jan 2010 : The first visit was done to understand the views of the District Collector. Field visit was also undertaken along with District Collector to the Lakshmi estate on the same day.
 - 27th -29th Jan 2010 : The Survey Vigilance Officer along with Maj.Gen. (Retd) Shamsheer Singh (former Additional Survey General of India and) the Consultant of the Mission, Smt. E.R. Shobhana, the Senior most Deputy Director of the department and Shri. A.V. Damodaran, Superintendent of Survey & land Records met the Collector in his chamber on 27th January 2010 and verified the old survey records in his possession. The District Collector had informed any survey record before 1971 can be relied and handed over the land acquisition sketch of 1941 (M.E-19.07.1116) which showed 6 old survey marks. The said survey sketch is attached as Annexure-I. On advice of the consultant, GPS unit of the mission was called in and observations using 5 GPS equipments was undertaken on 28th and 29th January 2009.

Detailed Total station survey of Abad Resorts and Chappakulam area (where KDH Company has constructed the check dam) was also done on the basis of the processed GPS data. (Pl. refer findings in para 3.2.1)

08-11, February : This time about 70 officers and staff were
2010 deployed for more verification of the findings of survey conducted on 28th and 29th January 2010. More GPS measurements of common points available on (a) Restricted map of Survey of India first edition 58B/16 1977 (b) litho map printed at Central Survey Office of the department in the year 1925 and (c) Ortho rectified and Geo referenced QUICK BIRD satellite image made available from Centre for Earth Science Studies (CESS⁵), Thiruvananthapuram, was done on 8th and 9th February 2010. This GPS measurements/readings were used for traverse survey at different locations. The different GPS points were also connected through traverse survey in order to check the accuracy of GPS readings and also to understand whether the total station data is conforming to the land features identified on ground as per the different maps available.

- 2.3. Details of the equipment / manpower deployed :The details of the equipments and man power deployed for the verification survey under the Survey Vigilance Officer is attached as Annexure II (A) and II (B).

⁵ Government in 2008 had entrusted a study " geospatial survey of Munnar and adjoining panchayaths by modern tools of geo-informatics" with CESS for which Quick Bird Satellite image was used and the old survey maps were digitized and superimposed over it.

CHAPTER III

SHIFTING OF VILLAGE BOUNDARY/LOCATION OF ABAD RESORTS

- 3.1. Methodology adopted:
 - 3.1.1. The Differential Global Positioning Systems (DGPS) are equipments that receive satellite signals and measure the coordinates of earth with an accuracy of sub-centimeter. The readings of the equipments when used in combination gives relational positional accuracy and this accuracy increases with the duration of observation. The normal practice is to keep 2 or 3 GPS units as base units at points with known coordinates and use other units as 'rovers'. In order to correct and obtain higher accuracy, the data obtained is connected with International Geodetic (IG) Stations, the nearest one being available at Bangalore.
 - 3.1.2. In the first spell, five GPS units were used at the following locations, which were shown in the old Litho sheet;
 - 3.1.2.1. A bridge shown in Survey of India map near Virappara.
 - 3.1.2.2. The meeting point of a stream from Chappakkulam in Survey No. 1034 with the Kallar river.
 - 3.1.2.3. The Check dam constructed by Tata in the Chappakkulam.
 - 3.1.2.4. Abad Resorts and
 - 3.1.2.5. An intermediate location between Chappakkulam and Abad.
 - 3.1.3. The Total station observation started from the GPS Points, IDK021 And detailed observation was conducted at the Chappakkulam area over the banks of the newly constructed check dam and extended to a certain area along both sides of the estate road. Simultaneously, another team started the ETS survey from IDK011 In the Abad Resorts and observed the buildings and roads in the disputed area. The first team, connected the Total station reading from the check dam to the rock mark and then followed the newly bifurcated boundary of mankulam, reached the tri-junction (TJ) and then followed the ridge and terminated the observation at RM-1. The second team also terminated their observation at the RM-1.
 - 3.1.4. In the second spell, the three Base units were kept over the points established by CESS in their geo-spatial study of Munnar and adjoining villages and rovers were positioned over points marks in

various maps. The data obtained was processed using these base point values collected from CESS. The points were selected in such a way that most of them are commonly shown in the three maps used in this verification survey.

- 3.1.4.1. Litho sheets 7 & 8 printed in 1925 by the CSO.
- 3.1.4.2. The 1977 Survey of India map.
- 3.1.4.3. The ortho-rectified and geo-referenced Quick Board satellite image used by the CESS, on which the old litho map was digitized and overlaid
- 3.1.4.4. The Concession map shown in Figure 1.
- 3.1.5. After making observations using GPS the data was processed again with Leica Geo Office and detailed survey were conducted in the following locations.
 - 3.1.5.1. The four roads in front of the Lakshmi Tea Estate Factory.
 - 3.1.5.2. Traverse survey of the roads on both sides of Ramaswamy Head Works.
- 3.1.6. The readings obtained after processing the GPS data using Leica Geo Office (LGO) are available at the State Project Office of the Kerala Land Information Mission and is not desirable to be published as it gives the accurate coordinates of the locations. The details of the observations during the three days in the second spell are as follows;

Base Stations:							
Sl. No.	Location	IDK001		IDK002		IDK003	
	Dates	Start	Stop	Start	Stop	Start	Stop
	8 th Feb 2010	11.35	20.45	12.14	21.10	13.50	19.46
	9 th Feb 2010	10.08	19.07	10.04	19.29	11.02	18.49

Rover 1					
Sl. No.	Location	8 th Feb 2010		9 th Feb 2010	
		Start	Stop	Start	Stop
1.	IDK015	15.05	16.08		
2.	IDK.009	16.32	18.09		
3.	IDK.017			12.41	14.43

Rover 2

Sl. No.	Location	8th Feb 2010		9th Feb 2010	
		Start	Stop	Start	Stop
1.	IDK.011	16.38	17.58		
2.	IDK.08RP			12.34	13.40

Rover 3

Sl. No.	Location	8th Feb 2010		9th Feb 2010	
		Start	Stop	Start	Stop
1.	IDK006	13.56	16.08		
2.	IDK010	16.32	18.33		
3.	IDK.008			10.44	12.21
4.	IDK.018			14.31	15.37
5.	IDK.020			16.24	17.33

Rover 4

Sl. No.	Location	8th Feb 2010		9th Feb 2010	
		Start	Stop	Start	Stop
1.	IDK.007	14.11	16.07		
2.	IDK.013	17.06	18.15		
3.	IDK.13.RP	18.27	19.00		
4.	IDK.014			10.57	12.07
5.	IDK. 014RP			12.23	13.36
6.	IDK..019			14.33	16.39

Rover 5

Sl. No.	Location	8th Feb 2010		9th Feb 2010	
		Start	Stop	Start	Stop
1.	IDK 007RP	14.30	16.10		
2.	IDK.0012	17.04	19.09		
3.	IDK.0016			12.14	16.18

Table 3.1

- 3.1.7. Further, four total station teams were deployed to undertake traverse survey connecting GPS points of two locations - namely Lakshmi Tea factory and Ramaswamy head works. The traverse of Munnar - Lakshmi Estate Road and the village boundary through Abad was undertaken to confirm the position of data falling on maps.
- 3.1.8. The traverse survey was done to check the accuracy of the GPS and to see whether the total station readings of team I and II follows the Munnar--Lekshmi estate, --Mankulam road and also to see whether team 3 and 4 follows the village boundary at the Abad Resort side. The total station observations of team 3 and 4 was terminated at point RM2 with a closing error of 400 cm for a total distance of 8000 m. But the total station observation of team 1 and 2 could not terminate at a common point due to erroneous work done by one of the teams.

3.2. Findings:

- 3.2.1. First spell: The GPS data showed that the bridge identified by the team headed by Shri. A.V. Damodaran and GPS observation done by Shri. Krishnan Kumar, FGS was not the one shown either in the 1925 litho map or 1977 Survey of India map. It was at a far off location. But two points namely the meeting point (MP) of stream from Chappakkulam and Kallar and the tri-junction of three villages marked as "TJ" was taken as reference points on the 1925 map and found that the GPS reading of Chappakkulam falls near the water body shown in survey No. 1034 of Lekshmi Estate. With these three readings as reference (i.e. TJ, MP and approximate location of the chappakulam) it was found that the Abad Resort was falling just outside KDH boundary , which conformed with some of the resurvey stones planted at the ridge of a hill marked as R1 to R2. It was decided that a more detailed verification survey is required and accordingly the detailed survey was started on 8th February 2009.
- 3.2.2. In the second leg of verification survey started on 8th February 2010 of the verification survey conducted with more GPS Units and detailed survey in two locations as well as traverse survey through the road and the village boundary, it was again found that the location of the Abad resorts was also falling just outside the KDH village boundary. The figures attached with this report shows the similarities found with the three maps and it is almost convincing that there is no shift in KDH

Boundary, but more evidences are required to say a final word and close the matter conclusively forever.

3.3. Evidences supporting that the KDH Boundary is not altered:

- 3.3.1. The GPS measurement of an old stone (picture-21) at the ridge, which was found to be untampered (further verification required) and the Ottappara GT station (picture-30-33) confirms that the boundary is passing through the said points. The Abad resorts lies at a location in between these two points near the KDH boundary. The Village/block boundaries are extended from the GT Stations in order to control errors. GT stations are marked in SOI maps and it will be nearly impossible to destroy the records of GT stations established by a Government of India agency by the department staff of a State. These two points on ground are strong evidences supporting that the village boundary is not altered/tampered.
- 3.3.2. All the land marks, mentioned in para above, when measured using Differential GPS falls at somewhat near the position marked in the three maps and the Quick Bird satellite image obtained from CESS. These maps are prepared by different agencies which are of different scale at different points of time. The GT stations Ottappara and Anamudi as well as the land marks Chappakulam, Ramaswamy head works, the old survey stones/rock marks in the LA sketch of 1941 (M.E-19.07.1116) (Annexure-I) all fall almost exact at the same location shown in the Survey of India map, Litho map. Locational data of several features falls exact inside the Quckbird image provided by CESS.
- 3.3.3. The detailed Total station survey data of chappakkulam area (Old Sy.No.1034 of Lakshmi Estate), the plot in which Abad Resorts is located, the four road junction in front of the Lakshmi estate Tea Factory, the roads near the Ramaswamy head works, the traverse survey through the Munnar-Lakshmi Estate-Mankulam Road and the Village Boundary passing through the Ottappara GT Station was coinciding with several points on the boundary shown in the various maps and satellite image.
- 3.3.4. The GPS data taken by the Vigilance team was in conformance with earlier GPS observation of CESS, at a time which nobody had raised the theory of shifting of village boundary. The shape and measurements of the geo-referenced village boundary superimposed

on the Quick Bird satellite image was passed through several old survey marks.

