CHAPTER - III

TENURE SYSTEMS IN KERALA

"Kerala is one of the few areas of India where, for a long time, the relationship between landlords and those who functioned under them resembled that prevalent under feudalism in Europe."

- Varghese, T.C.

Agrarian Change and Economic Consequences.

3.1.0 Kerala - General Features

3.1.1 Kerala situated at the southern tip of the Indian peninsula had been isolated to a considerable extent from the vicissitudes of cultural and political changes that transformed social values elsewhere. No other part of India presents such a bewildering variety of land tenures as Kerala. "They are almost unique in respect of their complexity and multiplicity of incidence." According to Dr. P.J. Thomas, the narrow strip

of country between Gokarnam and Cape Comarin presents nearly all the characteristics of a separate economic system.  

3.1.2 The state of Kerala was carved out of political units each of which had separate identity, namely, the princely states of Travancore and Cochin and Malabar District of British India. The following observation from Maclean's Manual of Administration on Madras Presidency is instructive. 'The characteristic of whole of Kerala was the presence of a slightly developed personal and individual land property, the absence of a Government tax on land, the absence of concentrated village system such as obtained in the Carnatic and the existence of a military tenure similar to the feudal systems of Europe.' Before unification, Travancore, Cochin and Malabar possessed strongly contrasted agrarian structures because of the difference in political status. There existed a variety of land tenure arrangements. By land tenure, we mean all those arrangements by which farmers or others hold or control land and which condition its use and occupancy. Malabar became an area of absentee landlordism and remained so upto the end of the 19th century as a result of the British policy of conferring ownership on superior right holders. Travancore pursued an independent land policy as a native state. In 1865, its ruler, through a major land reform policy, distributed state land representing 2/3 of the area to small owners.

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and thereby established a system of peasant proprietorship. Cochin had a mixed system including peasant proprietorship and absentee landlordism.

3.1.3 In this chapter, an attempt is made to list and explain the most common tenures of Kerala. Though the tenures which existed in the erstwhile princely states of Travancore, Cochin and British Malabar, prior to the unification of State on linguistic basis, had many common characteristics, they differed from one another in details and in many local peculiarities. The following paragraphs analyse the most common tenure systems in Travancore, Cochin and Malabar.

3.2.0 Prior to Land Reform

3.2.1 Travancore

Travancore formed an irregular triangle with its apex Cape Comerin between 8°4' and 10°22' north latitude and between 76°13' and 77°38' east latitude and had an area of 7,625 sq. Miles. It occupied in area the 19th place among the Indian princely States and in population the third place. The Western Ghats formed a continuous mountain chain of varying altitude from North to South, isolating Travancore from the Madras Presidency on the East. It is bounded on the North by the State of Cochin and the British District of Coimbatore. Land was the most priced species of wealth in Travancore. The recorded total
area in 1936 (1112 HE) was 48,80,000 acres. The total area under occupation was 25,47,682 acres of which 5,98,896 acres were wet land and rest dry or garden lands.

Nowhere else in India had the sub-division of land been carried to such an extent as in Travancore. The distribution of land as it existed was mainly the result of social customs, laws of inheritance and the legislative enactments made from time to time. According to the returns of the Economic Census, the area cultivated was 16,50,000 acres and the number of cultivators numbered 62,98,887. In short, 38 per cent of the holdings were below the size of one acre. Between 2/3 and 1/2 of the numbers were less than 40 cents and nearly 2/3 were more than 60 cents of the total number of holdings, more than 87 per cent were below 5 acres and as such 95 per cent were below 10 acres.

The tenure system that existed here can be grouped under three heads. (1) Pandaravaka, (2) Jenmom land and (3) Others. (Annexure - 1)

3.2.1.1 Pandaravaka Lands

Pandaravaka lands were also known as Sirkar lands. This formed more than 75 per cent of the total area, while, in Cochin it constituted only one half of the cultivated area. Sirkar tenure represents lands in respect of which the Sirkar is in the position of the landlord. "This may be said to correspond
directly to the ryotwari system in British India. Sirkar lands originally belonged to the Jammies, but in course of time they came to be vested in the Government by conquest, escheat, accretions by the action of rivers and sea etc. Most of the tenures that arose on this land had their origin in bygone times when the country was split up into petty chiefdoms and when rights and objectives affecting land were created in numerous ways. The Travancore Settlement Report (1911) recorded 177 tenures under wet lands and 135 under garden lands. In case of pandaravaka lands, the tax due to the Sirkar was called pattam (rent) and it represented the share of the produce of the land which the Sirkar was entitled to. They were also subject to different rates of assessment varying from full assessment to absolute exemption from assessment. This peculiarity was due to historical, political and other causes.

The main tenures under Sirkar Lands were,

a) Pandarapattam,
b) Inam,
c) Viruthy,
d) Thiruppuvarom,
e) Special Tenures.

3.2.1.1.0 Pandarapattam

Pandarapattam was originally in the nature of a lease without any proprietary or transferable rights. Only this type

of lands were assessed at the full rate while the other tenures were treated as privilege tenures having partial assessment.

3.2.1.1.1 Inam

The term 'Inam' in the genuine sense was applied to all lands whether entire villages or detached pieces of lands held either entirely free of assessment or on favourable quit rent. They were grant of land made by ruling Princes or great Jammers either for some service rendered or to be rendered as a mark of Royal favour. Inams were of two kinds - those granted for performance of special services or Service Inams and those granted for the support of individuals or families or Personal Inams. Service Inams were alienable and heritable while Personal Inams were both alienable and heritable. Some personal Inams were rent free. Inams comprised of 'Adima', 'Anubhogan', 'Thiruvallam', 'Thiruvadayalam' etc. An Inam granted by a high caste man to a low caste man was called 'Adima' and that made to a man of the same caste 'Anubhogan'. Grants made by Sirkar to Jammen and others were known as 'Thiruvallam' and 'Thiruvadayalam'.

