CHAPTER – 5

POLICY IMPLEMENTATION:

CASE STUDIES
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Chapter - 5
POLICY IMPLEMENTATION: CASE STUDIES

The forest sector in the State is totally in a dilemma as far as its policies are concerned. The dilemma is between conservation forestry and commercial forestry. The latest priority of the policy is biodiversity conservation and enhancing rural livelihood in natural forests and farm forestry in private lands. However, there is widespread belief in Kerala villages that if trees are planted on private lands, not only would the trees belong to the Government, but the land on which the planting takes place would also revert to the Government. This fear is not baseless as in the past several Government Acts did ‘nationalize’ private forests. This fear is further elucidated through specific case studies from different parts of the State. A sample of ten cases representing most of the issues has been randomly selected.

To study the problems of land owners who grow teak, an advertisement was given in the daily Malayala Manorama on 9.6.2003. More than 200 land-owners responded, over phone or through letters. Above all, the experience of the researcher as a practicing forester in the Department has facilitated access to government records in which similar issues have been dealt with. Though rubber is neither a hardwood nor considered as a forestry species, one case on success of rubber in Kerala is also included in this chapter mainly because of the large popularity and acceptance of rubber as a tree crop is chiefly due to policy initiatives of the government. The case of rubber certainly gives lot of insight to any policy maker who wants to frame policies and programmes for private land afforestation in the country.

5.1. Tree felling in lands with absolute title (Case – 1)
The following is an account of the experience a family in Nilambur in Malappuram District that ventured into teak planting in their own land during 1993.

On 08.06.1993, Mr. Varghese Zachariah, Bethel House, Fathimagiri Road, Chandakkunnu P.O, Nilambur purchased 3000 teak stumps from the Malappuram unit of the Social Forestry wing of the Forest Department. Varghese planted those stumps in a plot of about 1.188 ha which belongs to him, his wife and mother. The planting was done in an espacement of 2m X 2m. The initial growth of the plants was very good. When congestion in the plantation increased, during 2000, as per the advice of the local forest officers, he decided to thin out about 811 saplings. Details of the site and number of plats proposed for thinning were as in the table 5.1.

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Name and address of the owner of teak plantation</th>
<th>Sy. No. of the Plot</th>
<th>Area (in ha)</th>
<th>No. of trees planted</th>
<th>No. of trees proposed for thinning</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Mr. Varghese Zachariah, Bethel House, Fathimagiri, Chandakkunnu P.O, Nilambur Malappuram District</td>
<td>537/2-part 537/4 part</td>
<td>0.3968</td>
<td>990</td>
<td>285 trees</td>
</tr>
<tr>
<td>2</td>
<td>Mrs. Mini Idikkula W/o Mr. Varghese Zachariah</td>
<td>337/2-part</td>
<td>0.4208</td>
<td>105</td>
<td>246 trees</td>
</tr>
<tr>
<td>3</td>
<td>Mrs. Rachel Thomas, M/o Mr. Varghese Zachariah</td>
<td>537/4 part</td>
<td>0.3704</td>
<td>930</td>
<td>280 trees</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td><strong>1.1880</strong></td>
<td><strong>2970</strong></td>
<td><strong>811</strong></td>
</tr>
</tbody>
</table>

**Table 5.1**: Details of site and number of saplings proposed for thinning.

To get permission for felling, Varghese put in an application to the DFO, Nilambur (North) on 27.05.2000. After five months, the DFO got the application enquired through the Range Officer, Nilambur and issued order\(^1\) denying permission to fell trees because the proposed felling would be against Section 4. of the KPT Act of

\(^1\) (No.B2-5340/01 dated Nil/11-2001)
1986. Section 4 of this Act generally prohibits felling of premium hardwood trees such as teak from private lands. (See 4.2.29). On not getting a favourable decision from the DFO, Varghese gave an application on 11.02.2002 to the Principal Chief Conservator of Forests. The Principal Chief Conservator of Forests (PCCF) in turn forwarded it to the DFO for report. The DFO submitted his report on 18.07.2002. in which, he cited the KPT Act as per which the application was denied earlier.

“The applicants have full right over the property and the trees standing thereon. Though an application for permission for thinning the plantation was received earlier, the same was not granted because the application does not qualify conditions stipulated in the KPT Act\(^2\). This plantation is being maintained by the owner. Since no thinning is done so far, there is congestion to the extent of 50% trees which are excess in the plantation. If thinning is done the trees will grow properly”.