- 3.3.5. The shifting of a village boundary will be affecting the boundaries of other villages, the traverse survey done for forming resurvey blocks etc which are again connected to the GT stations. The survey records⁶ prepared earlier are available in several offices and any tampering will be revealed in future. It will also be not possible for any single individual to do such a shifting of a village boundary which has relation to the GT stations and the boundaries of other resurvey blocks.
- 3.3.6. There is no evidence⁷ at present available to show that the land of Abad resorts were sold by the Tata Tea company or the Tata tea company was involved in the fabrication of the bogus pattayam, by which the ownership was obtained to Abad Resorts.
- 3.3.7. The connection established through Electronic Total Stations to the different GPS stations (except the erroneous readings of team 3 or 4) was also within allowable error.
- 3.3.8. The similarity in tell tale land features shown in the satellite image and those on the Litho map are compared in the photographs/ figures attached in this reports are evidences against the boundary shifting theory.
- 3.3.9. The old cairns (Forest Janta or കൂട്ടുകല്ല്) shown in picture-29 at the line separating the Bit No.12 and the forest is a strong evidence supporting the existence of an old boundary there.

3.4. Evidences supporting shifting of the Village Boundary

- 3.4.1. The GPS and ETS readings shows that some of the village boundary stones are not falling in the exact position as where there would have been in the old survey maps. Is it because of the usage of old Litho maps and not the measurement sketches used in the enquiry ? This could not be ascertained.

⁶ It is a fact that several valuable records are missing from the CSO and other survey/revenue offices in case of property under dispute; old records are available with several retired and serving survey staff; but in case of a village boundary, it could be refixed from other villages and a massive effort is required for the disappearance of all such records.

⁷ The statement of facts filed by the Commissioner of Land Revenue before the Hon'ble High Court is attached as **Appendix-X**

- 3.4.2. Almost all the stones are old and replanted⁸ (see pictures of old stones and resurvey stones). Even the one in front of the Abad Resort (Picture 35-37) is a replanted stone.
- 3.4.3. The reasons why several resorts (picture-48) have sprung up just outside the present and disputed KDH Boundary on the Lakshmi Estate side could not be justified properly.
- 3.4.4. See the (Annexure-XII) of a measurement sketch of sy.no 400. In the Litho, the survey number of sub-division at Ottapara is shown as 406. Was it a copying error or a deliberate attempt of tampering ?
- 3.5. Limitations/Errors of the method used for verification Survey:
 - 3.5.1. The strongest evidence is the untampered old survey stone (picture-21) at the KDH boundary in the ridge. More than the positional accuracy, forensic evidence should have been collected to establish that this stone is the one planted during the original survey in early 1900s and remaining there untampered for the last 100 years. Similarly the positional accuracy and genuineness of the forest cairns in the Bit no.12 is to be ascertained.
 - 3.5.2. The two 1977 Survey of India maps collected from the District Collector scanned and used for the enquiry was in folded conditions soiled due to constant use and there may be errors during scanning also.
 - 3.5.3. The original survey record of 1925 was a litho map produced by the CSO and was susceptible to shrinkage during this long period of several decades. There may be scanning errors also.
 - 3.5.4. A print out of the quick bird image obtained from CESS was further scanned by the Mission and used.
 - 3.5.5. The GPS points were connected to the base points taken by CESS using two GPS at a time. But checked for its accuracy by connecting with International Geodetic (IG) stations. The accuracy of this readings was not verified by the Mission on its own.
 - 3.5.6. Only one village boundary was verified and this should have been cross-checked with different points on the north, east and west sides of boundaries of KDH village and also the boundaries of adjoining

⁸ There is no justification for the replanting of old stones. It is a practice of the survey staff to replant the available old stones in field during the re-survey to avoid the difficulties encountered during the transportation to high altitude places and claim the cost of purchase using bogus vouchers. Some section of staff had claimed wages even without planting of any stones at all.

villages in the district and if necessary, from the boundaries in the adjoining districts also.

- 3.5.7. The different land parcels are not measured on ground and compared with the old survey areas by the Vigilance team, after which only any shift cannot be completely ruled out.
- 3.5.8. The northern boundary of the village has not been re-fixed and the distance from the boundaries of the north, east and south was not measured and compared with the southern boundary, which would only rule out completely the possibility of shifting of southern boundary.
- 3.5.9. The boundaries of villages contiguous to the KDH village was not refixed and measurements taken to the verified boundary.
- 3.5.10. The modern survey equipments are highly accurate and this when compared with the traverse data observed using the theodolite and the chain and the cross staff, which has its own manual errors and this method will naturally result in shifting by a few meters.
- 3.5.11. Any shrinkage/distortion in the maps by a few millimeters will result in difference of meters as the scale adopted is 1:15840 in Litho maps. Further these maps are printed several decades ago in Litho Presses and therefore, susceptible to small shrinkages and errors in printing.
- 3.5.12. The Abad resorts as per the satellite image shares the KDH Boundary as a common boundary and a few meters shift in any angle can include or exclude the resort into or away from KDH Boundary.
- 3.5.13. The present enquiry was conducted without refixing any one land parcel on the basis of old survey records using the measurements of conventional system. The CESS has also geo-referenced the Litho maps and not the measurement maps, without any refixing of the boundaries. This could induce minor errors.
- 3.5.14. The refixing of points from GT stations to the resurvey block boundary using old theodolites was not done.
- 3.6. Discussion on the Findings:
 - 3.6.1. The evidences/measurements obtained during the verification survey conducted now do not support the theory of large scale shifting of boundary on the Lakshmi estate side, running to hundreds of meters or as suspected to be shifted by 1.4 km, at the

boundary of the village at the Lakshmi estate side because of the fact that the Village boundary runs through a GT station, shown in the Litho map and the Survey of India map.

- 3.6.2. The village boundaries are normally running through the ridges of hills and through natural boundaries like river, streams, lakes or roads. Here also it is running through the ridges.
- 3.6.3. But it is possible that the boundary may be shifted by a few meters, which cannot be detected because of the following reasons;
 - 3.6.3.1. errors of the old survey method and highly accurate new method using GPS/ETS,
 - 3.6.3.2. the shrinkage in old maps used for the study,
 - 3.6.3.3. the inaccuracies in geo referencing,
 - 3.6.3.4. the minor changes in land use pattern etc.
- 3.6.4. As proved in the Electronic Total Station measurement of 'A' block, there is a possibility of reduction in area of about 1000 to 3000 acres in the total extent of the village, because of the use of modern survey equipments and data processing in place of measurements using theodolites, manual plotting and manual computation with computing scale. This is negligible when a large area of 137600 acres is concerned, but highly detrimental when smaller land parcels are concerned.
- 3.6.5. There is a possibility that the some portion of Abad resorts may interfere with the KDH Boundary, a matter could be confirmed during the detailed re-fixing and survey of the village, if Government entrusts the work with the Kerala Land Information Mission. Therefore the re-fixing of the boundaries of at least the KDH Boundary on the three remaining sides and comparison with the 1974 areas will only reveal the exact position of the Abad Resorts. In short, the re-fixing of the boundaries as per the old measurement sketches can only exactly locate the position of the Abad Resorts.
- 3.7. Whether such an exercise has to be done at the State's expenses is a matter to be decided. I think such an exercise at Government expenses at this stage is not essential, since the onus of proving the location rests with the party. In any case the Commissioner of Land Revenue has filed an affidavit before the Hon. High Court (Appendix-X) that the basic ownership of the land is questionable as the survey numbers are not the

right one as claimed by the parties. It has been also found out that the ownership was acquired on the basis of bogus pattayams.

- 3.8. The time allotted did not permit this officer to issue notices and call for evidences, therefore further enquiry into the ownership issues could not be conducted. On the other hand, the location of the Abad resorts and all the land parcels contiguous to the KDH boundary could be exactly located along with the finalization of survey of the KDH Village, the details of which is discussed in the subsequent paragraphs.
- 3.9. Conclusion: Evidences and measurements undertaken using the state-of-art modern survey equipments do not suggest that large scale shifting of village boundary at the southern side near Lakshmi Estate. Measurements/evidences confirm that the Village boundary runs through the ridges and follows the land marks on the ground, most importantly passing through the Ottappara GT Station. But shifting of boundary by a few meters could be suspected since the old survey stones were replanted and this could be conclusively proved only after doing further verification or even the detailed refixing of land parcels and village boundary as per the old survey records.

Chapter IV.

ACCEPTABILITY OF RESURVEY RECORDS

4.1. Methodology adopted for verification:

4.1.1. The total station data⁹ of the survey conducted from 1996-2001 by the Department of Survey & Land Records for which 9(2) notification was published in 2007 pertaining to block NO.17 (Lakshmi Estate) was overlaid (superimposed) on the ortho-rectified and Geo-referenced Quick Bird satellite image supplied by CESS in order to test its accuracy. CESS had digitized the old litho map by drawing over the lines (not by vectorizing using the measurement of FMBs). This method is very quick and can have an accuracy about 95 to 98 %, and this will be sufficient for preliminary studies for a large extent of land. Once this accuracy of this CESS data was found convincing to the survey team, at least in the case of Lakshmy Estate, the Survey Vigilance team overlaid the 1996 total station data on the scanned copy of satellite image. The same control points taken by the CESS were also used by the Vigilance team for geo-referencing the resurvey data. Field verification was done to measure old stones to understand the accuracy of the CESS data and the actual boundary on ground on the northern side (near old survey no 77) was measured using 4 total station teams.

4.1.2. Further the coordinates of the old survey no 77 was taken from the computers and relocated on the ground using 'Stake Out' programme of ETS. The actual boundary on the ground was also measured using ETS. On plotting the readings of the actual boundary on ground, it was found that they are coming near to the digitized boundary provided by the CESS rather than the resurvey boundary.

4.2. Discrepancies in the survey records: The discrepancies detected in the resurvey records of 1996 done by the department using electronic survey equipments are as follows :

⁹ In fact, the entire data of 1996 survey cannot be considered to be generated by the use of Total Station. Five blocks including Block no 17 was done using EDM and plotted using AutoCAD. The Survey Vigilance Officer in the report dated : 29.09.2009 Has reported to the Government that there is a possibility of drawing over the lines of the maps either supplied by the KDH company or in the possession of the department.

- 4.2.1. The department has certified that there is only an encroachment of 122 acres in an area of 1.37 lakh acres (total area of KDH village) without doing any "ayacut fixing" of over 70000 acres outside the concession area and also without refixing the boundaries of Government coming inside the concession area. The area obtained in the resurvey of 1974 was simply copied during the 9(2) notification of the 1996 survey and certified that there is no encroachment. There were several letters written by the Deputy Director of Survey, Idukki showing haste in publishing and finalizing the survey records. And only when boundaries are refixed on the ground, the department could detect whether there is any encroachment into the Government land. The records thus published without ayacut verification is totally erroneous. This is the most important reason to be cited for the cancellation of the 9(2) notification now in force.
- 4.2.2. The basic principle of survey ie from 'whole to part'¹⁰ is grossly violated in this 1996 survey. The traverse of the entire Village boundary including the Government blocks, the boundary of which are passing through the inter-state boundary should have been done first. The justification for avoiding this may be put forward that the 1996 survey team might have followed the block boundary, which was fixed during the 1974 survey. This justifications put forward by the survey officials is absolutely illogical since the accuracies¹¹ by the two survey instruments greatly vary.
- 4.2.3. I have not come across any evidence that in 1974, the boundaries of different survey nos provided in the survey maps of 1925 was refixed on ground in conformance with the Land Board Award. The present Deputy Director (Survey) of Idukki has also supported this view.

¹⁰ In cadastral survey, first the traverse survey of village boundary is conducted, based on the points on the village boundary, the ward/block/khandam boundaries are surveyed. From these points only the detailed survey of individual holdings are conducted. This method is to confine the errors from accumulating and containing the area within the village boundary.