The following were some of the Inams that existed in the State:

1) 'Anubhoga Viruthi'

These are lands given to the Kudiyans bearing small rent or tax for their maintenance for no service of any description but simply as gift to the goodwill of the kind.
2) 'Manibham'

Manibham were lands granted to those persons who rendered good services to the state.

3) 'Arthamanibham'

Arthamanibham included Inam lands bearing half pattam only, the other half being remitted as compensation for services rendered.

4) 'Gurudakshina' were gifts offered in kinds to Gurus as rewards for educating the Royal youths.

5) 'Danepramanam' were lands given to Brahmins by Rajas and Barons for securing spiritual benefit. Kudiyirippu, Kudijenmom, Rakshabhogam, etc., are still others.

3.2.1.2 Viruthi

Viruthi though analogous to service inams were treated differently owing to certain peculiarities in their origin and incidence. These were service grants to which were attached certain obligations in the shape of personal labour and supply of provisions. 'Jeevitham' found in ancient records may be considered as a Viruthi. These tenures had permanency so long as the holder rendered services regularly. It was heritable too.

3.2.1.1.3 "Thiruppuvarom" was the assignment in favour of a third party of a specific portion of revenue payable to the Government by the holder of a specific land. "The Thiruppu holder collects the 'Varom' direct from the holder of land on which it was charged. In case of default, payment was enforced by a Civil Suit."

3.2.1.1.4 'Special Tenures'

Special tenures were tenures in the nature of Inam which received special treatment and were charged special rates of assessment. 'Karathil Chilavu' was yet another tenure which was in effect an assignment of the whole or of a specific portion of the revenue due on land, generally in favour of its holder. As in 'Thiruppuvarom', no definite policy was laid down in regard to it.

3.2.1.1.5 Puramboke lands, Tharisu lands, 'Thanathuchitta' lands, 'Kanippat' lands etc., were also lands owned by Sirkar. Puramboke lands were lands which were used, required or reserved for public purpose or for the communal use of villagers. 'Tharisu lands' were waste lands at the disposal of the Government and were available for registry. These were surveyed, but assessed

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or unassessed. 'Thanathuchitta' lands were surveyed and assessed lands occupied by Palaces and temples and Government Institutions. They were virtually Government lands and the Sirkar was treated as 'Pattadar' though no 'Pattam' was issued. They too were later treated as puramboke lands. Unlike in other districts, a special group of lands known as 'Kani Tharissu' was seen in Trivandrum. These were termed as 'Kanippat' lands. These were found in the hilly tracts which were inhabited only by the Hill tribe known as Kanikkar.

3.2.1.1.6 'Oodukur' was a peculiar system of right found in the Neyyatinkara Taluk of Trivandrum District. It prevailed in almost all classes of lands such as 'Sreepadam', 'Sree Pandaravaka' and 'Kandukrishi'. Under this, garden lands and trees thereon were held by different proposition without any division of the area. The produce was taken in common and shared in various propositions. The pattas were issued as 'Oodukur' pattas. 'Oodukur' enjoyment paved the way for unnecessary and wasteful litigations.

3.2.1.2 Janmom Lands

The 'Janmom' lands comprised 1/5 of the total area. The origins of Janmom rights is still shrouded in obscurity. Whatever be the origin of Janmom lands, it is evident that Janmom lands were regarded as the absolute private property of the owner.
Recent research has proved that bulk of land in Kerala was in the hands of non-brahmins, the Pulayas, Edayas and Ulladas till the 12th century A.D. As the author of the Cochin State Manual observes, "the probabilities therefore are that the brahmins never enjoyed proprietary right over more than a minor portion of the land and that they obtained this right not by divine favour but more prosaically by gifts, purchase or usurpation from immigrants who settled in the country long before them." Professor Elamkulam Kunjan Pillai too has opined similarly.

3.2.1.2.0 The essential difference between a Roman dominus and a Malayalee Janmi was unfortunately not perceived and not understood at the commencement of the British administration. The Janmi, had by the action of civil courts, been virtually converted into a dominus and the result on the workers and cultivators had been and is very deplorable. The peculiarities of Janmam tenure were (i) freedom from taxation, (ii) the above feature ceases the moment the land passes into the hands of others than devaswon or brahmin Janmies for money consideration provided the mere letting out of the lands to a tenant for rent does not vitiate the tenure, (iii) on such alienation, lands become liable to a light tax to Government called Rajabhogam.

(iv) the light assessment continues for ever even though the Kanom is redeemed, (v) if the Kanomdar dies heirless the land lapses to the Sirkar, Janmi entitled only to michavaram, (vi) if the Kanomdar abandons the land as unfit for cultivation, Sirkar takes it and grants it to anybody who asks for it on full assessment.

3.2.1.2.1 Janmam lands were of three kinds:–

a) 'Adhikara Ozhivu' and 'Desa Ozhivu' lands,

b) Devaswam and Brahaswam land,

c) Madampimaryaka land.

3.2.1.2.1.1 'Adhikara Ozhivu' and 'Desa Ozhivu' lands

Lands that were entirely 'freehold' and exempted from payment of any kind of tax to the government under any circumstances came under this category.

3.2.1.2.1.2 Devaswam and Brahaswam Land

Lands originally exempted from payment of tax but subsequently become liable to it under certain conditions belonged to this section.

3.2.1.2.1.3 Madampimaryaka Lands

These were lands that paid 'Rajabhogam' or a light tax from the very beginning.
3.2.1.2.2 The payments made by the Kudiyans to the Janmi could be grouped under three heads - Annual, Occasional and Once in twelve years. The annual payments consisted of 'Michavaram' and 'Onakazcha'. Occasional payments were made on various ceremonial occasions such as 'Chorunu', 'Upansayanam', etc. The tenant paid 'Kalasavari' - fee for conducting purificatory ceremonies in the temples - when the Janmi happened to be a Devaswam. The periodical fee was renewable once in twelve years.