On 17.08.2002, the PCCF forwarded Varghese’s application to Government. He suggested that managing private plantations though an approved management plan would make the procedure easier in future. The government directed\(^3\) PCCF to prepare a management plan. The Department, in reply, suggested that since the said private plantation is in the style of the plantations of the Forest Department, the applicant may be permitted to do thinning as is prescribed in the working plan for forest plantations in that locality. Government accepted this suggestion and issued permission\(^4\) for thinning. When this government order was communicated to the DFO, he raised the following objection:\(^5\)

\(^2\) As per this Act felling of teak can be permitted when it is either dead, diseased or when it stands dangerous to life and property.
\(^3\) Letter No.10877/B1/2002/F&WLD dated 11..10..2002
\(^5\) DFO’s No.B2-1988/02 dated 01..09..2003
“While submitting application for sanction for thinning in the plantation, the intention was to conduct the 1st mechanical thinning. The list of trees to be felled was also prepared on those criteria. Those plantations were raised during 1993 and now in 2003 those have attained 10 years of age and as per the working plan for the forests of Nilambur Forest Division the thinning to be done at 10th year is 1st silvicultural thinning and not the 1st mechanical thinning. Accordingly, new marking of trees to be removed has been done and the number of such trees is as follows.

<table>
<thead>
<tr>
<th>Name of the Owner</th>
<th>No. of trees to be removed as per earlier request (1st Mechanical thinning)</th>
<th>No. of trees to be removed now (1st Silvicultural thinning)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mr. Varghese Zachariah</td>
<td>285</td>
<td>406</td>
</tr>
<tr>
<td>Mrs. Mini Idikkula</td>
<td>246</td>
<td>171</td>
</tr>
<tr>
<td>Mrs. Rachel Thomas</td>
<td>280</td>
<td>249</td>
</tr>
<tr>
<td>Total</td>
<td>811</td>
<td>826</td>
</tr>
</tbody>
</table>

Therefore, permission is required to remove 826 trees instead of 811 trees”.

On 12.05.2003 the applicants requested the DFO to inspect their plantation and issue cutting permission as ordered in G.O dated 13.02.2003 ante.

Since there was no increase in the number of trees to be removed from the properties in Sl. Nos. 2&3, the PCCF permitted⁶ felling of those 320 trees (249 + 171 = 320).

As the sanction for thinning the entire plantations was not received, Varghese complained to the Secretary to Government on 7.10.2003. Further, in this application Varghese raised the following averments.

(i). the Government had sanctioned thinning as the same was being done in nearby teak plantations of the Forest Department. According to the Working Plan for Nilambur

⁶ Letter No.C6-4541/02 dated 23..09..2003 of Chief Conservator of Forests (P)
(North) Forest Division, the number of trees that can be removed from a 10-year-old teak plantation is 1875 and that can be removed from the applicant’s plot of 1.188 ha is 1875 \( \times 1.88 = 2227 \) trees. He has sought the removal of only 826 trees—much below the permissible limit. Why has the Forest Department not honoured a Government Order?

(ii). although the applicant has been trying to get sanction to thin the plantation for the last 3 ¼ years, he was yet to get the permission. The plantation is in a very bad shape due to congestion and stunted growth. (iii). had he rejected the recommendations of the forest department for growing teak and opted for rubber he would have got a revenue of Rs.75000/- per ha/year from the year 2000 (7th year) onwards. (iv). the Government in general and the forest department in particular, is responsible for all the losses sustained by him.

Since he did not get any reply for the above mentioned petition, on 22.03.2004 he sent another petition to the Minister for Forests repeating the above averments. On 9.06.2004 Mini Idikkula and Rachel Thomas sent another request to the DFO to permit them to thin the plantation as sanctioned by the government on 13.02.2003. On 10.07.2004 Varghese sent another petition to the Chief Minister through Mr. Aryadan Mohammed, the local M.L.A. The petition was forwarded to the Forest Minister for suitable action.

In the meantime the PCCF gave permission to thin the trees under the ownership of Mini & Rachel as there was no change in the number of trees to be felled. Accordingly, the DFO on 09.08.2004 though permitted the applicants to fell trees, on 20.09.2004 through an oral direction stayed that order.

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7 Chief Minister’s letter No.3739/C.M/2004/VIP dated 16.07.2004
Finally, on 16.09.2004 Government orders\(^8\) were issued permitting Varghese to fell 826 trees. This was communicated to him on 24.09.2004\(^9\). Varghese thinned the plantations and teak poles worth Rs.40000/- was sold.

