TAMIL NADU OCCUPANTS OF KUDIYIRUPPU (CONFERMENT OF OWNERSHIP) ACT, 1971

INTRODUCTION

A system called as Pannaiyal System was in vogue in the country. This system comprised the nature of bonded labour wherein the farm servants' along with the family who had been serving the indebted land owner for generations were living in the house sites (Kudiyuruppu) provided by the land owner. Dismissal of a Pannaiyal from service would result in the eviction of the entire family leaving them homeless. To eliminate homelessness and protect the cultivating tenant or farm servant from eviction, the government enacted **The Madras Occupants of Kudiyiruppu (Protection from Eviction) Act, 1961**. This was a temporary measure for the period of 3 years. This act was replaced by the **Tamil Nadu Occupants of Kudiyuruppu (Conferment of Ownership) Act,1971** which conferred ownership on the occupants of Kudiyiruppu.

As a further measure of land reform, the Government decided that agriculturists and agricultural labourers occupying any Kudiyiruppu should be conferred ownership rights in respect of such Kudiyiruppu. Compensation is proposed to be given for such property and as it may not be possible for the agriculturists who are very poor to pay in a lump sum, the compensation to the landowners or other persons interested, the Government took over the liability to pay the compensation. But, the agriculturists or agricultural labourers should reimburse the
Government the amount paid by the Government as compensation. The object is to give economic security to the agriculturists and thus create conditions for the growth of the agricultural economy and production.

OBJECTS:

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❖ The object of this legislation is to give a large number of agriculturists and agricultural labourers in the state, economic security.

❖ As this act was to confer ownership rights of the property, the government undertook to make the payment of the compensation of such lands. The agricultural labourers should in turn reimburse the government. Such reimbursement may be made in instalments or any other manner prescribed by the rules.

❖ These objectives and reasons were envisioned to create conditions that will orderly growth of the agricultural economy and increase agricultural production.

SALIENT OF THE TAMIL NADU OCCUPANTS OF THE KUDIYIRUPPU (CONFERMENT OF OWNERSHIP) ACT, 1971:

This act received the assent of the president on 20th December 1971 and was published in Part IV of the Tamil Nadu Government Gazette on 27th December 1971. This act consists of 27 sections and one schedule. It was subsequently amended in the years 1974, 1976, 1986 and 1990. The homesteads are assigned free from all encumbrances.

The preamble of the act confers ownership rights on the occupants of Kudiyiruppu in the state of Tamil Nadu.

This act is applicable to any agriculturalist or agricultural labourer occupying any kudiyiruppu as tenant in the state of Tamil Nadu.

DEFINITIONS

It is necessary to consider the definitions given under **Section 2**. The act has defined agricultural labourer as the person whom principal means of livelihood is the income he get as wages for his manual labour on agricultural land.

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- **Section 2 (1) "agricultural labourer"** means a person whose principal means of livelihood is the income he gets as wages for his manual labour on agricultural land but does not include a plantation labour;
- **Section 2 (2**) **"agricultural land"** means any land used for horticulture, the raising of crops, grass or garden produce, grazing, raising of manure crops, dairy farming, poultry farming, livestock breeding, growing of trees, any forest land, pasture land, orchard and tope; but does not include plantation or land held for ancillary purposes of plantation or house-site or land used exclusively for non-agricultural purposes.
- **Section 2 (3) "agriculturist"** means a person who cultivates agricultural land by the contribution of his own manual labour or of any of his family member
- **Section 2(8)** of the Act defines "**Kudiyiruppu"** as
  1) Kudiyiruppu is merely the site of any dwelling house or hut and it
     includes adjacent areas also
  2) It is occupied by an agriculturalist or agricultural labourer.
  3) He occupies it in the capacity of tenant or licensee
  4) He must be a tenant under the tenancy agreement.

In **Umapathi vs. the Additional Collector Appellate Authority, Thanjavur**, it was held that in the absence of these essentials, the authorities have no jurisdiction to grant Patta. By laying down the various definitions in an elaborate manner, the act has enabled better understanding and eliminates various conflicts.

- **Section 2 (11) "tenant"** means any person who has paid or has agreed to pay rent or other consideration for his being allowed by another to enjoy the land of the latter under a tenancy agreement, express or implied, and includes his heirs and legal representatives.

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CONFERMENT OF OWNERSHIP

According to **section 3** of the act, the agriculturalist or agricultural labour occupying kudiyiruppu on 1st April 1990 shall be the owner of Kudiyiruppu and vest absolutely free from all encumbrances. An exception to **section 3** is that in case where the agricultural labourer already has a dwelling house cannot claim any benefits under **section 3**.