3.2.1.2.3 The Jennies created a variety of subordinate tenures under them from a simple lease to outright sale. They were

   a) Kanom,
   b) Verumpattam,
   c) Pattam and Kuzhikanom, and
   d) Otti.

3.2.1.2.3.1 'Kanom'

   The most important subordinate tenure that the Janmi created was the Kanapattam tenure. It was a combination of lease and mortgage. It was periodically renewable on payment of a certain percentage of mortgage amount. The Kudiyavan enjoyed the usufructs of the property demised, reserved a portion of it in lieu of interest on his artham, paid another portion as net of residual rent to the Janmi, paid Sirkar assessment if any and paid renewal fees and the produce of the land. Besides
the renewal fees, Kanomdar had to pay to their landlords some perquisites on ceremonial occasions in the Janmies family which were known as the 'Aradiantharam' (6 ceremonies - Chorunu, Upa-
nayanam, Samavarthanam, Veli, Pindam and Hasan). The document showing this type of tenure were found originally in North Travancore by the names of 'Patta', 'Ola', 'Ulavupattam', 'Ulavu Ola', 'Ubdhayapattam' etc., and in south Travancore by the name of Marayapattam. In short, "Kanapattam arose out of contracts pure and simple between the Janmi and Kudiyan i.e., Janmi borrow-
ing money from the Kudiyan on the agreement to execute a Kanapattam."8

3.2.1.2.3.2 'Verumpattam'

Verumpattam was a simple lease without any debt or money consideration entering into the transaction. This was of two kinds, (i) where the rent was a fixed quantity of grain or money, and (ii) where the proprietor and the cultivator engages to divide the produce of the land in certain fixed proportions at the time of the harvest. This was the most widely prevalent tenure, and it was into this that all other tenures in Travancore tended to merge. These lands were liable to full assessment. The tenants had heritable and transferable rights. Till 1040 ME., they had power only to transfer their 'Nadevukar' right. The compensation was generally ¼ of the 'Kandapattam'. But later

'Nadavukar' was abolished with the view to simplify the accounts and remove one source of oppression to the right holders.

3.2.1.2.3.3 'Pattam' and Kushikanom

These resemble Verumpattam, but they conferred on the tenant the right to make improvements on the land for which he was entitled to receive compensation on the expiry of his tenure.

3.2.1.2.3.1 Pattams were of many kinds. Main among them were,

i) Sunchaya pattam,
ii) Durghasu pattam,
iii) Vettolivu pattam,
iv) Karikku pattam,
v) Vilakku pattam,
vi) Nadu pattam.

3.2.1.2.3.1.1 Sunchaya pattam

All escheated viruthi holdings and those of incompetent viruthikar were leased out under this tenure on a higher pattam till another was appointed. Lands that could not be permanently leased out or where tenure could not easily be settled were treated under this. But the holders remain as mere tenants-at-will.

3.2.1.2.3.1.2 Durghasu Pattam

It comprised viruthi lands leased out at a lower pattam for a specified or unspecified period. The period may last upto
10 years. This applied only to wet lands. In case of garden land, they were given on Kandapatum and it was higher than Ayacut pattam or on pattam obtained in the locality. If neither condition were satisfied, gardens were let out to the highest bidder.

3.2.1.2.3.3.1.3 Vettolivu Pattam

This tenure was common to Sirkar as well as Janmoe lands. The sirkar used to make a deduction equal to the interest on the amount spent for bringing the waste land under cultivation. In case of Janmoe lands, Janmi could redeem them on payment of the amount spent on improvements.

3.2.1.2.3.3.1.4 Karikku Pattam

This included waste lands interrupted by Channel beds, and valleys overgrown with shrubs leased out for cultivation. One-fourth of the assessment was deducted for cultivator's trouble and the rest three-fourth formed the Government demand.

3.2.1.2.3.3.1.5 Vilakku Pattam

It included such lands as were assessed to Sirkar as pattam lands but were formerly given for the maintenance of lights in some temples.
3.2.1.2.3.3.1.6 **Nadu Pattam**

Nadupattam included such temporary leases to third persons of escheated properties pending enquiries into the rights of claimants, if any.

'Nateduppu Pattam', 'Viruthi', 'Nerpathi Pattam', 'Thorpatam' etc. were some of the other varieties of pattam tenure.

3.2.1.2.3.4 **'Otti'**

The lands under Otti unlike those of the Verumpattam tenure means an usufructuary mortgage. In this transaction, the Janmi borrows some amount on the security of his land and the property is left with the Kudiyan for engagement of its produce as interest for the amount. 'Otti' transactions were of many kinds. Creation of a second mortgage by a Janmi with power to redeem the previous mortgage by paying the 'Otti' amount was termed 'Melotti'. A transaction executed by the mortgager for any additional sum advanced to the mortgager after the first 'Otti' was known by the name 'Purakkadam Chora Otti' or 'Mita Otti', and secure high consideration as possible as outright sales were considered derogatory. Under 'Kayyoru Pathi', the 'Ottikaran' takes on lease on condition of his being entitled to $\frac{1}{2}$ of the cost of trees reared by him and the other half to the Janmi. 'Chittotti', 'Olavotti', 'Michavara Otti', 'Attotti' etc., were also some of the variants of 'Otti' tenure.
3.2.13 The following were the other important tenures which occupied a position different from 'Janmom' and 'Pandaravaka'.

1) 'Edavaka'
2) 'Sree Pandaravaka'
3) 'Sree Padmvaka', and
4) 'Kandukrishi'.