It took 4 years and 3 months for Varghese to get the sanction. Obviously the applicant may have to go through the same or worse ordeal for future thinnings and final harvest also. Varghese and his family may be cursing the day they decided to grow teak instead of rubber.

5.2. Tree felling in land assigned under grow more food scheme (case-2)

On 15.05.1995, Felix Michael, Grace villa, Kondayath Padinjattathil, Mundakkal.P.O, Kollam, Kerala, Power of attorney holder of Mr. M.T. Joshua and four others submitted an application to the District Collector, Pathanamthitta, Kerala seeking permission to cut and remove 45 trees from their land in Thannithode village, Pathanamthitta District.

The purpose of felling was shown as raising or maintaining rubber plantation. The District Collector, Pathanamthitta, forwarded the application to the DFO, Ranni for remarks. The DFO got the application verified through the Deputy Ranger (Dy.R.O.) who on 18.07.1995 reported as follows. ‘I have inspected the trees in the list and found them standing on the land covered by Patta. There are rubber, coffee, cocoa and coconut trees and three houses on the properties. As the trees are standing dangerous to the crops and buildings they can be cut and removed in accordance with the law’

\(^8\) (G.O (Rt) 389/04/Forests /Dated 16.09.2004)
\(^9\) (DFO’s order No.B2-1988/02)
However, the Range Officer, Vadasserikara Range, the controlling officer of the Dy. Range Officer did not agree with this recommendation. He reported that though Joshua possesses the land, it is a Non-Revertible Forest (NRF) land and government is the owner of those 45 trees. On the basis of this report the District Collector, Pathanamthitta denied permission for cutting the trees.

Meanwhile on, 19.10.1996 Joshua submitted an application to the Minister, Forests seeking permission to fell the trees. In this application, Joshua reiterated that the land in question was assigned to him by the government and he got patta 40 years ago. This petition was forwarded to the DFO, Ranni, on 10.12.1996 for which the DFO gave his reply on 18.02.1997 stating that the ownership of those 45 trees are vested with the government and hence permission for felling cannot be given. As Joshua did not get favourable decision either from the department or from the government he filed an Original Petition\textsuperscript{10} in the Highcourt of Kerala. On 18.11.1997 the Hon’ble High Court dismissed the petition stating the following grounds.

“The land is a Non-Revertible Forest land. The ownership of trees standing on the land is vested with the government. As per G.O.(MS)36/93/Forests dated 19.05.1993 the Government had permitted owners of patta to extract only 9 species\textsuperscript{11} of trees. None of the trees for which cutting permission was sought by Joshua belongs to those 9 species. None in the Government has the power to permit petitioner to cut and appropriate those 45 trees. Unless the petitioner clearly satisfies the requirement of Section 4(1)\textsuperscript{12} of the Kerala Preservation of Trees Act, 1986(see 4.2.29) he could not be permitted to cut even

\textsuperscript{10} (O.P.No.18815/97)
\textsuperscript{12} See KPT Act 1986 in Chapter 4
other trees standing in the property. This is a clear case of absence of ownership in the petitioner over the trees”.

Against this, the petitioner filed a Writ Appeal\(^{13}\). The plea of the petitioner was that the 45 trees for which he sought cutting permit are not included in the ‘list of trees to be preserved’ in the *Patta* and he is prohibited from only felling trees mentioned in the list. This writ appeal was finally heard on 27.01.98 and a direction was issued to the District Collector, to consider and decide on an application of the petitioner in this regard. The District Collector *Pathanamthitta* heard Joshua as well as the DFO *Ranni*, and rejected Joshua’s request\(^{14}\). In his order the District Collector observed as follows.

“It is clearly mentioned in the condition of the *patta* to which the petitioner is bound that the full right over all the trees within the grant and specified in the schedule vests in Government and the assignee is bound to take care of all such trees standing on the land at the time of assignment or that may come into existence subsequently to it. Vide subsequent Government Orders only 9 categories of trees have been allowed to be cut and removed by the *patta* holders\(^{15}\). The list of 45 trees mentioned in the petition does not contain any of the trees mentioned in the said 9 categories. That means all the 45 trees mentioned in the petition are in the prohibited category. Hence the petitioner has no right for cutting and removing the said 45 trees mentioned in the petition and they belong to the government”.

\(^{13}\) W.A. No.44/98 on 18.11.1997.