¹¹ For those who do not understand the intricacies of survey, a note on how the variations in measurements occurs in the two methods is attached as Appendix-XI. The measurements of the manually done conventional survey will not match exactly with the survey done by digital equipments because of the inherent errors in the equipment and method in the conventional system. The difference in area in respect of 'Ka' block was 653.4852 hectares for theodolite survey, 639.9467 hectares for ETS survey and 635.2365 hectares was actually the self forming area of the block shown in the ETS data.

- 4.2.4. Resurvey number of 62 and 34 are encroachments into old survey No. 77 (which is shown as Lakshmi No.8 in the land board award with an area of 575 acres).

The area of resurvey number 62 is 0.4782 hectre (picture-51) and 34 is 1.5966 hectre, (picture-52) both area shown as 'fuel trees' in the area list appended as Annexure-III. The area seems to be lost at sy no. 77 is 5.13 acres. If this resurvey records were implemented, government would have lost 5.1248 acres of land in block no. 17 alone. In the Land Register prepared after resurvey, in the co-relation with the new resurvey nos, the old survey number¹² of 34 and 62 are shown as 77, i.e. of the Government land in Lakshmi Estate. The encroachments would have been detected from the Land register itself, without going into the field. It is very much possible that this kind of massive regularization of illegal encroachments into Government land of KDH village resurvey can be detected in other blocks also.

- 4.2.5. In the Land register prepared by the department after the resurvey also, the owner of the Concession land was shown as "Tata tea company' and not as Lessee. This was corrected and shown as Government after the intervention of Director of Survey & Land Records before the 9 (2) notification.
- 4.2.6. A shift of over 30 metres towards north over a stretch of 5 km can be seen in figure below when the resurvey records are superimposed over digitized old survey records prepared by CESS. (Refer picture-54-55). Fifteen hectares approximately is the area increase since the cardinal principle of 'whole to part' is not followed in 1996 survey. If 33 m shift to north is detected when the southernmost block is verified, it is possible that the error will cumulate with every block towards north and the shift at the northern boundary of KDH may manifest into several hundred meters as per the resurvey records. Therefore the areas shown in the resurvey records are greater than the actual base area¹³ on ground. Finalization of these records will result in the loss of several hundred hectares of land and will render the resurvey records as grossly erroneous – a matter that could be

¹² Could not obtain a copy of this Land Register, as the Devikulam survey office was under sealed condition when I enquired this matter later during the preparation of this report.

¹³ In cadastral survey, the base area and not the surface area is taken. The base area will almost equal the surface area when the ground is plain and the surface area greatly varies with base area in hills. The possibility of occurrence of difference in measurements is shown in Appendix-XI.

proved before any authority or court of law by the same surveyors who did the survey on behalf of the department when in collusion with those vested interested groups.

- 4.2.7. The Survey Vigilance Officer was deputed by the Director of Survey & Land Records during January 2008 to verify the survey records of KDH which were under section 9(2) notification and it was found that the land use in Block no 30 was greatly varying from the resurvey records. Several other anomalies were found out in the said block. Later, a joint verification was conducted from 3rd to 5th March 2008, by the Principal Secretary (Revenue) Dr.Nivedita.P Haran along with the Director of Survey & Land Records, Dr.S.Raveendran, the Head- Munnar Task Force and Addl.CLR, Dr.K.M.Ramanadan, the District Collector, Shri.Asok Kumar Singh and the Survey Vigilance Officer. The report of the inspection is appended as Appendix-IV, which substantiated the findings of the survey vigilance officer.
- 4.2.8. The Principal Secretary (Revenue) had directed to measure the 'ஊ' block using Electronic Total Stations immediately. The said block was having an area of 653.4852 hectares (1614.8272 acres) when measured in the theodolite survey during 1974. When it was re-measured on instructions from the Principal Secretary (Revenue) using Electronic Total Stations in 2008, the new area obtained was only 639.9467 Hectares (1582.3722 acres). There is a difference of 13.5385 Hectares or 33.4550 acres, just because of the higher accuracy¹⁴ of the Electronic Total Stations. But the actual area obtained in ETS measurement was much lower.
- 4.2.9. The 'ஊ' block is totally enclosed by the Tata tea estates on almost all the sides. When the tea estates are surveyed using electronic survey equipments, the area of 'ஊ' block has to be obtained automatically,

¹⁴ It is impossible for the measurements of total station survey in 1996 to match with the measurement of theodolite survey done in 1974, since the total stations are more accurate than the conventional equipments. In the conventional survey the distance between two points is measured by chain or tape after following a procedure called "stepping and leveling" which is most often not followed rigorously especially in the highly undulating hilly terrains of KDH village. The total station totally eliminates "stepping and leveling". Secondly the angular measurement of theodolite are calibrated to 20 seconds. The angles are observed and readings are recorded on paper. This is later plotted on paper and the distance between the points are measured manually and converted into the actual distances by applying the scale factor. The area enclosed in the polygon is computed manually using computing scale by the Draftsmen who has never seen the field or done the field work. The Survey of India special rules prevents a visually disabled person from being the appointed as a survey staff. But our survey department is liberal enough to not to specify any vision test to surveyors or draftsmen and no prudent man will believe that the computations made manually by the survey staff can be centpercent accurate. Still, the survey officials befooled the government and the people of the State that the theodolite measurements of 1974 can match exactly with the total station measurements of 1996.

since the said block shares common boundary with the tea estates. The digital data of map of 'ஐ' block prepared during the 1996 survey, presumably as the self forming area between block nos 29,30,31,33 & 39 of KDH village (refer Figure 3 below), which are said to be surveyed using Electronic Total Stations, is available with the department. The map area computed from Auto CAD is only 635.2365 Hectares – a reduction of 4.7102 Hectares or 11.6394 acres further down, from the ETS survey of 2008. At the same time the area published was 653.4852 Hectares, the original theodolite area of 1974. Thus there is a difference of 18.2487 hectares or 45.0944 acres from the actual area and the area recorded in the section 9 (2) notification. What does this suggest?

- 4.2.9.1. The area obtained electronically is less than the area obtained in the 1974 survey using theodolites.
- 4.2.9.2. The area obtained electronically is not the area recorded in the area list now published under section 9 (2) in 2007 & 2008.

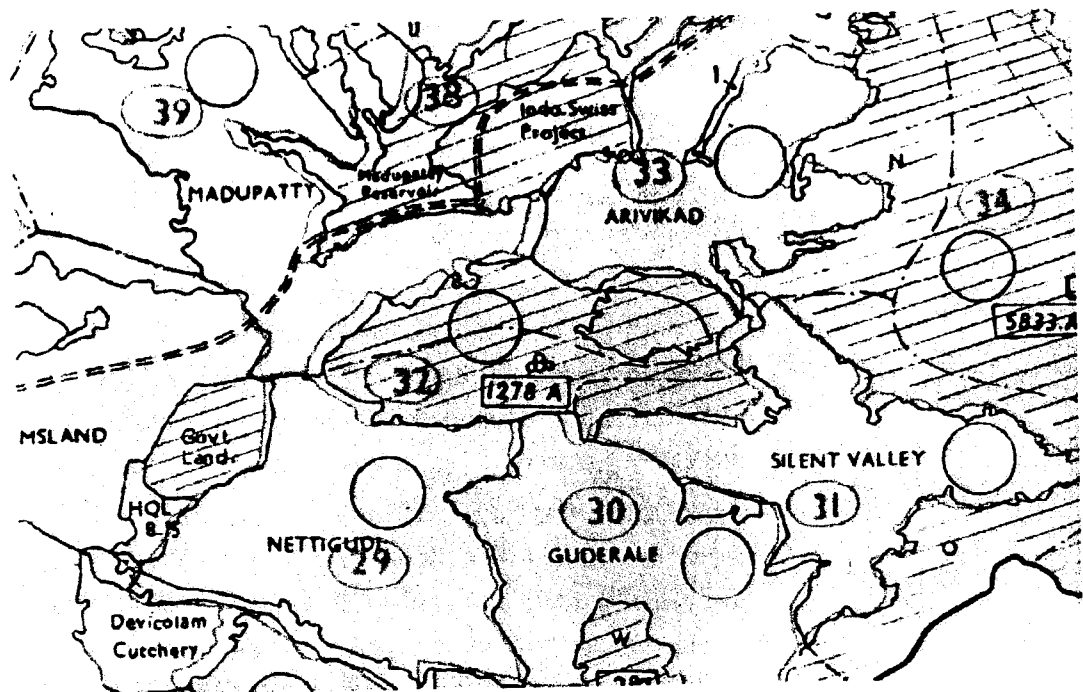


Figure 3: The self forming 'ஐ' Block between Tata tea company estates surveyed using ETS; the old theodolite area of 'ஐ' Block is taken for the publication of section 9(2) notification

- 4.2.10. Had not the top officials of the department intervened at that stage, the manipulated area would have been published as final u/s 13 of the Kerala Survey & Boundaries Act and the State would have lost thousands of acres for once and all.
- 4.2.11. Till now no evidence is available to prove that the refixing as per land board award has ever been done. The ayacut fixing was also not done in 1974 or 1996. It is also reported that even if refixing was done in 1974, it will not match the refixing measurements done using total station as illustrated above because of the high accuracy in the survey using the modern equipments. The survey officers and staff befooled the department, the Government and people of Kerala by taking the 1974 theodolite measurements in place of 1996 Electronic Total Stations survey, the difference of which could be anywhere from 1% to 5% normally.
- 4.2.12. There are reasons to believe that the 1974 land board award was not looked into for identification/refixing of survey numbers mentioned in the land board in the resurvey. Two instances are brought to the notice of the government in this report.
- 4.2.13. The old survey no. 77 in the Lakshmi estate is referred as Lakshmi no.8 with an area of 575 acres in the land board award - Annexure-V of Land Board Award (Appendix-VI) & Figure-4. This has been measured and given the resurvey no.1 in the 1996 survey. This land lies in between the KDH estates and the Government land marked in the land Board award as Lakshmi-AA (see figure-4). The new area obtained is 282.4045 hectares or 697.8498 acres (i.e.without taking into the regularization of encroachment as resurvey no. 34 and 62) and the increase in area is 122.8498 acres.
- 4.2.14. The resurvey no.131 is of area 93.81 acres. It is the same as bit "Z" shown in the Land Board award (Figure-4). The Land Board award had initially given the area of this bit as 358 acres, which is recorded in the concession map, (prepared by the Tata tea company and printed at the CSO) This was further reduced to 141.60 acres in the 1977 gazette notification (Appendix-VI). There is a reduction of 47.79 acres in the 1996 resurvey. Which area is the accurate area?