In **Rasu Pillai v Additional Tahsildar (Kudiyiruppu)**, it was held that if the demise is both of the site and superstructure as a single unit, the matter could not be brought within the purview of the act.

If the authorized officer is satisfied that the vesting of the existing Kudiyiruppu would cause inconvenience to the owner then the owner may be permitted to provide any alternative site under Section 3 A. The alternative site will be provided on the same land or in any other land already owned by the owner.

The authorized officer will pass necessary orders permitting the owner of the land to provide an alternative site subject to the following conditions:

1) It shall be fit for the erection of the dwelling house.
2) It extent shall not be less than the existing Kudiyiruppu subject to the minimum of 3 cents.

Under **Section 3 B**, the authorized officer has the power to decide the disputes regarding:

1) Whether the person is an agriculturist or agricultural labourer?
2) Whether the land is a agricultural land?
3) Whether the site is a Kudiyiruppu and
4) Whether any adjacent area is necessary for quite enjoyment of dwelling house or hut?

Aggrieved by the order of the authorized officer, one shall appeal to the District Collector within 90 days. On sufficient cause, the appellate authority can condone the delay in filing

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the appeal. In order to carry out the duty under the act, the authorized officer has the power of the civil court while carrying out our enquiry.

In **R.Veerapan v Shanmugavelu**, it was held that the questions to be determined under **section 3-B** are within the exclusive jurisdiction of the authorized officer and not with the civil court.

COMPENSATION

Sections 6 to 10, 13 and 14 deal with the matters relating to compensation. Every person having interest in any vested Kudiyiruppu or superstructure shall be entitled to receive compensation. After hearing the occupant and the owner of the Kudiyiruppu and all persons interested, the authorized officer shall decide the determination of compensation in accordance with the two clauses in the schedule, one with respect to Kudiyiruppu and the other with respect to the superstructure and thereafter publish the order in the District Gazette. If any person is aggrieved by the order of the authorized officer, then an appeal can be made to the court within the prescribed time. There lies a right of second appeal to the **High Court** from the order of that court that too when the compensation fixed exceeds Rs.10,000/-

In the case of several persons claiming compensation, the authorized officer will determine who is/ entitled to receive compensation and will also determine the quantum payable to each person. In case of a dispute regarding the apportionment of compensation or as to the persons, then the authorized officer will refer the dispute to the court. **Section 14** of the act deals with the liability of the occupant who has become the owner of Kudiyiruppu by reimbursing the government, the compensation paid by it.

The compensation paid to the owner shall be recovered by the government from the occupant on whom the ownership is conferred in 15 equal monthly instalments.

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TRANSFER OF TITLE AND NOTICE OF SUCH TRANSFER

Section 15 of the act imposes a duty upon the transferor and transferee to give notice of the transfer of title over the property. If he fails to give the notice, then he should continue to make payment in respect of kudiyiruppu till he gives notice to the authorized officer.

PROHIBITION ON ALIENATION OF KUDIYIRUPPU OR SUPERSTRUCTURE

The newly inserted **section 15 A**, prohibits sale, mortgage, lease or other alienations by the occupant of Kudiyiruppu for the period of ten years from the date of commencement of the act. Further, the authorized officer is empowered to declare such alienation as null and void or illegal and to take possession of such Kudiyiruppu.

ACQUISITION OF LAND FOR COMMON PURPOSES

The Government is empowered to acquire the land that is used by the occupants of Kudiyiruppu for a common purpose. The compensation of such lands was to be paid by the government.

BAR OF JURISDICTION OF CIVIL COURTS

Under **section 23**, the jurisdiction of civil court has been taken away in matters where the government or authorized officer has the power to determine any issue. In case of any breach of the provisions of this enactment, there are penal provisions for fine and prosecutions of the offence committed. Even in respect of any prosecution, there is a protection provided in the enactment itself, if the action is in good faith.

In Kalyansundaram Udayar v Pazhaniappa Udayar, it was held that in respect of disputes referred under

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Section 4, the authorized officer alone is entitled to decide and civil court jurisdiction is ousted.

CONCLUSION

The government while providing compensation has reduced the burden on the agriculturist or agricultural labourers. Also, by ousting the jurisdiction of the civil court, the burden of the court has been reduced. However, by providing the provision for a second appeal, the required checks and balances have been established.

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