\(^{14}\) The District Collector’s Proceedings Order No.R8-4454/98 dated 18.06..98

Against the order of the District Collector, Joshua filed a fresh petition\textsuperscript{16} in the High Court which was dismissed with an observation that “this Court will not be justified in upsetting the decision on fact in the proceedings of 18.06.98 of the District Collector, Pathanamthitta”.

Challenging this Judgment, Joshua filed a Writ Appeal\textsuperscript{17} which was allowed on 04.01.2000 on the following grounds.

(i). Government has full right over only on those trees mentioned in schedule of patta and only names of Teak, Blackwood, Ebony and Sandalwood are mentioned in the patta.

(ii). The verification report issued by the Dy.R.O on 18.07.1995 also agrees that the Department does not have any objection in permitting cutting of those trees.


Although Joshua could fell the trees he required a transport permit from the Department for transportation of timber. Though the Court’s judgment of 04.01.2000 permitted felling of trees, it was silent about the issue of pass. Forest Department sought legal opinion of the Advocate General in this regard. On the basis of the legal advice, it was decided to make good the value of the trees to be felled as envisaged in the Kerala Forest (Preservation, Reproduction and Disposal of Trees and Timber Belonging to Government but grown on land in the occupation of Private Persons) Rules 1975 (See 4.2.26). Out of the 45 trees, the value of 3 Rosewood trees having a volume of 20.419M$^3$ was assessed as Rs.52,88,686. The value was assessed at the current schedule of rate for timber approved annually by the Government. The value of remaining 42 trees were

\textsuperscript{16} O.P.No.14504/1998
\textsuperscript{17} No.809/99-A
assessed as Rs.6,01,418/- at seignorage rate of the Government. The D.F.O, Ranni directed\(^{18}\) the petitioner to remit the value of 42 trees, i.e. Rs.6,01,418/-. Rosewood trees were excluded from the list because as per Rule 3 of the above mentioned Rules, Teak, Rosewood, Ebony and Sandalwood are not to be sold to the occupant.

In the same proceedings the DFO ordered to seek the government of India’s sanction under the Forest Conservation Act, 1980 to fell the trees. Joshua filed a C.M.P.\(^{19}\) and got a clarification on the judgment of 04.01.2000 as per which the Forest Department had no right over those 42 trees\(^{20}\). The Court further directed the Forest Department not to interdict with the cutting and removal of 42 trees and also to issue necessary passes to the petitioner for the removal of the timber. Also, the High court stayed the case OR.1/2000 of the Forest Department registered against the petitioner for felling of trees. The Government though filed two Review Petitions\(^{21}\) thereafter, both of them were dismissed on 20.06.2000.

Similarly, a third Review Petition filed by the Government on 31.10.2000 against the judgment of 20.06.2000, was returned by the Registrar of the High Court with the endorsement that another review is not maintainable.

On 20.09.2000, Nature Lovers Movement, Thiruvankulam, Ernakulam, a Non-governmental organization,\(^{22}\) filed an original petition\(^{23}\) in the high court against felling of trees mentioned above. Their arguments were:

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\(^{18}\) Order No.C2-4853/95 dated 18.02.2000

\(^{19}\) C.M.P. No.1312/2000 in Writ Appeal No. 809/99 A

\(^{20}\) 3 Rosewood trees were exempted.

\(^{21}\) First R.P i.e. R.P.170/2000 was filed against judgment in W.A.No.809/99A dated 04.01.2000 and the second one R.P.No.196/2000 was against a clarification judgment dated 15.03.2000 in CMP 1312/2000 in W.A.No.809/1999

\(^{22}\) (Reg.No.ER 45993)
(i) Article 51A of the Constitution proclaims it to be the fundamental duty of every citizen of India ‘to protect and improve the natural environment including forests…..’ (ii) The land in question had been assigned to Joshua provisionally and its status still is a reserved forest (emphasis added) because it has not been dis-reserved till date and as such the owner of all trees on that land is Government. (iii) As per rule 4 of the Kerala Forest (Preservation, Reproduction and Disposal of Trees and Timber belonging to Government but grown on lands in the occupation by Private persons) Rules 1975, all species of trees other than Teak, Ebony, Rosewood and Sandalwood may be sold to the occupants on scheduled rate or seignorage rate of the timber and firewood as the case may be. So at any cost the trees shall not be given free of cost to the occupants. (iv) by cutting 16 trees, Joshua has violated the KPT Act 1986 and hence action should be taken against them.

In a CMP\textsuperscript{24} in this OP, a Division Bench of the High Court directed the Range Officer, \textit{Vadasserikkara} to prevent further felling of trees from the properties in the possession of the respondents till the disposal of O.P No.27207/2000. It is pertinent to note here that this judgment prevented further felling of trees.