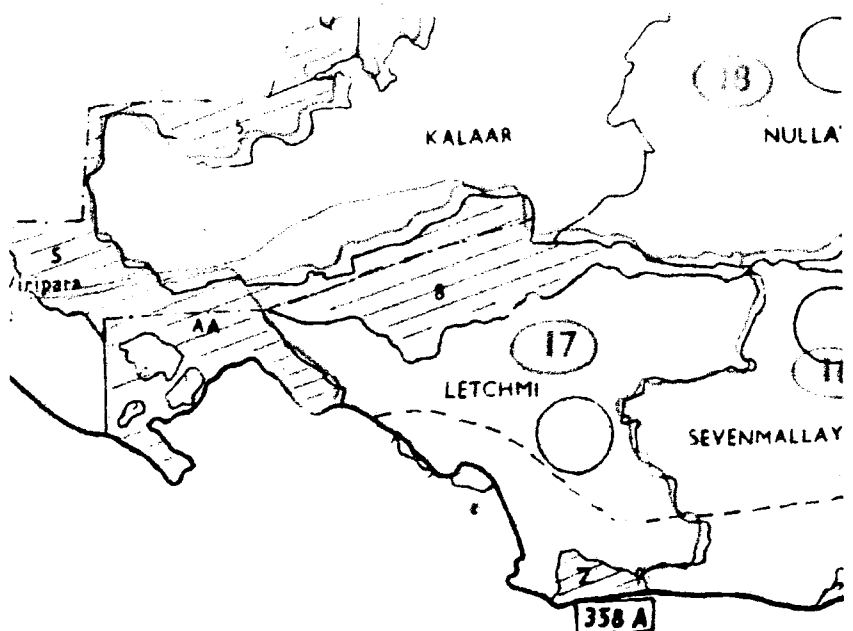


Figure-4: the survey no.77 part is recorded as Lakshmi no.8 in Land Board award and as having an area of 575 acres. The resurvey no is 1 in block 17 and area is 697.85 acres. The area of lakshmi no.'z' shown in map is 358 Acres; in final land board award it is 141.60acres and in the resurvey is 93.81 Acres (resurvey no.131)

- 4.2.15. Kindly see the FMB prepared in respect of resurvey No.131 attached as Annexure-IV. On the top of the FMB, the area calculated is shown as 38.1234 hectares. Now kindly see the area list of block no. 17 appended as Annexure-III. The area shown in the list is 37.9643 hectares. The difference is 0.1591 hectares or 0.3931 acres. This is the area notified under section 9 (2), as in the case of area of 'æ' block, mentioned in para supra. These two instance show that the figures finally published as area list was altered deliberately to approximately coincide with the area awarded by the Land Board.
- 4.2.16. The 1974 survey area and records cannot be adopted in 2010, as the land use pattern has changed over these 35 years. As elsewhere, encroachments might have happened in a substantial portion of Government land in KDH and Mankulam Villages during these 35 years. Further verification by the refixing of the boundaries of Government land has to be done before finalizing any survey records.

4.3. Discussions on the findings:

- 4.3.1. It is understood that before the Land Board award in 1974 itself, as part of resurvey of the entire State, every taluk was divided into blocks. The KDH village was divided into resurvey blocks starting from 16 to 45 in Devikulam Taluk. In the 1974 resurvey, the block boundary was only surveyed and the refixing of the boundaries of all the survey nos mentioned in the land board in the KDH village was not done. The refixing of the boundaries of the Government land interspersed between the KDH land was also not done. The block were surveyed as minor circuits and on the basis such incomplete survey the Notification H1-43919/76 dated : 21.05.1977 was done by the District Collector. The extracts of the notification is appended as Annexure-V. The Devikulam Tahasildar vide order no. D3-6642/77 dated : 12.06.1978 had transferred the land on the basis of the Litho maps. The areas transferred were coloured using color pencils.
- 4.3.2. The resurvey of 1996 is claimed to follow the block boundaries and measurements thereof of the 1974 survey. This detailed survey was ordered for assessing the area under tea cultivation for the purposes of plantation tax, which was stopped since 2003-04 by order of Government. There was no refixing of the boundaries of Government land not only inside the blocks allotted to the KDH , but even at the 9 blocks, namely including mankulam, iravikulam etc in possession of the Government. The area list just copied the area obtained in 1974 survey for theses blocks and prepared a tabulated statement in computer. How can one say there is no encroachment, without the boundaries of the Government land are refixed? The area calculation is a mathematical exercise done in tabulated Excel statements rather than on the basis of actual survey. The findings again supports my earlier report that the KDH resurvey records are fabricated.
- 4.3.3. The Deputy Director without doing any refixing of over 70000 acres of Government land or verifying the records of pattayam holders in the Government land or assessing the genuineness of revenue records of those possessed land in such vast area, stated in the most callous manner that only 122 acres of encroachments were only detected and that is a negligible figure. It seems that he was more

worried about the KDH company losing 278.2369 Hectares. Surprisingly in the report given by the then Deputy Director, Survey, Idukki Shri.K.Surendran vide letter No. G2-13733/97 on 03.03.2004, it has been mentioned that the Tata tea company is in short of nearly 700 acres and that even though encroachment for variation to the tune of 122 acres was found out, the same cannot be considered as encroachments since Tata is in short of 700 acres. Now in 2007, the officials of the same survey department say that there is no shortage and the figures exactly match with the figures of land board award which was based on theodolite survey. A detailed investigation is required into the goofing up of figures.

- 4.3.4. Please see the comparative statement of areas obtained in the 1974 theodolite survey, 1996 ETS survey and the actual figures in the area list attached as Annexure-VI. In five blocks, the total station area exceeds the theodolite area. But in other blocks, the ETS area is less than the 1974 area. The overall variation in area of the 1974 theodolite survey and the ETS survey is only 189 acres. This cannot be true. If 1 % is taken as the difference, there will be a difference of 1370 acres in the modern survey method. The D.O. letter no. G2-13733/97 dated : 13.02.2003 (Appendix-XII) of Shri. K. Surendran, Survey Deputy Director, Idukki--- the relevant portion of which is reproduced as follows :

"റവന്യൂ റിപ്പോർട്ട് പ്രകാരമുള്ള കെ.ഡി.എച്ച് വില്ലേജിന്റെ വിസ്തീർണ്ണവും റീസർവ്വേ റിപ്പോർട്ട് പ്രകാരമുള്ള വിസ്തീർണ്ണവും തമ്മിലും റീസർവ്വേ വിസ്തീർണ്ണവും ടോട്ടൽ സ്റ്റേഷൻ സർവ്വേ വിസ്തീർണ്ണവും തമ്മിലും കാര്യമായ വ്യത്യാസം ഇല്ല എന്നതിൽ നിന്നും റീസർവ്വേ നടത്തിയതിലും അംഗീകരിച്ചിട്ടുള്ള റീസർവ്വേ റിപ്പോർട്ട് ഫൈനൽ ചെയ്യുന്നതിലും അപാകതയില്ലായെന്ന് കാണാവുന്നതാണ്."

- 4.3.5. In a subsequent letter from the same file no. on 03.03.2004, (Appendix-VIII) Shri. K. Surendran again states the following :

"..... ലാന്റ് ബോർഡ് അവാർഡ് പ്രകാരം കമ്പനിക്ക് 23145.87.00 ഹെക്ടർ സ്ഥലം അവകാശപ്പെട്ടതാണ്. എന്നാൽ ടോട്ടൽ സ്റ്റേഷൻ സർവ്വേ പ്രകാരം കമ്പനിയുടെ കൈവശത്തിൽ 22867.6331 ഹെക്ടർ സ്ഥലമാണുള്ളത്. അതായത് 278.2369 ഹെക്ടർ കുറവ്. അവാർഡ് പ്രകാരം സർക്കാരിൽ നിക്ഷിപ്തമായിട്ടുള്ളത് 28539.910 ഹെക്ടർ സ്ഥലമാണ്. എന്നാൽ സർവ്വേ റിപ്പോർഡുകൾ പ്രകാരം ഇത് 28492.0359 ഹെക്ടറാണ്. അതായത് 47.8791 ഹെക്ടർ കുറവ് കാണുന്നു.

1974-ൽ റീസർവ്വേ ചെയ്ത് തയ്യാറാക്കിയ റിപ്പോർഡുകൾ പ്രകാരം പരിശോധിക്കുമ്പോഴാണ് അന്നത്തെ കൈവശം / സ്വഭാവം അനുസരിച്ച് റോഡ്,

തോട് തുടങ്ങിയ പൊതു സ്വഭാവമുള്ള ഭൂമി ഉൾപ്പെടെ കമ്പനിയുടെ പേരിൽ സർവ്വെ ചെയ്യാതിരുന്നിട്ടുള്ള 7 റീസർവ്വെ ബ്ലോക്കുകളിലായി 49.4600 ഹെക്ടർ സ്ഥലം നിലവിൽ കമ്പനിയുടെ കൈവശത്തിലായി കണ്ടത്. ഇപ്രകാരം കമ്പനിയുടെ കൈവശത്തിൽ ഉൾപ്പെട്ടുവരുന്ന ഭൂമി ഉൾപ്പെടെ കമ്പനിയുടെ നാളതു കൈവശത്തിലുള്ള സ്ഥലം അവാർഡ് പ്രകാരം അവകാശപ്പെട്ടതിലും കുറവാണ് എന്നാണ് സൂചന കത്തിൽ റിപ്പോർട്ട് ചെയ്തിരുന്നത്. പല ഭാഗങ്ങളിലായി 57200-ഓളം ഏക്കർ വരുന്ന കമ്പനിക്ക് അവകാശപ്പെട്ട സ്ഥലത്തിനോട് ചേർന്നുവരുന്ന 55600-ഓളം ഏക്കർ വരുന്ന സർക്കാർ ഭൂമിയിൽ വിവിധഭാഗങ്ങളിലായാണ് 122 ഏക്കർ ഭൂമി കമ്പനിയുടെ നാളതുകൈവശത്തിൽ വന്നിരിക്കുന്നത്. നാളതുവരെയുള്ള കൈവശ / അനുഭവ / ഉപയോഗ സ്വഭാവത്തിന്റെ അടിസ്ഥാനത്തിൽ നാമമാത്രമായ ചില ഏറ്റക്കുറച്ചിലുകൾ ഭൂമിയിൽ സംഭവിക്കുന്നതും തികച്ചും സ്വാഭാവികമാണ്. ആകയാൽ കമ്പനിക്ക് അവകാശപ്പെട്ട സ്ഥലത്തിൽ കുറവുള്ള സാഹചര്യത്തിൽ മേൽപ്രകാരം കണ്ടെത്തിയ ഭൂമി കൂടുതലായുള്ള കൈയേറ്റമായി കാണാൻ കഴിയില്ല എന്നതാണ് റിപ്പോർട്ടുചെയ്തിരുന്നത് എന്നുള്ള വിവരം അറിവിലേക്കായി റിപ്പോർട്ട് ചെയ്തുകൊള്ളുന്നു. ”

In the above report, kindly note that Surendran had found out an encroachment of 49.4600 hectares as encroachment in the ‘സർവ്വെ ചെയ്യാതിരുന്നിട്ടുള്ള 7 റീസർവ്വെ ബ്ലോക്കുകളിലായി’. How is this possible to find encroachments without survey?