3.2.13.1 Edavaka

Closely allied to Janmom lands was the tenure called 'Edavakas'. It meant "any tract or area recognised as such in Government accounts, the whole or any portion of which is exempt from the payment of land revenue to Government." There were four such 'Edavakas' (free hold estate) - Edappally, Poonjar, Vanjipuzha and Kilimanoor. The landlords of these Edavakas were called Chiefs. It comprised about 1.23 lakh acres. The Edavaka Chiefs bore some resemblance to the Zamins in other parts of India as they were the absolute proprietors. These lands could be included under 'Karamoshive' lands; i.e., lands other than Janmom which are tax-free.

3.2.13.2 Sree Pandaravaka Lands

These belonged to the temple of Sree Padmanabha Swami, Trivandrum. It came to about 12,360 acres. These lands were

subject to 'Rajabhogam' in addition to the rents. The revenue demand for these lands was not included in the State revenue but was kept separately and managed by the temple authorities. These lands were formerly in the possession of 'Hatathil Pillamar' who paid the michavaram to the temple. Subsequently, they had been resumed and given to ryots. Of these, some were given as 'Anubhogam' to persons attached to or connected with the temple but the greater portion was given to the Kudiyans on high 'Pattam' bearing also a 'Rajabhogam' of 1/8 of the 'Pattam'.

3.2.1.3.3 Sreepadamvaka Lands

These belonged to the female members of the Vanadu Royal Family and it comprised about 14,600 acres. Originally, the Rani of Attingal had the right to appropriate revenue but later it went to a Trust under the control of Maharaja of Travancore. The female members were given annual sums of money according to a proportion. These lands were found in parts of Thovala, Kalkulam, Vilavancode, Neyyattinkara, Trivandrum, Nedumangad and Chirayankil Taluks. 'Sreepadam' tenures constituted 'Sreepadam Pattam', 'Sreepadam Thanathu', 'Sreepadam Irayili' etc.

3.2.1.3.4 Kandukrishi Lands

These lands were the 'Stamam' properties of the Travancore Maharaja, i.e., home farms of the sovereign. The total extent of this land came to 19,400 acres. The lands were situated
in ten taluks of Travancore - viz., Trivandrum, Chirayankil, Nedumangad, Neyyattinkara, Kalkulam, Kottayam, Agastheeswaram, Ampalapuzha, Ettumanoor, and Changanacherry. They fall under four tenures viz., Kandukrishi, Thanathu, Kandukrishipattam and Karamoshivu. The ryots neither had the property nor the transferable rights. They were no more than tenants-at-will. They could not even sell the occupancy right or transfer it without the previous consent of the Sirkar. As a matter of fact, Sirkar never interfered with their occupancy. The rent was fixed and payable in grain.

3.2.2.0 Cochin

3.2.2.1 Broadly speaking, the tenure in the Cochin area fell in the same groupings as in the Travancore area. But there were some tenures which carried different rights and had different incidence.

3.2.2.2 For settlement purposes, the tenure system of Cochin was broadly classified under two heads:

i) Pandaravaka and

ii) Puravaka.

3.2.2.2.1 Pandaravaka

It is synonymous with the Pandaravaka lands of Travancore. The state had the Jamnom or proprietary right over them. These were held by ryots directly under the government. Of the
assigned lands, Pandaravaka lands comprised 42 per cent.

3.2.2.2.2 Pandaravaka

Pandaravaka lands were held by tenants under private Janmies, i.e., private persons had the right of ownership. It is synonymous with the farmers land of Malabar. 'Pandaravaka' lands accounted for 58 per cent of the assigned lands.

3.2.2.3.0 The major types of tenures under Pandaravaka were,

   i) Kanam,
   ii) Verumpattam,
   iii) Inam.

3.2.2.3.1 Kanam

The Pandaravaka lands comprised of 42 per cent of the assigned lands of which 'Verumpattam' accounted for 36 per cent and 'Kanam' for 6 per cent. 'Kanam' tenure was the same as that of Kanapattam of Travancore. Unlike in Travancore, here there was uniformity in the amount deducted from the Kanam amount. It was fixed at 5 per cent. 'Kanam' was a liability created by the Sirkar, in most cases as a reward to services rendered. These were called 'Pandaravaka Kanam' lands. "In practice, a rent was fixed for the land given over on these tenures and from this the amount fixed as interest was deducted. To the balance of rent or 'Michavaram' 'Pandaravaka' rates are added and resulting
amount, formed the State demand. A further condition was that
once in 12 years properties should be subjected to 'Policheshuthu'
or renewal of the lease at which tenant should pay a renewal
fee or 'Policheshuthu Avakasam'.

Later, Jennies began to create 'Kanam' tenure. 'Ubhaya
Pattam' another variant of 'Kanam' was a lease in which the land-
lord received a deposit of money or grant as security or loan
from the tenant. The net produce after deducting the cost of
seed and cultivation was to be shared equally between landlord
and tenant and from the farmers share, tenant was entitled to
deduct the interest on 'Kanam' amount. The amount payable to
'Janmi' after these deductions was claimed 'Michavaram'. If,
on the contrary, the interest exhausts the 'Janmi's' share of
the produce the tenure was termed 'Merkanam', or 'Herpalisa'.
As 'Kanam' assumed more the nature of a mortgage than that of a
lease in later days, 'Fanayam', a simple mortgage with or with-
out possession originated. It did not ensure enjoyment for a
specified period or for compensation for improvements. 'Otti'
also, had the same features of 'Kanam'.

3.2.2.3.2 Verumpattam

The 'Verumpattam' of Cochin was the same as that of the
Verumpattam of Travancore. The state raised large sums of money
from the 'Verumpattam' tenants. If no period was specified.