Against the non-compliance of the judgment in W.A. No.809/99 Joshua filed a Contempt of Court Case\textsuperscript{25} against the secretary to Government, Forests & Wildlife Department and the DFO, \textit{Ranni}. As reply to the Contempt of Court case, the Secretary submitted that ‘a proceedings\textsuperscript{26} was issued to the petitioner by the D.F.O, \textit{Ranni} to remit tree value (excluding two Rosewood trees) due to the Forest Department as envisaged in the Kerala Forest (Preservation, Reproduction and Disposal of Trees and Timber

\begin{footnotesize}
\textsuperscript{23} (O.P.No.27207/2000)
\textsuperscript{24} C.M.P. No.45608/2000
\textsuperscript{25} CCC No.1198/2002
\textsuperscript{26} Proceedings No.C2-4853/95 dated 18..02..2000
\end{footnotesize}
belonging to Government but grown on lands in the occupation of Private Persons) Rule 1975. The Secretary further submitted that ‘it is reiterated that CCC No.1198/2002 has been filed by the petitioner by suppressing the facts that OP No.27207/2000 filed by Nature Lover’s Movement, Ernakulam is pending against the request of the petitioners and that this Hon’ble High Court after going through the averments put forward by the petitioner therein has by its interim order dated 28.08.2000 stayed further cutting and removal of the trees as prayed by the petitioners in the interest of justice’.

Both the petitions filed by ‘Nature Lovers Movement’ and the contempt of Court case filed by Joshua and others were disposed of by the High court in favour of Joshua on 4\(^{th}\) April 2006. The Court opined that if the Government feels that none of the trees from the patta land should be cut and removed, it should notify the land either under Section 5 of the Kerala Preservation of Trees Act, 1986 or the Government is also free to take action under the Kerala Forest (Vesting and Management of Ecologically Fragile Lands) Act, 2003(see4.2.31).

Thus after eleven years of litigation, Joshua and 4 others could remove only 14 out of 45 trees from the land which they were possessing for the last 41 years.

5.3. Tree felling is prohibited in vested forests restored for cultivation (Case-3)

On 26\(^{th}\) June 1986 ,Mr. Antony Kannattu, Shanty Fashion Stores, Pzhayannur Post, Trissur District purchased 4.86 ha of land from Mrs. Lekshmi Nethiyaramma, Tarur Village, Alathur Taluk , Palakkad District. History of the land is as follows. Lekshmi got the land as ancestral property as per deed No. 287 of 1959 of Alathur Sub Registrar Office. Her ancestors maintained this land as a valarthukadu for collecting green
She planted teak on about one hectare and the remaining area was used for growing annual crops such as pulses. The Department notified it as a vested forest under the Kerala Forest (Vesting & Assignment) Act, 1971 (See 4.2.22). According to Forest Department, the area forms part of Kappikkunnu Malavaram which lies contiguous with other forest areas. Against the vesting Lekshmi filed an OA\(^{28}\) before the Forest Tribunal, Palakkad which was ordered in her favour on 9.2.1979. Against this the State filed an IA\(^{29}\) in the High court. It is at this juncture Antony purchased this property and planted rubber. On 16.05.1988 the Forest Tribunal allowed the IA in favour of the Department, but Antony filed MFA\(^{30}\) in the High court. The High court allowed the MFA on 19.11.1999. Though the State filed a Review Petition\(^{31}\) the High court dismissed it on 22.5.2000. The land was restored to Antony by the government\(^{32}\). Before restoration the area was notified\(^{33}\) under section five of the Kerala Preservation of Trees Act, 1986 (See 4.2.29) because there was a direction from the government\(^{34}\) to notify all such areas under section 5 of the KPT Act before restoration.

Now, there are about 1200 rubber trees in the land which were planted in 1986. As the trees are over mature and unproductive, Antony wanted to replant the area. But,

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27 Growing green manure for agriculture was a regular practice in Kerala. I remember there were a few such hillocks in my village maintained by a Jenmy (land lord). This practice was prevalent in Karnataka too (Buchy Marlene 1996- Teak and Aracanut: Colonial State Forests and People in the Western Ghats (South India): Institute Franchies de Pondichery – Indira Gandhi National Center for the Arts, Nadkari M.V (1989). The Political Economy of Forest use management, Sage, New Delhi).
28 (OA 169/76)
29 (IA.No.339/85)
30 (No.630/88)
31 (R.P.No.138/2000)
32 GO (Rt) No. 284/05/F&WLD dated, 19.05.2005
33 G.O (Rt) No. 42/05/F&WLD dated, 13.5.2005
34 Govt. Ltr. No. 6097/E2/96/F&WLD dated 3.07.97
since the area is notified under section-5 of the KPT Act, he is not able to do it because tree felling is banned in a notified area.