- 4.3.6. Now the above statements made by Shri. K. Surendran may be examined in detail.
 - 4.3.6.1. There is no difference in the area of K.D.H Village as per revenue records (i.e., as per the old survey in 1925 or so) and the resurvey records (i.e., as per the 1974 resurvey using theodolites).
 - 4.3.6.2. There is also no difference in area between the resurvey records (i.e., the 1974 theodolite survey) and the total station survey i.e., 1996 survey.
 - 4.3.6.3. The K.D.H company is in short of 278.2369 hectares i.e., about 687.55 acres.
 - 4.3.6.4. The K.D.H company has encroached only into about 122 acres in the Government land interspersed between the company land and this is negligible when they are in short of 687.55 acres.
 - 4.3.7. Shri. K. Surendran had advised the Survey Director to immediately publish 9(2) notification and recommended for the final section (13) notification since the records are so perfect.
 - 4.3.8. Excerpts from the report of the Deputy Director, Survey Idukki Shri. Unnikrishnan vide G2-49223/07 dated : 28.05.2008 (Appendix-XIII);

ബഹു. റവന്യൂ പ്രിൻസിപ്പൽ സെക്രട്ടറിയുടെ 2008 മാർച്ച് 3, 4 തീയതികളിലെ മൂന്നാർ സന്ദർശനവേളയിൽ നിർദ്ദേശിച്ചതനുസരിച്ച് സർക്കാർ ഭൂമിയായ റീസർവ്വെയിൽ ഉൾപ്പെടുത്തിയിട്ടുള്ളതിന്റെ വിസ്തീർണ്ണവും ടോട്ടൽ സ്റ്റേഷൻ ഉപയോഗിച്ച് ഒരിക്കൽകൂടി സർവ്വെ ചെയ്ത് പരിശോധിക്കുന്നതിന് നിർദ്ദേശിച്ചു. ആയതുപ്രകാരമുള്ള ജോലി പുരോഗതി പത്രിക ഇതോടൊപ്പം ചേർക്കുന്നു. 32-ാം ബ്ലോക്കിന്റെ ജോലി പൂർത്തിയായിട്ടുള്ളതാണ്. അതിൻപ്രകാരം പരിശോധിച്ചതിൽ റീസർവ്വെ 32-ാം ബ്ലോക്കിന്റെ (ക ബ്ലോക്ക്) വിസ്തീർണ്ണം 653.4852 ഹെക്ടർ ടോട്ടൽ സ്റ്റേഷൻ സർവ്വെ പ്രകാരം ലഭിച്ചത് 639.9467 ഹെക്ടർ വ്യത്യാസം 2.07 ശതമാനം (13.5385 ഹെക്ടർ) സ്റ്റേറ്റ്മെന്റ് പ്രത്യേകം ചേർത്തിരിക്കുന്നു.

- 4.3.9. By this rate, i.e., a reduction in 2% of the total area of 1,37,600 acres is about 2750 acres is the possibility, when surveyed using the Electronic Total Stations. The difference in area in the two methods have never been accounted for. Had the survey officers stated that there is a difference of so many acres and this has happened due to the higher accuracy of the ETS or the modern survey equipments, then such difference could have been construed as the old area obtained in the conventional survey. But instead, the Deputy Director of Survey, Idukki, Shri.K.Surendran had certified that there is no error in the resurvey records and therefore recommended of finalization of resurvey records.
- 4.3.10. The expenditure statement prepared by the same Deputy Director vide letter No.G2-26342/01(1) dated : 13.11.2002 is appended as **Appendix-XIV**. An amount of Rs.56.30 lakhs was spent on the Total Station Survey of 1996. The Survey Vigilance wing has found out that all these expenditures were made on the basis of vouchers and only the vouchers for an amount of Rs.10,30,733/- could be traced in the offices. On the basis of recommendation of the Survey Vigilance wing. Government had referred the matter to the Vigilance and Anti Corruption Bureau (VACB). The VACB, Kottayam is investigating the corruption involved in the matter vide their case No. VE-6/ERK. It is evident that in the case KDH survey records Shri. K. Surendran made several attempts to mislead the Survey Director and the Government by certifying the grossly erroneous and fabricated resurvey records as accurate and urged to finalise such false records. He had favoured the KDH company by certifying that the company is in short of 278.2369 hectares, the information which was produced by the company in their claims before the Hon'ble High Courts. The report of the Deputy Director has weakened the position of the Government. In the news paper

advertisement released on 25th February also, Tata had advertised that the Additional Chief Secretary had filed an affidavit before the Hon. Lokayutha that the company is in short of 239.2369 Hectares. The report of Shri.K.Surendran, had thus resulted in far reaching consequences.

- 4.3.11. It is also suspected that the disbursement of funds and subsequent disappearance of the expenditure records of the total station survey occurred since Shri. K. Surendran assumed charge as the Deputy Director of Survey in Idukki in 2001-2002 and that is the reason why the case was referred to VACB. Shri. K. Surendran was suspended earlier by the Government vide G.O.(Rt) No. 1013/2007/RD dated : 06.03.2007 and his service records are not so clean. Till now no action was initiated against such an official who misled the department and government by certifying erroneous survey records. Had the department accepted his recommendation and published the final section 13 notification, the State would have lost land worth crores of rupees to the encroachers. It is highly essential that Shri. K. Surendran presently the Regional Joint Director of Survey, Kozhikode should be immediately placed under suspension as his continuance in the department will lead to the disappearance of more vital evidences for the offices concerned. Such officials are a bane to this State and they are to be removed from service through following due process of law.
- 4.3.12. By the fax message dated : 26.07.2002 Shri. Surendran has requested the services of Shri. Ameer, Surveyor, O/o of the SSLR, Devikulam and Shri. Sreekumar of the Kasargode resurvey party for processing of the electronic data. Appendix-XV. It is evident from the evidences presented in this report that these two officials had made several adjustments in the area list prepared in excel statement to approximately equal the area prescribed by the 1974 land board award as well as the area obtained under the 1974 theodolite survey. It is possible that Shri. Ameer and Shri. Sreekumar who were processing the data had acted on instructions of Shri. K. Surendran to make book adjustments to hide the errors of the total station survey and the encroachments of valuable land in the KDH village. It is recommended that disciplinary action shall be initiated against these two surveyors immediately considering this as major penalty.

4.4. Conclusion: It is necessary that the notification under section 9 (2) in respect of the 1996 to 2001 survey should be cancelled as in the case of 1974 theodolite survey because of the following reasons;

- 4.4.1. This do not reflect the land use pattern as on date.
- 4.4.2. This also don't reflect the position of encroachments as on date.
- 4.4.3. The Resurvey records are grossly erroneous because the basic principle 'whole to part' was not followed in the 1996 survey.
- 4.4.4. Even though the land board award was undertaken on the basis of the survey maps prepared by the Engineering department of Tata Tea company, the survey department ought to have refixed the different survey sub-divisions on ground in the subsequent survey in 1974, soon after the award. This was never done.
- 4.4.5. There is no evidence that the ayacut fixing of land parcels mentioned in the Land Board award was also not done in 1974 survey.
- 4.4.6. The area of Government land was blindly copied as such while publishing the records of survey using Electronic Distance Meters /Electronic Total Stations (a) without verifying for encroachments and (b) knowing that the area of modern survey won't match with the area obtained under conventional survey.
- 4.4.7. It is also recommended that the amount of Rs.56.30 lakhs incurred for the 1996 survey, minus genuine expenditure, if any, shall be recovered from those who were part of the survey.
- 4.4.8. It is also recommended to take immediate disciplinary action against the survey officials who certified the resurvey records are accurate.

CHAPTER V

COMPLETION OF SURVEY OF KDH AND ADJOINING VILLAGES

- 5.1. It is a common practice in the department of survey & land records, that only the survey numbers are only co-related and the area of the land in the previous survey numbers and the new resurvey number area don't match. The correlation statement records only the area as 'part' of several old survey numbers. This helps a section of the corrupt officials to hide their errors in survey. Book adjustments are made in the final round to match the old area of the village with the new resurvey area. There is seldom any verification. The resurvey records finalization, usually takes years together and the senior staff would retire by that time. Therefore no responsibility is fixed.
- 5.2. In order to resolve the ambiguities in the survey records, first the village boundary of the KDH as existed in the land board award in 1974 ought to have been refixed on the basis of the maps used for such land board award in the 1974 survey. Thereafter, the different survey numbers mentioned in the 1977 notification No. H1-43919/76 dated : 25.01.1977 (copy appended as Annexure-V) should have been refixed/relocated on ground in 1996 to check whether any variation with the area the land board award, as that happened in the case of old survey no.72 (resurvey no.131 of block 17) has happened. As a third step, the area as per the old Land Board award and the present utilization of land by the Tata tea company should have been compared. Unfortunately, the department of survey & land records failed totally in supporting the Government by doing the above procedure in 1974 or 1996 surveys. Rather, the department officers conspired to make the Government, their department and people of the State believe that their manipulated figures are conforming to the figures of the land board award and encouraged for finalization.
- 5.3. With the advent of modern survey equipments, it is easy to find out the encroachments into Government land or variations from the land awarded in 1974 by the Land Board, without large scale measurements on ground. In order to understand the exact situation on ground, the boundaries of government land as per the land board award has to be refixed afresh and encroachment sketches and list have to be prepared. The present land use/possession has to be updated. It is requested that

fresh survey shall be ordered immediately to be conducted by the Kerala Land Information Mission under the Bhoomi Karam project

- 5.4. It is possible that the survey of the entire land of KDH Village could be completed in 4 to 6 months by the Mission. Before going into that aspects in detail, let us try to understand the task ahead. The entire KDH area is 1,37,700 acres. Since there is an allegation that the village boundaries have been shifted, it is necessary to measure the land parcels contiguous to KDH Village boundaries in adjoining villages also. We may take the total area to be surveyed as 1,50,000 acres. The output prescribed by the Mission for a total station team in Forest survey under the Scheduled Tribes & Other Forest Dwellers (Recognition of Rights) Act, 2006 is 10 acres per team per day. By this rate, it will take 15000 days for one team to complete. It will take only 100 days if 150 teams are deputed for the survey, which in other words mean that we may require 750 surveyors and 150 Electronic Total Stations for the work. Therefore, the work of this magnitude cannot be undertaken by the Department of Survey & Land Records or the KLIM using its own resources because of the following reasons;
- 5.4.1. There are only 83 total stations in working condition as on date. The Mission can spare only maximum 30-40 ETS for the KDH Village survey after the Forest survey and the on-going resurvey work in several villages.
- 5.4.2. A hybrid methodology using satellite imagery will only ensure that the work is finished in time; and there is every little expertise for digitization, geo-referencing etc available in the department/ Mission.
- 5.4.3. Almost 98% of the surveyors under the Mission are new recruits and they cannot not give the desired output per day.
- 5.4.4. Very few staff in the about 1000 surveyors in the department knows how to operate an ETS; even when they have the skills, they will say that they don't know how to operate the ETS and it is difficult for making a lame horse work.
- 5.4.5. Quality assurance is almost non-existent in the department.
- 5.4.6. Both in the department as well as Mission, nearly 50 % of the surveyors are women and they cannot be deployed in these inhospitable conditions for months together.
- 5.4.7. There are several others under medical treatment or perennially disabled from doing any work at high altitudes.