'Verumpattam' was a lease for one year. Customarily, tenant was entitled to 1/3 of the net produce and the landlord 2/3. But in most cases it was not so. Tenants were allowed to continue in undisturbed possession as long as they paid the stipulated rent. In short, they enjoyed permanent occupancy rights. They were entitled to compensation for improvements. Yet another lease which was a modification or evolution of 'Verumpattam' was 'Kushikanam'. Rents paid by 'Kanam' tenants were far lower than those paid by 'Verumpattam' tenants. "... but in case of 'Verumpattam' tenants, in many cases the tenant's share is less now, in varying degrees, than a third of the net produce and in some, it is hardly more than the bare cost of the seed for cultivation; the tenants in such cases being practically labourers on subsistence wages."\(^{11}\)

3.2.2.3.3 **Inams**

'Inam' in Cochin were also similar to the type found in Travancore. 'Inam' or 'Anubhogam' was a grant of land made either as a gift or in return for certain services. It was not a mere grant in lieu of wages, as long as the grantees were willing and able to perform those services, the grantor was powerless to revoke the main tenure, whether the services were actually performed or not. There were two kinds of Inams -- viz., (i) Personal Inams, and (ii) Service Inams.

3.2.2.3.3.1 Personal Inams were again divided into (a) Absolute and (b) Conditional Inams.

3.2.2.3.3.1.1 **Absolute Personal Inam**

The grantor of an absolute personal inam transfers his proprietary rights over the holding completely in favour of the grantee. They should not be interfered by revenue officers. The lands stood in the same position as the non-inam lands (i.e., 'Pandaravaka Verumpattam', 'Pandaravaka Kanam', and 'Puravaka' lands) in respect of succession, sub-division transfer etc. The 'Inamdar' of a conditional personal inam held the land subject to certain conditions — "Limitation of successors to direct lineal heirs in accordance with the law of inheritance in force, lapse of the grants of failure of such heirs, strict prohibition of alienation, non-recognition of adoption except when it is made under the authority of Theetooran granted." In short, they are inalienable but could be bequeathed to legal heirs.

3.2.2.3.3.1.2 **Service Inam**

Service Inams were those conferred on the holders for services to be rendered in religious and charitable institutions. They were known by different names according to the caste of the grantors. The grant made to a brahmin ('Santhali

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13. Ibid., p.58.
Brahmaswam'), those to a non-brahmin equal or superior to the grantor ('Anubhogam' or 'Sarvotham') etc. Where the grantee was a person of inferior caste, the grant was called 'Adima' or 'Kudima'. The particulars of the service to be rendered were clearly set forth in the title-deeds for the Inams. It was the duty of the 'Divan Peishkar' and his assistants to see that Inams were not enjoyed without the conditions of the grant being fulfilled.

3.2.2.3.4 Besides the above mentioned categories of tenures there were puramboke lands, charis lands, kole lands and Devaswam lands.

3.2.3.0 Malabar

Malabar, one of the two districts of the Madras Presidency situated on the west coast of India lies between N.L. 10°15' and 12°18' and E.L. 75°15'. It is bounded on the north by South Canara and on the south by the Cochin State.

3.2.3.1 The first thing to be observed in Malabar was the extent to which private right of property was recognised. In Major Walker's Report, after noting that the Janmi possessed the entire right on the soil, it is stated "This much is certain that in no country of the world is the nature of this species of property better understood than in Malabar nor its
rights more tenaciously maintained.” 14 In the Fifth Report, it is observed: “the lands in general appear to have constituted a clear private property more ancient and probably more perfect than that of UK.” 15

3.2.3.2 From the point of tenures that existed, Malabar presented in its limited area quite a number of instructive and in due sense, unique facts. The land tenures of Malabar were conceived in much wisdom and forethought. The principal object was to secure the inalienable right of the Hindu Proprietor to his land. “As with the Jews under the Mosaic dispensation, it was held to be a religious duty in Malabar not to part with a family estate absolutely.” 16 It presented a curious process of landlord development due to the “influence of European ideas embodied in Western terms”. 17

3.2.3.3 Due to the existence of a chain of intermediaries between the original 'Jami' and the actual cultivator, the Malabar tenurial system was far more complex and highly feudalistic than that of Travancore and Cochin. Jannum right had been the most dominant interest in land. The state never owned or claimed ownership of land except what it had acquired by escheat or land acquisition. The spirit and intention of the

15. Ibid., p.6.
Malabar Janmi right was just the same as that exhibited in the terms of 'Kani-Atchi', 'Miras', 'Wirga' of other parts. The whole of Malabar was owned by a class of Jannies and of inferior Nayar Kannakkars. The major portion of Jannoons lands was concentrated in the hands of a few families - the Jannies of Calicut, Raja of Nilambur, Kevalappara Nair, Raja of Kollengode, and Poornali Namoodiri. Out of a total cultivated area of 1,229,216.88 acres in 1920-21, 6,28,921.30 acres were held by 32 Jannies.

3.2.3.4 "The Jannoon is a right as absolute as can be had in property; it gives the proprietor the right to alienate it in every possible way and to oust all occupants of it at pleasure, all such at least as have not a lease from the proprietor and unless certain articles of produce are grown upon the land, it is held free from all demands of revenue."18 This theory that the Jannoon signifies absolute property in the soil rests mainly on the basis that a bramanical government or theocracy existed in Malabar. From the accounts of Buchanan and Hamilton, it is clear that by the time the British had established their ascendancy over Malabar, Janmi system had been perfected. They also realised that the easy way to get land revenue regularly was to strengthen the lords and Jannies. The minutes of the Board of Revenue 1818 stated "in the province of Malabar, the

exclusive right of the ryot to the hereditary possession and usufruct of the soil is known by the term Janmam or birthright and originally belonged exclusively to the natives. 'The Janmamkars' were the independent owners of the land. The essential difference between a Roman Dominus and a Malayalee Janai was unfortunately not perceived or not understood at the commencement of the British Administration.