This researcher interviewed Antony on 13.08.2007 at Thiruvananthapuram. When enquired about his willingness to plant teak instead of rubber, Mr. Kannathu replied that he was fully aware of the profitability of teak over rubber and that he was ready to plant the entire area with teak, provided the Department permits him to harvest the trees at his discretion.

As per the Kerala Private Forests (Vesting and Assignment) Act 1971, exemption from vesting is allowed only if the land was already under cultivation or if it was intended for cultivation. It is very clear that Antony got the land for cultivation. But, since the land is notified under Section 5 of the KPT Act, 1986 he is not able to raise any tree crop there.

Against the above stance of the government Antony filed a writ petition before the Hon’ble High court. Antony consoles himself that he had not planted teak in that case he is afraid that the entire land also would have been vested in Government under the EFL Act!

5.4. Tree felling is prohibited in leased forest land(Case-4)

Ambanad estate near Thenmala in Kollam District, Kerala is owned by the Travancore Rubber and Tea Co. Ltd. The estate having an area of 1080 ha. was a forest land before it was granted for tea cultivation to one Mr. Huxam in the year 1834 by the Government of Travancore. After many transactions, the estate came under the possession of one Mr. Keir and Mc’Louchlam, in the year 1906

35 WP(C) 30968/2005
to whom the Government of Travancore granted\textsuperscript{36} it on payment of acreage value. It has also been specified in the order of grant that the other terms of grant shall be the same as those apply to Waste Land Rules dated 7/7/1898. As per clause 17, of the Waste Land Rules, the provisions under Regulation 2 of the year 1865 is applicable to Waste Land Rules. Regulation 2 of 1865 has provided for payment of seigniorage rate for all trees except teak, ebony, \textit{coleteak}, \textit{karinthaly}, black wood (rose wood) and sandalwood cut from the assigned lands by way of payment of \textit{Kuttikkanam} and the exempted trees will be government property. In 1923 the area was purchased by M/s Harrison Malayalam Ltd, from whom M/s Travancore Rubber & Tea Company Ltd. purchased it in the year 1984 and planted rubber and tea. Silver oak trees were planted in the tea estate as shade trees. On 19/1/04 the company entered into an agreement with one Mr. A.A Majeed for felling and removal of 1000 \textit{silver oak} trees from the estate. The contractor removed 500 trees during September 2004. Before he could remove the balance trees, the D.F.O, Thenmala demanded payment of about Rs. 23 lakh as seigniorage value of trees. According to the company, the Forest Department had so far not demanded any seigniorage rate for trees removed by them. Hence on 16\textsuperscript{th} January, 2006 the company filed a petition before the District Collector, Kollam u/s 4(2) of the Kerala Grants and Leases (Modification of Rights) Act, 1980, requesting to take a decision on the dispute.

The major complaint of the company was that they have absolute title over the lands in \textit{Ambanad} Estate and that they are paying land tax and plantation tax. The company had purchased the estate from its previous owner named Harrison Malayalam Plantation Ltd which had a clear title over the estate as per the indenture of sale dated 8/3/1923 and

\textsuperscript{36} Proceedings No: 5020/R/1904 dated 28.03.1906
therefore the company is not bound to pay seigniorage value of the trees cut from its own lands, as being realized in the case of government lands given on lease.

The Collector on 18.7.2007 ordered that the Company had to pay the seignorate rate for removal of trees from lands covered under the Kerala grants and leases (Modification of Rights) Act, 1980 (See 4.2.15). District collector’s decision was based on a similar case related to shade trees in Kannan Devan Hill Produce Company (Popularly known as Tata Tea Company) Munnar, Idukki District37 wherein a full Bench of the High court of Kerala has interpreted ‘Kuttikanam’ as government share of the value of the reserved trees. The above interpretation was approved by a decision of the Supreme Court38 which read as: “So long as the State has not reserved any right of ownership over the produce obtained on cultivation of the property, we are of the view that it cannot claim any proprietary right over the shade trees planted by the grantee in its tea and coffee estates also. If that be so, there is no justification in claiming seignorage or Kuttikanam in respect of timber of such trees”. But later this judgment was interpreted as it is applicable only when the trees/timber is used within the estate. When it is transported outside the estate, it is a trade for which seignorage has to be remitted to the government.