- 5.4.8. Even if the department staff is willing to work in Hilly areas and also willing to give 10 acres output per day, the prominent field staff union, now affiliated to the Joint Council, namely the 'Survey Field Staff Association (SFSA)', who has filed writ petitions in Hon.High Court for the withdrawal of Modern Survey Manual of the Mission, will not allow the surveyors to achieve the target¹⁵ as is happening with melmuri resurvey project and the forest survey in Idukki.
- 5.4.9. Most of the supervisory officers are not all capable of managing this large contingent number of surveyors or ensure the quality for their daily work. A large majority of staff starting from head surveyors upto the Additional Director of Survey don't know how to operate a computer, let alone the operation of Global Positioning Systems/ Electronic Total Stations and processing of the data in sophisticated software such as Skipro, LISCAD, AutoCAD, Microstation etc
- 5.4.10. It will be difficult to find out the accommodation for this large contingent of officers and staff at Munnar, one of the most wanted tourist spot. The staff are not willing to camp in tents as was being done by the surveyors¹⁶ during 1960s to 1980s.
- 5.5. In short, the survey by the Mission directly on its own will only result in another farce like resurvey of the Kerala which started in the year 1966. But it is possible to undertake the survey using a hybrid methodology with the expertise of CESS and under the technical experts and officers/staff of the Mission with the help of external agencies. The field survey has to be done those willing to work in the inhospitable conditions and having real expertise in Electronic Total Stations. Professional managers have to plan, supervise and ensure the quality of the work.
- 5.6. Before deciding on who will do the survey, one important decision from the Government is required on the *modus operandi*. The detailed survey of about 1.5 lakh acres of area could be done in two methods; in both methods, the Village boundary has to be refixed first and more

¹⁵ The SFSA is headed by Shri. Shanavas Khan , Head Surveyor , as its president, who is facing Vigilance and Anti- corruption Bureau enquiry vide VE-2/03-IDK for alienating 1.28 acres of land worth Rs.6.40 crores and also by the Forest Vigilance wing's Enquiry vide their letter no. VE-87341/2008 for embezzlement of lakhs and lakhs of rupees are illegal wages and work dairies. Further, one of their main functionaries is a surveyor who had worked with the KDH company who had later joined the Department of Survey & Land Records.

¹⁶ Survey of remote areas were done by establishing camps called 'thavalams' and such maps are called thavalam maps.

Ground Control Points have to be established in the 9 blocks left out. The methods are;

- 5.6.1. The first method involves digitising all the measurement sketches of the KDH Village and refixing every land parcel on the basis of co-ordinates, so obtained from computers, on ground. The land parcels coming under the blocks in possession of the KDH Company has to be done in the presence of the company representatives. But this method will take minimum one year, as much of the time will have to be spent on the digitization, generation of coordinates and staking out using Electronic Total Stations and is finally susceptible to be disputed by the KDH Company, which has a track record of entangling any issue in court cases. Because of the time factor, this method is not recommended to be adopted.
- 5.6.2. In the second method, the Ayacut Fixing has to be done first. Then notices shall be issued under section 6 (1) of the Kerala Survey & Boundaries Act, 1961 urging the KDH Company to show their boundaries and measure them using the Electronic Total Stations in their presence. If it is found that the area is on the higher side than the land board award, then it can happen only because of encroachment into Government land. On the other hand, if it is found that the area obtained is less than what has been awarded by the Land Board, then the lesser area can occur only due to alienation of the land in the form of gift, lease and sale by the KDH Company in the past. This method will be easier for completing the survey in 6 months and the KDH company cannot question in any court of law, as the boundary was surveyed in their presence. Thus it will become a win-win situation for the Government.
- 5.7. Conclusion: The resurvey records are erroneous and donot reflect the ground situation as on date. The 9 (2) notification need to be cancelled urgently. It is necessary to undertake the following preliminary works for the detailed survey during the current field season (rain-free season ending within 3 months by May 2010);
 - 5.7.1. Digitisation of all old FMBs of KDH Village.
 - 5.7.2. Identification of all the available Old Stones in the village boundary, a portion of which falls in the inter-state boundary sharing with Tamil Nadu.
 - 5.7.3. Establishing more Ground Control Points in the blocks of Government land – Iravikulam, Mankulam etc

- 5.7.4. Identification of agencies that can supply about 500- 700 surveyors and about 125 to 150 Electronic Total Stations.
- 5.8. The other adjoining villages are also facing severe encroachments and will soon reach the state of affairs as of Munnar. It is also necessary to establish control points so that the encroachments could be detected using geo referenced Satellite images ,which could be purchased from ISRO periodically.
- 5.9. It is requested that Government may immediately take a decision to cancel the notification current in force and order a fresh resurvey/ updation survey to be entrusted with the Mission without any further loss of time before the rains in June 2010.

CHAPTER VI THE REAL ISSUES OF MUNNAR

- 6.1. The newspaper advertisement of the Tata Tea Company appeared in Malayalam and English newspapers in the last week of February 2010 are appended as Annexure-VII(A) & (B). These advertisements have been issued by the Tata Tea company, with a view to confuse the people, the Government and the Hon.Courts of law and to sanctify the actions of its functionaries of the company. This has prompted me to highlight the real issues plaguing this beautiful land and bring the same to the notice of the Government. The factual position revealed in my enquiry into Munnar and adjoin villages on several earlier occasions is given as answers to the questions raised by the Tata tea company in Annexure-VIII. Munnar is not being gang raped as the Hon.High Court has observed. It is dying. This is the place where several rivers are originating and to be treated with reverence.
- 6.2. An intermittent visitor to Munnar these days can sense the undesirable changes, be it on the climate, or on the topography. The Eucalyptus grandis¹⁷ crops is one of the chief factors for degradation of the environment of Munnar. It is planted in bulk, since it gives an yield of a more than lakh of rupee on an average per acre, without any substantial investment and maintenance. The Government officials, the politicians, the land mafia are planters of eucalyptus for years together. One can see thousands of acres of Eucalyptus crops in an around Munnar, a known 'water sucker'.
- 6.3. The pattayam holders, who claimed thay don't have any agricultural land anywhere in Kerala and managed to get pattayams through the pattayamelas for agricultural purposes, are cultivating Grandis in large quantity. The attached report of the joint inspection into the kanthallor-keezhanthoor villages depicts the real scenario. The certificate issued by the Keezhanthoor Village Officer to one Fathima of Kothamangalam Taluk is attached as Annexure-IX. This photocopy of the certificate was obtained from the lorry belonging to one K.N.Prasad, said to be the contractor for Hindustan News Print Ltd for soft wood. The Tata Tea

¹⁷ The ill effects of this crops is widely documented. It is a known water sucking tree. Several countries in the past had planted this crop which yields pulp and fibre in abundance with an intention to revive their economy. The forest department of Kerala also planted eucalyptus in the 1950s, but it did not succeed. Rivers and streams dried up in Brazil, Africa et al according to nature groups and UN. It easily catches fire and wild fires destroy other trees; there are other documented health hazards. Some of the articles available on internet is appended with this report.

Company has paved the way for large scale cultivation of Eucalyptus in Munnar, which is spreading to other parts of the taluk like wild fire due to obvious benefits. In the near by future it is possible that people will turn to eucalyptus instead of cash crops. Eucalyptus is the favorite for certain section of officials and politicians of this hilly land and shares the same position as the 'river sand' in other parts of the State. It is time to call them as "eucaly mafia"

- 6.4. As a servant of the Government, who got involved in various investigations on the revenue and survey side for the past 3 years at KDH Village, I take this opportunity to highlight the real issues. The real issues of Munnar is not the construction of a check dam or allegations of change of village boundaries. The real issue is as the Hon.High Court of Kerala pointed out is the 'rape or gang rape of Munnar, by a consortium of conspirators led in the forefront by the local officials of the tea Company. Resorts are mushrooming in all the villages. The mafia has succeeded in focusing the attention of the Government and media into happenings of the KDH Village.
- 6.5. It could be seen that the Land Board Shri.K.C.Sankaranarayanan has awarded huge extent of land against the spirit of the enabling KDH Act, The award was promulgated without looking into the facts and figures and it was done as per the inflated claims of the company officials, who till a few years back, kept and still keeping certain areas as their personal fiefdom. The forests were gaming zones for the company officials – hunting and angling were their favourite past time. The Land Board award was prepared on the basis of maps prepared by the Company. Several lapses could be found in the area mentioned in the Land Board award. The errors in Lakshmi Block No Z shown in Figure-4 is mentioned in para 3.2.14.
- 6.6. The tea plantations were straight away exempted from vesting by virtue of the section 3 of the Act. In the statement of object and reasons attached to the Act (Appendix-V), para 4, Government had laid down the objectives of the Act as follows;
"The Government consider that such agricultural lands should be resumed for the distribution thereof for cultivation and purposes ancillary thereto. For instance, in the case of the K.D.H.P.Co. itself, the actual extent planted with tea is only 23,570.95 acres and building sites, etc., will come only to 2,605.35 acres. Perhaps the Company may

require certain more extent of land for purposes ancillary to the cultivation of tea and preparation of the same for the market"

Thus the Act, was liberal enough to give 'certain more extent of land' for purposes ancillary to the cultivation of tea and preparation for the same to the market over and above, the 2605.35 acres allotted for buildings, roads etc. But what had the Land Board allotted instead of this 'certain more land' - about 35000 acres for running a tea plantation of area about 23000 acres. There were several other tea plantations and tea factories owned by others in this area as well as in Wayanad and Thiruvananthapuram districts. What was the ratio of area of tea plantations vs its ancillary area existed during that time or even today? In many estates, it could be seen that it will be less than 20% of the area of the tea plantations. In the land board award, in order to maintain an area of 23239.66 acres, another $(57359.14 - 23239.66 =)$ 34119.48 acres i.e. about 150 % of the plantation land has been restored to the company. The Land Board ought to have enquired into the proportion of plantation land vs. the ancillary area available in other tea estates in the State. The subsequent paragraphs elucidate this illegal favour meted to Tata by the administration in the form of a Land Board award.

6.7. The section 4 of the KDH Act is reproduced as follows;

"Restoration of possession of lands in certain cases. - (1) Where the person in possession of a plantation considers that any land, the possession of which has vested in the Government under sub-section (1) of Section 3,-

- (a) is necessary for any purpose ancillary to the cultivation of plantation crops in such plantation or for the preparation of the same for the market ; or*
- (b) being agricultural land interspersed within the boundaries of the area cultivated with plantation crops, is necessary for the protection and efficient management of such cultivation; or*
- (c) is necessary for the preservation of an existing plantation, he may, within sixty days from the date publication of this Act in the Gazettee, apply to the Land Board for the restoration of possession of such land.*

In short, land other than plantation should be restored to the Lessees if the land is needed for any purpose (a) ancillary to the cultivation of plantation crops or (b) if it is interspersed and required for protection/ efficient management of such cultivation or (c) if found necessary for preservation of existing plantation. In which category mentioned above under which the '*area under grazing*' of 1220.77 acres and '*area uncultivable*' of 6393.59 acres are coming?

6.8. The pertinent questions in the allotment of land for the above two categories by land board are

6.8.1. Is grazing of cattle an activity ancillary to tea plantation?

6.8.2. Which other tea plantation owner company in Kerala has allotted thousands of acres of grazing land for the cattle of their poor labourers?

6.8.3. By what provision an area of 6393.59 acres of uncultivable land is allotted to the Tatas when another 4523.92 acres of land is allotted as '*area interspersed in estates and between estates*' as per the provision in the section 4 as the area needed for the protection and efficient management or even preservation of the existing plantation?