3.2.3.5 As time passed, because of the development of social rigidities, the Namboodiri Janmies found it difficult to attend and manage their lands. Hence, they granted temporary right of occupancy to the Nayars on their lands. Further, the inflow of machine-made goods dealt a heavy blow to the traditional means of livelihood and of the village artisans who turned to agriculture for earning their living. This together with the population growth brought with it a number of subsidiary tenures. Significant among them are:

i) Kanam,
ii) Kushikanam,
iii) Kushikanapattam,
iv) Pattam,
v) Panayam,
vi) Melcharth, and
vii) Varam.

3.2.3.5.1 **Kanam**

Kanam was a combination of lease and mortgage which entitles the Janmi landlord to rent and mortgage, which entitles the Kudiyan mortgagee to so much of usufruct as was equal in value to the interest on the sum advanced by him as 'Arthom'. The Janmi and Kudiyan Committee viewed that 'Kanam' tenure had a military origin. The Namboodiris became the lords of the soil, the Nayar concentrating themselves with allotments to be held of the chiefs of feudal or military service tenures. But 'Kanam' is not a mortgage in the sense in which this term is understood and used by English text book writers. "A Janmi who granted a Kanam device was not regarded as a debtor of the Kanam tenant by anybody nor the Kanam tenant regarded as a creditor of the Janmi. A Janmi would consider it a disgrace to mortgage his land. It is considered a great honour for a Janmi to have a large number of Kanam tenants." In fact, the courts regarded Kanam transactions as anomalous mortgages except when no amount is advanced in which case the transaction is regarded as a lease.

3.2.3.5.1.1 "The peculiarity of Kanam or Malabar mortgage was that it was never foreclosed, but was redeemable after the lapse of any number of years ..... There was no such thing as an established division of the produce in shares between Janmakar

20. Ibid., p.22.
and tenant". The Board of Revenue (1818) described 'Kanam' as land mortgage prevalent in Malabar which did not admit of foreclosure and contained within itself an interest principle of self-redemptions. Dr. Buchanan and Mr. Warden, the then Collectors observed that the right of redemption was rarely exercised by the Janmi. Major Walker in his report was emphatic that the Janmi had the absolute proprietary right in the soil but limited the rent to 2/3 of the net produce. In the general report of the Board of Revenue in 1803, 'Janmam' was described as the immediate right of property resembling the freehold tenure under the feudal systems and Kanapattam as a tenure by mortgage. The Kerala Land Reforms Act 1963 defined Kanam as "the transfer for consideration, in money or kind or in both by a landlord of an interest in specific property to another person for the latter's enjoyment, whether described in the documents evidencing the transaction as Kanam or Kanapattam, the incidence of which transfer included (a) right in the transferee to hold the said property liable for the consideration paid by him or due to him; (b) the liability of the transferor to pay the transferee interest on such consideration unless otherwise agreed to by the parties and (c) payment of michavaram or customary dues and renewal on the expiry of any specified period, and in areas in the state other than Malabar, includes such transfer of interest in specific immovable property which is described in the

documents evidencing the transaction as 'Otti', 'Karipanayam'
..... and which has the incidents specified in sub-clause (a)
and (b) above and also the following incidents renewal on the
expiry of any specified period and payment of customary dues,
provided that Kanapattam or any other demise governed by the
Travancore Janmi and Kudiyan Act of 1071 or the Kanam Tenancy
Act 1955 shall not be deemed to be Kanam.23

3.2.3.5.1.2 In short, from the reports and other writings, one
fact indisputably emerges, viz., that the Kanamdar in older
times was the farmer who was cultivating the land himself or
with the help of slaves and agricultural labourers and that he
had a very substantial interest in the land. As opined by the
Malabar Tenancy Committee, there is no evidence to show that the
Janmi was the absolute owner of the soil and the Kanamdar was a
mere tenant-at-will. As the Kanamdar was the occupier, he must
have been the original owner.24

3.2.3.5.1.3 But later, there arose the tendency to abandon the
Kanam tenure. Special Commissioner Logan held the view that
slowly, Kanam tenure was abandoned in favour of the ordinary
lease. For, the ordinary lease was much more profitable to the
Janmi than the Kanam tenure, because the profits which under the

24. Report of the Malabar Tenancy Enquiry Committee, Madras,
1927-28, p.12.
Kennam tenure went into the pockets of money lenders found their way under the ordinary lease into the pockets of the Jammies, though the latter have more difficulty in collecting their rents.

3.2.3.5.1.4 The nature and incidence of Kennam differed very much in North and South Malabar. In the former, 'Kennam' was the same as 'Otti'. The transaction was regarded as one between lender and borrower and not between Jami and Tenant. No rent was payable and no notion of tenancy was attached to it. But not so in the South. There Kennam was emphatically a cultivation lease and transaction was always regarded as one between landlord and tenant. Further, in regard to Kennam, scrupulous adherence to the twelve years' term and the execution of renewal fees every 12 years is the exception and not the rule in the North.

3.3.3.5.2 'Kennam-Kushikanam and Kushikanspattam'

These two were leases of waste lands for improvements and if not specified, the lease were of 12 years. In the case of Kushikanspattam, rent was paid to the landlord. 'Kennam Kushikanam' was almost a mortgage of the land given along with a lease for 'Kushikanam'. The 'Kudiyan' was given the right of occupation and improvement. The Jami adjusted the interest on the amount advanced by waiving his right for the rent in favour of the 'Kanari' (money-lender). According to Malabar Tenancy
Committee, 'Kushikanam' originated from waste lands being given by Jammies to persons, without any money consideration for the purpose of converting them into garden land.