Since the Company did not comply with the Collector’s order to pay the seignorage value which was put at Rs.23 lakhs, the DFO proceeded against the company under the Revenue Recovery Act. Against this the company approached the High court with a prayer that the action of the DFO may be stayed as the company’s petition against

38 Decision in 1991 (2) SCC 272 Supra
revenue recovery proceedings of the DFO is pending with the Government of Kerala. The court ordered the company to remit a bank guarantee equivalent to the amount due to the government (i.e. Rs.23 lakhs) to the DFO and also ordered the Government to dispose of Company’s petition within 3 months. The government filed an IA in the Supreme Court and requested the High Court four months to dispose of the petition of the company. The issue is not yet settled and balance timber in still lying in the estate in a half-perished condition.

5.5. Tree felling is prohibited in forest leased out for tree cultivation (Case – 5)

The Government of Kerala insists that seignorage rate shall be collected for trees grown on government lands by government owned companies also. The story of Hindustan News Print Limited, a subsidiary of Hindustan Paper Corporation, a Government of India Enterprise is an example.

Hindustan News Print Limited (HNL) is the largest forest- based industry in Kerala. Government of Kerala had assured the company an annual supply of 150000 MT of pulpwood, 75000 MT of Bamboo and 75000 MT of Reeds from State forests. The State in discharge of its contractual obligation has been allotting forest plantations/coupes to the company for extraction. However, over the years the State found it difficult to fulfill the supply of contracted quantity. Accordingly it evolved a scheme for allotting degraded forest land to HNL for raising captive plantations. Pursuant to this, 5600 ha of forest land was allotted to the Company\(^{39}\) for raising captive plantations. The current lease rent for the land is Rs.1300/- per hectare per annum.

\(^{39}\) G.O. (MS) 42/93 F&WLD dated 11.6.1993
Recently, the government has informed\(^{40}\) HNL that they have to pay seignorage rate for trees removed by the Company from the leased land irrespective of the fact that whether the trees are planted by the Forest Department or by the company themselves. Current seignorage rate of timber is almost 80% of its market price.

5.6. Growing sandalwood in private lands (Case – 6)

Sandal wood was a source of revenue for the rulers of the State (royalties) from time immemorial, it was included in the list of government monopolies in 1844. Over a period of a few decades, due to over exploitation and theft, sandalwood trees in forests have become scarce. Now it is confined chiefly to Marayoor village in Idukki District. Marayoor is a small village in the North-Eastern part of Idukki District, on the eastern slope of the Western Ghats. The physiography and climate of Marayoor is such that it supports good natural growth of sandalwood trees. Forests of Marayoor have excellent stock of sandal trees. Due to the high value of sandalwood (about Rs.5000/-per kg for heart wood), theft of trees is a big problem for the Forest Department. Between 1990 and 2008, the price of sandal increased by 256% as the following table shows.

<table>
<thead>
<tr>
<th>Year</th>
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</tr>
</thead>
<tbody>
<tr>
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<td>195100</td>
</tr>
<tr>
<td>1995</td>
<td>326658</td>
</tr>
<tr>
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<tr>
<td>2005</td>
<td>2126000</td>
</tr>
<tr>
<td>2008</td>
<td>5000000</td>
</tr>
</tbody>
</table>

Table 5.2: Average price fetched for Class VI sandal wood in public auction in various years in Marayoor Range (now Marayoor Forest Division)

\(^{40}\) Government letter No. 15495/C2/06/Forest and Wildlife (C) Department dtd.19.3.2007.
Source: Auction Registers of Marayoor Forest Division

The problem of smuggling of sandal wood from Maryoor grew out of proportion in the year 2001. Several reasons are attributed for large scale smuggling. A major reason was the corruption among forest staff and politicians (personal discussion with forest staff). The sandal mafia operating within and outside the State used their political power and money power in smuggling large quantities of sandal wood from forests as well as from private lands. They colluded with the local people, lured the youth and tribals with money and liquor and used them for smuggling. Attack on forest protection staff by sandal mafia is not uncommon in Kerala. During 2003-04, theft had become uncontrollable. To contain the problem a separate forest division was formed in June 2005\textsuperscript{41} at Marayoor by dividing the Munnar Forest Division. The new Division has a total sandal-bearing area of about 1500 Ha. All sandal trees above 30cm girth at breast height were enumerated. As on November 2007 there are about 55453 such sandalwood trees in the division (Division records).