6.9. Consider the case of allotment of grazing land. An extent of 1220.77 acres of land worth around Rs. 600 crores (@ Rs. 50,000/cent) is given by the State to Tatas for 6750¹⁸ cattle of their labourers. i.e. about 18 cents of land for one cow. Initially Tata had claimed for 6 acres per cow. Land Board award says

"It is clear that no estate could provide that much grazing acreage for their workers cows. "Then why did K.C.Sanakaranarayan allotted this much land. The land board award was prepared in the opulence of Tata tea Company's Bungalows.

6.10. We never come across large herds of cattle anywhere in the KDH Village during these days. If a cattle census is immediately arranged, it can be seen that the labourers may have less than 500 or a maximum of 1200 cattle, which means that every cow of Tata Tea has more than

¹⁸ Para 19 of Land Board Award: The next item for consideration is grazing lands. It is seen that the company has reduced this area from 1453.75 acres to 1400.89 acres after the appointed day. In their affidavit they have stated that there are about 6950 herd of cattle in their estates belonging to their labourers. Under an industry-wide arrangement made through the Association of Planters of Kerala, the keeping of this cattle has to be permitted and grazing land allotted. The scale of land needed for animal as per the A.P.K. Circular quoted is very unrealistic. (6 acres for one cow). It is clear that no estate could provide that much grazing acreage for their workers cows.

one acre for grazing. The paradox is that Government has filed an affidavit before the Hon. High Court that 14,200 adivasis of the State are land less. The revenue department and the Kerala Land Information Mission are on the lookout for land for rehabilitating adivasis as well as the Chegara agitators throughout the State. Here is a State where 14000 adivasis donot have even a cent of land and Tata's cows have more than one acre and that too in the pristine land of Munnar where every cent values lakhs of rupees. (Holy Cow!). This area allotted is not for purposes ancillary to tea plantation or right in the spirit of the Act. Even though land board award rejects the claim of the Tata tea company, it is still not known, how this land was allotted finally. The question before the Government is which requirement is more important – giving land to the land less 'advasis' or allowing one acre for grazing of Tata's cow. It is necessary to resume this land, illegally allotted by Land Board, K.C.Sanakaranarayanan in 1974.

- 6.11. The Tata tea Company was also allowed to keep 6393.59 acres of uncultivable land in their possession. If such a land was need for the protection, then why separate land was allotted under the area interspersed between estates. The picture shows how the Tata tea Company uses uncultivable land. The illegal quarrying was for construction of an illegal check-dam in Chappakkulam in Lakshmi Estate.



figure-5 : Recent Illegal quarrying inside uncultivable land in Lakshmi Estate for construction of Chappakkulam Check Dam

There is no basis for allotment of such uncultivable land, as the Act does not provide for that. Uncultivable land is not ancillary to tea plantation nor such land is required for its preservation, protection and management. For such purposes, an area of 4523.92 acres interspersed between estates have been restored to the company u/s 4. Further, they have using such land for illegal activities. Citing these reasons, it is necessary to resume the entire uncultivable land.

- 6.12. An area of 16,898.91 Acres was awarded in 1974 for growing fuel trees which was stated to be most essential ancillary activity to tea plantation. Later Tata Tea Company procured an order from Hon. Courts and Land Board obtaining permitting the conversion of fuel areas into further tea plantations. The above area of 16,898.91 acres was restored for processing tea planted in 23239.06 acres. Tata inadvertently has claimed before the Hon. Courts that when the area of tea increases, the fuel plantation area decreases-- an inversely proportional relationship. By this rate, time will come when all the fuel trees are converted into tea estates, they may not require any fuel plantation at all. It should have been the other way round if the arguments before the land board by Tatas are taken into consideration. The arguments of the DFO Munnar at the time of the award has been quoted by the Land Board in para 17 on the misuse of the word 'ancillary' by the company in 1974 as;

“ He (the DFO, Munnar) also pointed out that the area under tea has been declining and *most of the requirements of fire wood and charcoal are not for direct utilization in the production of made tea for the market, but are being used for other unjustified purposes, stretching the use of the word “ ancillary” to an unjustified length”*

The Land Board points out in the same paragraph:

“It was clear that the company was quoting the production capacity of the fire wood per acre at a low figure in order to get more land” and

“ Taking that a demand and a production capacity of 100 cubic yards per year, 15300 acres of fuel land would be adequate to meet their reasonable needs in the near future”

But the land board was magnanimous enough to restore 16,898.91 acres (1600 acres more) in the final round, for reasons unknown. The Tata tea company has illegally obtained 35000 acres stretching the word 'ancillary' to unjustified length.

- 6.13. Over the years Tatas have installed several boilers for tea processing; The list of boilers given below will show that they have installed high efficiency boilers even during the year 2005 and 2007;

List of Boilers owned by KDHP and Tata Tea Limited

Sl. No.	Name of owner	Reg. No. and date of installation	Capacity	Fuel used
1	Tata Tea Ltd, ITD, Munnar.	K-444, 1982	10 T/hr	Furnace Oil
2	Tata Tea Ltd, ITD, Munnar.	K-1031-2005	10 T/hr	Furnace Oil
3	KDHP Co (P) Ltd, Chittuvarrai Factory	K-947-2002	02T/hr	Furnace Oil
4	Tata Tea Ltd, ITD	K-448, 1983	15T/hr	Furnace Oil
5	KDHP (Oil Extraction Co, Kundaly)	K/s-1096, 2007	500Kg/hr	Furnace Oil
6	KDHP Co.(P) Limited, Tea Museum, Munnar.	K-711, 1996.	06T/hr.	Furnace Oil
7	Tata Tea Limtied, Pallivasal	K-578, 190	500Kg/hr	Furnace Oil
8	Tata Tea Ltd, Mushroom Div, Munnar.	K-565, 1990	02T/hr.	Furnace Oil
9	Tata Tea Ltd, ITD, Munnar.	K-207, 1963	06T/hr	Furnace Oil

Table 5.1

- 6.14. From the above, it is clear the company, no more requires the fuel tree area as per their inflated claims before the Land Board in 1974. They are converting more and more areas of fuel tree land into tea plantations. Unofficial estimates from the NRSA and CESS studies put the total area of tea plantation at around 28000 acres. When the product area increased, there is substantial reduction in fuel area which proves that either (1) the claims made in 1974 was for grabbing more land in the name of planting of fuel trees which was claimed as an 'ancillary' activity to the tea processing. Or (2) Tatas don't have the requirement of that much area of fuel trees for the processing of tea after the lapse of 40 years because of the improvements in technology especially the increase in efficiency of the boilers and the heat transfer equipments¹⁹. The calorific value of the fuel woods especially that of

¹⁹ Earlier hot air was circulated through ducts for drying tea and this resulted in over drying at the hot air inlets and under drying of tea at the outlet. Now, all the large scale tea manufacturers uses fluidized bed technology for drying, the heat transfer efficiency of which is very high and having better control over the process. The use of solar water heaters for pre-heating the feed water can also increase the efficiency and has reduced the consumption of fuel trees and thereby production of harmful gases. Tata tea company is not following the best practices in other companies since the Government has allotted vast expanse of land for cultivation of Eucalyptus Grandis which donot require any substantial investment.

Eucalyptus Grandis variety is more when compared with other fuel woods because of its high oil content. Several tea factories are switching to the practice of minimizing consumption of fuel trees and more cleaner fuel fired burners are being used. It is time the State has to direct the Tatas under the Pollution as well as water conservation laws to switch over to more cleaner LNG/LPG instead of burning the precious wood and generating high amount of pollution in the form of Carbon Monoxide, Carbon dioxide and other ozone depleting gases. The LNG from Petronet storage/Southern Gas grid could be extended to the KDH factories. Or the State could supply the fuel trees as it had allowed Grasim industries of Kozhikode in case of soft woods.

- 6.15. The Land Board has also justified its award by saying that fuel trees are also required for supplying charcoal for the 22000 workers and officers. In the application to the land board, they have claimed that there are 17000 permanent hands, 4000 temporary hands, 950 staff and managers (total 22000) and they have to supply charcoal according to their customary practice. In the advertisement released in newspapers on 25th February 2010, they have claimed that their staff strength is only less than 16000. The company may be directed to file returns of the fuel produced from the land, the daily consumption of the fuel in their factories and the daily allotment charcoal to their workers. It is suspected that *benamies* of some of the revenue, survey, forest and police officials who has interests in Munnar cultivates *Eucalyptus Grandis* in Government land and sell them at the end of 4-5 years. These type of trees donot require any substantial maintenance costs as in the case of any other crops. Such trees fetches around Rs.1 lakh per acre at the end of 4-5 years of growth. It is possible that the local officials of Tatas sell these grandis wood outside and make money on their own rather than using in their factories. A thorough investigation is required into the role of the company officials as well as Government officials including police, revenue and forest for the planting of grandis in the Kezhanthoor, marayoor and adjoining villages.
- 6.16. In short, the Tatas are proving again and again that they don't require this vast extent of land for planting fuel trees through the conversion of such land as tea plantations. In this scenario, Government can take back about 17000 acres of land from the company by suitably amending the KDH Act,1971 citing the changed circumstances and directing the company to switch over to cleaner fuels like CNG/LNG.

There is no justification to allot 17000 acres for conversion into resorts or tea by the Tata tea company. The State has to redeem the 16898 acres of land from Tatas immediately as they no longer requires this much extent of land for producing fuel trees. Such a move will also prevent ground water depletion caused by Eucalyptus Grandis. This is very essential from the angle of protection of environment of this precious land.

- 6.17. The land allotted by Land Board under the title '*areas under buildings, sites, roads, workers garden etc*' is 2617.69 acres. By Tatas own admission, the staff strength has been reduced by 6000 as on 2010. This is the reason why so many Bungalows and workers houses have become vacant and Tata is leasing them out to be used as resorts. Can a lessee can further sub-lease the properties of the Lesser? It is an implied condition of any agreement that the lessee should not use it for any purpose other than the agreed terms and conditions. This huge extent of land belonging to the people of Kerala has been leased to the company in the interests of the agrarian relations and to protect the interests of about 22000 workers and other staff. The company is required by the Act as well as by the award to undertake only tea plantation and purposes ancillary to that. Now the vacant buildings and land, which was disproportionately allotted to the company in 1974, is being rented out as resorts. It is suspected that more buildings have been leased to several others in this way. A thorough survey under the revenue department on the land, buildings will only reveal the real situation. The list of the Bungalows and the details of the notices issued by the Secretaries of Grama panachayaths are as follows;

Estate Bungalows sub-letted for resorts

Sl. No.	Name of Estate/Bungalow	Notice number & date	Issued authourity
1.	Kannimalai Bunglow, XI/1402	A-674/10 dtd. 29.01.2010	Secretary, Munnar Grama Panchayath
2.	Seven Malai Bunglow, VIII/426	A-674/10 dtd. 29.01.2010	Secretary, Munnar Grama Panchayath
3.	Parvathy Bunglow, VIII/680	A-674/10 dtd. 29.01.2010	Secretary, Munnar Grama Panchayath
4.	Kadalar Manager's Bunglow, XII/844	A-674/10 dtd. 09.02.2010	Secretary, Munnar Grama Panchayath