3.2.3.5.3 Kanam-Kushikanam meant and include a transfer by a landlord to another .... of garden lands or of other lands or both with the fruit bearing trees .... the incidents of which transfer included (a) a right in the transferee to hold the said lands liable for the consideration is called 'Kanarthan' and (b) the liability of the transferor to pay to the transferee interest on the Kanarthan unless otherwise agreed to by the parties. "Kushikanam means and includes a transfer by a landlord to another of garden lands or of both, with the fruit bearing trees, if any, standing thereon at the time of the transfer, for the enjoyment of those trees ......

3.2.3.5.4 Pattam

This was of different kinds, main sub-division's being ..

a) 'Kuthakapatam',

b) 'Verumpatam' and

c) 'Customary Verumpatam'.

3.2.3.5.4.1 Kuthakapatam

This was a lease of Government land which could not be permanently assigned, that of trees standing on Government

lands, that of puramboke land on fixed ground for rent for putting up shops in bazaars and that of Government land for temporary occupation in connection with fairs and festivals. These leases were of two kinds—one for definite period and the other, without any prescribed time limit. They were temporary leases where the lessee had only the right of enjoyment. They never carried a guarantee of fixity.

3.2.3.5.4.2 Verumpattem

This was the name given to the ordinary lease. It originated from the ordinary method adopted by owners of lands, of granting leases of portions of lands which the landlords themselves could not cultivate. This is a lease or sublease with or without the security of rent; the rent was often the net produce after deducting the bare cost of the seed and cultivation. The Verumpattamdar occupied the lowest but not the lease important place in the agricultural hierarchy of Malabar. Generally, there was one intermediary, but often more than one between him and the Janni. Mr. Thorner in his report on the Zamorins estate gave a table (See Annexure-V) showing common state of affairs regarding these intermediaries.

3.2.3.5.4.3 Customary Verumpattem

It meant land held by a lessee or sub-lessee who before the commencement of the Malabar Tenancy (Amendment) Act 1951, was entitled by the custom of the locality in which land
was situated, to possession of the said land for a definite period and for where continuance thereon after the termination of that period, for a further period, a renewal fee had to be paid to the landlord.26

3.2.3.5.5 'Otti' was a full mortgage with possession as in the Travancore area. The 'Jenmai' merely retained his title while the mortgagee took the entire produce. 'Veppu', 'Palismadaku' were the other names of Otti. The 'Ottidar' had got the right of pre-exemption if landlord wished to part with his right. In Kumari Amma v. Parkam Koluseri it is stated that an 'Otti' differed from 'Kanam' only in two respects "first in the right of pre-exemption which the 'Ottidar' possesses in case the 'Jenmai' wishes to sell the premises and secondly, in the amount seemed which is generally so large as practically to absorb the whole rent".27 A slightly different kind of 'Otti' was 'Kavivituka Otti'. The landlord in this case, relinquishes the power of transferring the property to a third party and binds himself to borrow any further sum he may require only from the mortgagee. If the latter declined to advance the amount landlord may pay off the mortgage and reassign the property to another.

3.2.3.5.5.1 'Peruvartham' was yet another tenure akin to 'Otti' and could be redeemed on payment of full market value

26. Ibid., p.528.
27. I.M.H.C.R. 261.
at redemption.

3.2.3.5.5.2 In short, 'Pattam' was determined not by competition but by custom. "When the Kudiyan has to pay the entire share to the Janai this tenure was called verumpattam where the Kudiyan advances a sum of money to the Janai less than 2/3 its value, he is said to hold on Kanapattam. When pattam is equal to the interest on the sum advanced or when the sum advanced is 2/3 the value of the land, the tenure is termed Otti. When a further sum amounting to 20 per cent of the amount, i.e., 2/3 its value is advanced, the 'Otti' is converted into 'Ottikumparam.' When another 20 per cent is advanced it is converted into 'Nirnadal' 28.

3.2.3.5.6 'Panayam'

It was a mortgage with or without possession. With possession it was called 'Kalvassapanayam' otherwise it was called 'Thodupanayam.' In the former, unlike 'Kanam', there was no implied covenant for quite enjoyment for 12 years. Underuthipanayam was a form of this under which Otti principal and interest were extinguished of the usufruct and the land reverted to the mortgagor free from mortgage.

3.2.3.5.7 'Janmam Panayam' was a transaction by which the landlord relinquished even the right to redeem and could not sell the 'Janmam' right to any but the 'Janmam Panayam' holder. This tenure was very rare.

"Kothiadhakkam" was described by Major Walker as usufructuary mortgage, the mortgage remaining in possession till he made default.

3.2.3.5.8 'Melcharth'

A lease granted to a stranger entitling him to oust the tenant in possession was named 'Melcharth.' "No incident of land tenures in Malabar has been the subject of more opprobrium than the Melcharth." Here, the 'Janmi' could either sell his equity of redemption or the reversion absolutely or he might create a sub-mortgage or a second lease, giving the right to the transferee to evict the mortgagee or tenant in possession at the end of the tenure or before he made a default.

3.2.3.5.9 'Varam'

It meant an arrangement between the 'Varamdar' and the owner for the cultivation of paddy and sharing of the produce and included the arrangements known as 'Pattavarum', 'Pankuvarum' or 'Pankupattam'. These tenancies were characterised by insecurity and high rent.

3.2.3.5.10 Grants of land used to be made as a reward in the form of perpetual leases. The grant, if made to a brahmin, was called 'Santhathi Brahmaswam', if to a non-brahmin of caste equal to or higher than the grantor, it was called 'Anubhavam'.

if to an inferior caste, 'Adima'. 'Janamool Kozhu' was a transfer in perpetuity of the right of cultivation. It has a fixed rent which could not be raised. The landlord could not evict the tenant. The North Malabar tenants had a life interest and in the South it was heritable but reverts on failure of heirs to the Janmi. Where the tenure was one of service in connection with temples it was called 'Kanakari' or 'Karashima'. It was like the Inams in Cochin and Travancore. 'Irakaranza' and 'Ponnittikanama' were two other varieties. The former was perpetual lease subject to the payment of Ira Michavaram to the Janmi and the latter was a complete sale.  