5.	Thenmala Assistants Manager's Bungalow, IX/1178	A-674/10 dtd. 09.02.2010	Secretary, Munnar Grama Panchayath
6.	Thenmala Assistant Manager Bungalow, XII/868	A-288/10 05.02.2010	Secretary, Devikulam Grama Panchayath
7.	Silentvalley Assistant Manger Bungalow, IV/01	A-288/10 05.02.2010	Secretary, Devikulam Grama Panchayath
8.	Aruvikkadu Assistant Manger Bungalow, IV/01	A-288/10 05.02.2010	Secretary, Devikulam Grama Panchayath
9.	Manager Bungalow, III/1240	A-288/10 05.02.2010	Secretary, Devikulam Grama Panchayath
10.	Nettikudy Bungalow, V/240	A-288/10 05.02.2010	Secretary, Devikulam Grama Panchayath
11.	Silentvalley Manager, Bungalow, IV/137	A-288/10 05.02.2010	Secretary, Devikulam Grama Panchayath
12.	Korandakkadu New, Bungalow, V/1081	A-288/10 05.02.2010	Secretary, Devikulam Grama Panchayath
13.	Mattupatty R&D Bungalow, III/1045	A-288/10 05.02.2010	Secretary, Devikulam Grama Panchayath
14.	Mattupatty R&D Bungalow, III/1060	A-288/10 05.02.2010	Secretary, Devikulam Grama Panchayath
15.	Mattupatty Packing Bungalow, III/780	A-288/10 05.02.2010	Secretary, Devikulam Grama Panchayath

Table 5.2

- 6.18. A scaled down version of the 1965 map of the Munnar Town available in the land Board files (again prepared by the Chief Engineer of the Tata Tea Company) is appended as Annexure-X. This is not the occupancy position/ land user of Munnar town in 2010. Tata has admitted in the news paper advertisements and interviews that they are sub-letting the buildings in their possession in Munnar town. Is sub-letting an activity ancillary to tea plantation? In any case , running a town is not ancillary operation of a tea plantation. Government shall enact laws to bring the administration of Munnar town under a Municipality or a development corporation in similar lines with GCDA or TRIDA immediately. The Government shall direct the KSEB to take over the distribution of electricity for the Munnar town. It will also be advisable to shift the RDO office and Taluk offices from Devikulam to Munnar to demonstrate, who is in control at Munnar.

- 6.19. The water bodies are assets of the people of this land. A Sovereign State cannot allow a private company to hold the water bodies as their own and construct dams without taking any permission from any of the arms of the Government. Unless such precious water bodies are taken back from the company, they will soon start commercial activities like tourisms, or bottling of drinking water and the State will have to remain as a mute spectator. The entire water bodies including streams and swamps which are sources of fresh water has to be redeemed and Tata may be allotted a definite proportion of the water for purposes ancillary to tea plantation in the interests of their workers either after levying charges or otherwise, as decided by this sovereign Government. A substantial portion of land restored as "area under streams and swamps of 2465.20 acres" to be resumed.
- 6.20. A study has to be conducted on the land interspersed within the estates, on the areas which are most essentially required for the protection, preservation and management of the tea plantation of the company. The Tata has allowed several resorts to use their estate roads and it is possible that they may be collecting user fees for this magnanimity. The trespassers wont encroach the land in the possession KDH Company and the company is smart enough to repel such moves. At least 2000 acres of interspersed land could be redeemed from the company as the restored 4500 acres is an inflated figure presented before the Land Board.
- 6.21. It is almost four decades and Tatas have done more damage to the Munnar, one of the most beautiful places in the world by violating the terms and conditions of the land board award. Their actions are against the spirit of the KDH Act. They have alienated several acres of land in the form of gift, lease and sale in order to gather support from the politicians and the officials. The State adopted the role of mute granny when her girl was being raped. The pertinent question is should the people of Kerala allow a monopolistic company and its henchmen to run a major town of Kerala defying the laws of the land?
- 6.22. Discussion on the Findings: The time has come for a relook into the obsolescence of the KDH (Resumption of Land) Act, 1971 enacted some four decades back and the partisan Land Board Award, which allotted very large extent of land against the spirit of the enabling Act. Time has come to relook into the land held by the company not only because they have excess land for purposes not ancillary to tea plantation as

provided u/s 4 but also because of the extensive damages done to the land belonging to the people of Kerala. Munnar is not a town like Jamshedpur built by Tatas. This is part of the most progressive State of India and wholly owned by the people of the State.

- 6.23. The situation existed in 1970s is not the prevailing situation in 2010. Munnar has a high place in tourism map of the State – the Gods own country. Land prices have shot up to lakhs. There are thousands of landless existing in this State, even after introduction of the Land Reforms Act in the very same year as 1971. On one hand, Government implemented the Land reforms Act in 1971 to abolish 'Jenmi- Kudiyan system' and distribute land to poor tenants. On the other hand, the KDH Act implemented in the same year, resulted in the illegal allotment of about 25000 acres of excess land to a monopolistic company, whose actions are have manifested to be that of a *Jenmi*, treating the dwellers of Munnar as Kudiyan. Time has come again to resume the excess land awarded to Tata Tea Company since the illegal land board award is no more relevant and the Lessee company is constantly violating the provisions of the enabling Act itself.
- 6.24. Government is negotiating with all potential investors for obtaining share in their companies in lieu of the freehold or lease rights given on land. Here the Government has parted with 58000 acres of land costing around several thousand crores and the Government is not a party to any of the decision taken by the company. The Government shall after resuming the excess land shall also demand for inclusion of revenue and forest secretaries to be included in the Board of Directors of the company so that the Government will be a party to the major decisions of the Board of the KDHP Company. As the lesser, Government has every right to demand at least 26% share in the newly formed company.
- 6.25. Conclusion: It is high time to introduce an amendment to the KDH (Resumption of Land) Act, 1971 to redeem the land which is retained by the Tata Tea company and which cannot be termed as land retained for purposes ancillary to tea plantations. The ancillary land to be restricted to less than 20% of the acreage of the tea plantations, i.e. around 5000 to 7000 acres, as in the case of all other tea plantations of Kerala. The land which has been illegally allotted to the Tata Tea Company are:

1. Area under Grazing	:	1220.77 acres
2. Area uncultivable	:	6393.59 acres
3. Area in excess due to use of Boilers and switching over to cleaner fuels	:	16893.91 acres
4. Area vacant because of the reduction of 6000 officers and staff	:	1250 acres
5. Area under streams & swamps	:	1000 acres
6. Area redeemable from interspersed land	:	2000 acres
TOTAL redeemable Land	:	28758.27 acres

Table 5.3

6.26. The company is claiming through their advertisements that they have formed the KDH Plantation company in 2005 to protect the interest of its workers and the Tata Group have very little share in it. It is also claimed that the Tata tea company director board consists of eminent personalities and they run several charitable initiatives. If the intentions of the company is genuine, then they should allow 26 % share holding in the company for the Government of Kerala, since they are have utilized about 58000 acres of the land and resources of this tiny state for the past several decades. If the company is not willing to induct Government of Kerala as a share holder, this provision shall also be included in the Amended Act.

CHAPTER VII

FINAL RECOMMENDATIONS

- 7.1. Shifting of Village Boundary: The evidences obtained during the verification studies of the Survey Vigilance team rule out the possibility of large scale tampering of village Boundary on Lakshmi Estate side of the KDH Village as it follows one untampered old stone (Subject to further verification) and the Ottappara GT Station; but a shift in village boundary by a few metres cannot be ruled out.
- 7.2. Location of Abad Resorts: As of now the evidences are substantiating that the Abad resorts is coming just outside the KDH Boundary in Pallivasal Village; the location is the same as that shown by the Geo referenced satellite image (Picture 41-42) and as per the location sketch prepared by Deputy Director of Survey, Idukki, Shri.Unni Krishnan (Annexure-XI). But due the limitations of the verification survey conducted by the Survey vigilance team as discussed in Chapter -III para-3.5 requires that further detailed verification is required in the matter. The evidences supporting the theory of shifting discussed in para 3.4 of this report also require further investigation. Only by conducting a detailed survey after refixing of the land parcels as per old survey records and also refixing the boundaries as well as comparison with other village boundaries, the exact position of Abad resorts can be found out.
- 7.3. Verification of resurvey records of KDH Village:
 - 7.3.1. The resurvey records are highly erroneous; The encroachments of Tata tea company has been regularized in the resurvey records. The department had certified that only 122 acres of land has been encroached by the Tata tea company or by any other persons without refixing the 70000 acres of Government land in Mankulam, Iravikulam and other blocks supposed to be in the custody of the Government. The area of 278.2368 Hectares or 687.55 Acres reported as shortage of the land board award area to the company was because of erroneously recording the estate roads as Government, road (Pothu vazhi). The resurvey records were prepared from 1996 to 2001 and this is not the land use position and holdings in 2010. Because of these reasons, the section 9(2) notification in force is to be cancelled immediately.

7.3.2. A fresh survey shall be ordered immediately for the KDH and adjoining villages and the Kerala Land Information Mission/Bhoomi Keralam Project may be entrusted to complete the survey in six months; The completion of the resurvey and finalization of land records through resurvey will only reveal the actual land use position as well as extent of encroachments by the tata tea company and others.

7.3.3. The Government of Kerala, scientific organization namely Centre for Earth Science Studies shall be directed to share the data they collected of their study and also to provide technical assistance and technical manpower to the Kerala Land Information Mission in hybrid methodology for resurvey of the KDH village.

7.3.4. The survey officials responsible for misrepresenting facts and figures of the resurvey and put the Government and the people in an embarrassing position by hiding facts and reporting that Tata Tea company is in short of 278.2389 hectares shall be immediately suspended from service as their continuance will lead to missing of more vital records needed for the resurvey, if ordered by the Government.

7.4. Real issues of Munnar:

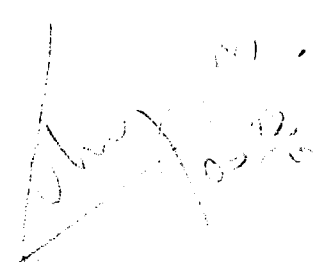
7.4.1. I may take this opportunity to highlight that the real issues of Munnar is not the check dam construction and shifting of village boundary; but the vested interests have succeeded in drawing attention of the State Government and the District administration to focus only on these two issues ignoring larger problems such as massive encroachments through bogus pattayams of valuable Government land in all the villages surrounding munnar and the illegal land transactions by the land mafia.

7.4.2. The illegal cultivation of Eucalyptus Grandis by *benamies* of the officials and politicians are doing more ecological damage to Munnar. It is necessary to draw out a programme to phase out Grandis cultivation and undertake afforestation in such land.

7.4.3. Time has come to reopen the KDH (Resumption of Land) Act, 1971 for reasons mentioned in chapter V of this enquiry report, most importantly, the obsolete Land Board Award, which violated the basic spirit of the enabling Act through the allotment of excess land to the Tata Tea company and the blatant misuse / infringement of terms and conditions of the award/Act by the said company. Since

the company has advertised that the Tata group has relinquished its major interests in the newly formed company, it is suggested that the Group Chairman, Shri.Ratan Tata may be called for a negotiation before amending the KDH(Resumption of Land) act, 1971, a step which could absolve many legal issues later, for the following purposes;

- 7.4.3.1. To part with about 28000 acres of excess land held by the company in the name of activities ancillary to tea plantation and
- 7.4.3.2. To reconstitute the Board of Directors of the newly formed KDHP company to induct Government nominees so that the Government is kept abreast with the day-to-day decisions of the Board.


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