3.2.3.5.11 From the above analysis of land tenure in Malabar, it is clear that in general two types of tenures existed. The first was composed of tenures like 'Kanam', 'Verumpattam' and 'Inam'. The second covered actual land mortgage which emerged as a natural consequence of the extensive ownership rights over land enjoyed by a few Janmies. What the British did was to reduce the superior tenures like 'Kanam' and cognate tenures almost to the level of actual mortgages and verumpattam to mere year to year tenancy. On the whole one could say that in Malabar the higher castes held the higher land interest. This is particularly true in South Malabar. For example 'Kanam'


interests were almost entirely in the hands of Nairs who numbered 22 out of 25 large 'Kanamars'. Not all the area of South Mala­
bar had a complete caste tenure correspondence. But one could
generalise that Namboodiris had the largest holdings of 'Jammom'
lands and that Nayars, Tiyyar and Meplas all had minor holdings
in different areas of three southern taluks. In North Malabar,
the nairs had extensive jammom holdings. There were only very
few Namboodiris. There was less differentiation of tenure on
the basis of caste.

3.2.4.0 Tenures in Kasaragode and Hosdurg

The systems of land tenure that prevailed in the
Kasaragode and Hosdurg taluks differed in nomenclature from
those prevailed in the erstwhile Malabar area. Most important
among them are.

i) Chalgeni,
ii) Mulgeni,
iii) Vaidegeni,and
iv) Vettukanan.

3.2.4.1 Chalgeni

The ordinary lease was known as Chalgeni or Preca­
rarious Lease. It was a tenancy-at-will, a lease for a limited
term, generally one year. Kerala Land Reforms Act 1963 defines
the 'Chalgeni' lease holder as a "Leasee or sub-leasee of spe­
cific immovable property situated in the taluk of Hosdurg or
Kasargode who has contracted either expressly or impliedly to hold the same under a lease, whether for a specified period or not. The landlord had a right to raise the rent or evict the tenant on expiry of the term. The lessee was not entitled to get any compensation for improvement.

3.2.4.2 'Mulgani'

It was a permanent lease. A 'Mulgenidar' could not be evicted except on non payment of rent and that too only after being fully recompensed for permanent improvements, if any. The 'Mulgenidar' was at liberty to mortgage lease or sell his interest subject to rent payment. In short, a mulgeni can be defined as a tenancy in perpetuity at a fixed invariable rent created in favour of a person called mulgenidar. 32 This class of people may, therefore, be considered subordinate landlords rather than tenants especially as though many of them cultivated their lands by hired labourers or slaves, others sub-rented to Chalgenidars or temporary tenants.33

3.2.4.3 'Vaidegeni'

A midway between 'Chalgeni' and 'Mulgani' was 'Vaidegeni' i.e., a lease for a specified term of years. The lessee enjoyed the land for a stipulated period on payment of a stipulated rent. He had the right to effect improvements and

to claim its costs at the expiry of the term. When the Jammi leased out for cultivation purpose alone for a short period with a condition that it would be returned after the expiry of the term, the tenure thus created was termed 'Koshu'.

3.2.4.4 'Vettukanam'

This was yet another tenure in which land was leased out with a specific purpose of improving the land on condition that at the time of redemption or eviction by the 'Jammi' the expenditure incurred for such improvements could be claimed. 'Arvars' or private mortgages were common here. Money was advanced on land security on condition that either the mortgagee should enter and enjoy the land for a definite period or mort­gagee should hold it as a tenant of the mortgages during the term. In some cases, lands were only hypothecated.
Annexure - I

Types of Tenures in Travancore

Land

Pandaravaka
  - Pandarapattam
  - Inam
  - Viruthi
  - Thurippuvaram
  - Special tenures

Janmam
  - Edavaka
  - Sreependra-vaka
  - Sreepadam-vaka
  - Kandukrishi

Others

Subordinate tenures under the Janmai

- Achikaroshiva
- Desa oshiva
- Devaswam
- Madampimavaka
- Brahmaswam

- Kanam
- Verumpattam
- Kushikenam
- Otti
Annexure - II

Types of Tenures in Cochin

Land

Parevedaka

Tenures

Verapattam

Kana

Service

Absolute

Conditional
Annexure - III

Types of Tenures in Malabar

Land Tenures

- Kanam
- Kushikanam
- Pattam
- Panayam
- Kuranma
- Otti
- Varom

- Kuthakapatnam
- Verum-Pattam
- Customary

- Verumpattam

- Kaivasapanayam
- Underuthipanayam
- Jennum-Panayam

- Pathivarom
- Panku Varom

- Kalivitaka
- Otti
- Peruartam
Annexure - IV

Sirkar Lands

- Registered Lands
- Puramboke
- Tharisu
- Thanathu
- Reserved Forests & Reserved Lands
- Unreserved Lands

- Pandaravaka
- Sree Pandaravaka
- Kandukrishi
- Sreepadam

* Sirkar lands originally belonged to the Janmies, but in course of time they came to be vested in the Government by conquest, escheat etc.
Annexure - V

Zamorin Demises

to

ii) Verumpattam tenant who sublets to

iii) Verumpattam sub-tenant who cultivates the land through

iv) Agricultural Labourers (Cherumas etc.)

2) Kanam tenant who sub demises to

3) sub-kanam tenant who lets to

4) Verumpattam tenant who cultivates through

5) Agricultural labourers (Cherumas etc.)