Sandalwood trees are grown not only in forests but also in private lands in Kerala. However, land owners are afraid of growing it in their lands mainly because of government regulations on harvesting. Whenever land owners wanted to transport sandal wood collected from their lands, it was obligatory to get transport passes issued by the Forest Department. When the government noticed that trees from forests were being transported under the cover of passes issued for private lands, in the year 1968\textsuperscript{42}, it stayed the issue of such passes. Naturally, the public protested against the order. Finally, the

\textsuperscript{41} G.O (MS) No.67/2005/Forests dated. 8.6.2005

\textsuperscript{42} Govt. Ltr. No. 91931/F1/68/AD Dtd, 14/\ldots.12..1968
government issued a separate procedure\textsuperscript{43} for extracting sandal trees from private lands. As per this, the Forest Department will temporarily purchase sandalwood trees on private lands if the owner agrees. The Department will extract sandalwood; sell it in auction and pay 70 per cent of the proceeds to the land owners leaving 30 per cent to the Department as cost of extraction and sale. The following are some of the conditions in this process (i) only dead and dying trees will be extracted by the Department (ii) the owner will not have any right over the sandalwood collected by the Department and (iii) payment to the owner will be made only after the disposal of sandalwood collected. Though it looks innocuous, in actual implementation, these restrictions took a lot of time, travel and patience on the part of the land owner as well as forest bureaucracy. Due to shortage of staff the Forest Department seldom get time to extract sandalwood trees from private lands.

This case is the experience if a land owner who grew sandalwood in her land. Mrs. Ealemma Yacob, Kattanganal House, Kothamangalam, Ernakulam District has 1.20 Ha of land in Resurvey No. 43/1, 43/2 in Marayoor Village. The title deed is under the category, ‘settlement patta’ in which the owner has full right over the land and trees in it.

In the first week of July, 2002 Mrs. Yacob submitted an application to the DFO, Munnar Forest Division requesting to extract 33 dead sandal trees and 6 stumps from her property\textsuperscript{44}. She produced a certificate from the Village Officer, stating that her property is covered under settlement patta and she has absolute right over those trees. On

\textsuperscript{43} G.O M.S 126/73/AD Dtd, 3..04..1973

\textsuperscript{44} It is not known how 33 trees in a plot of 1.20 ha died in one go! This strengthens the doubt that landowners used to kill trees in their lands and get it extracted by the forest department.
26.07.2002 the Revenue Divisional Officer (RDO) Devikulam recommended the application to the DFO. On 2.8.2002 the DFO requested the RDO\textsuperscript{45} to reconfirm whether the trees in Yacob’s land belonged to her or not. After a few reminders, on 4.6.2003 the RDO informed the DFO\textsuperscript{46} that the trees are government property and hence it may be extracted and sale value may be deposited as Government revenue! On 16.6.2003, the DFO wrote to the RDO that due to the inconsistent remarks about the ownership of trees he is not in a position to decide on whether or not to extract the trees and hence the ownership of trees may be confirmed. On 6.11.2003 the RDO changed his stand and wrote to the DFO\textsuperscript{47} that the trees proposed for extraction belongs to Yacob as their property is covered under the settlement \textit{patta}. On 11\textsuperscript{th} February, 2004 agreement was signed between Yacob and the DFO, for the extraction of dead and wind-fallen sandalwood trees.

On 12\textsuperscript{th} February 2004 the Forest Range Officer sent an estimate for Rs. 72,000/- to the DFO for extraction of trees. On 1\textsuperscript{st} March 2004 the DFO sanctioned the estimate. The RO extracted trees and stumps and collected 1519.900 kilogram of sandal wood. Total expenditure for collection was Rs.60,610/-.

Of the total collection, 1158.200 kilogram of sandal wood was sold for Rs.16,39513/- in public auction on 24.11.2004. The remaining 361.700 kilogram could not be sold on that day as there were no bidders. As per the agreement with the Forest Department, Rs.11,47660/- (70\% of Rs. 16,39513/-) had to be paid to Yacob. A \textit{‘Kudivila Bill’} for this amount was prepared on 8.7.2005 and sent to the Conservator of Forests,

\textsuperscript{45} No. M5-4784/2002 Dtd 2..8..2002 of DFO Munnar
\textsuperscript{46} No. B5-2642/02 Dtd, 4.6.2003 of RDO, Devikulam
\textsuperscript{47} No. B5-2642/02 Dtd, 6.11.2003 of RDO, Devikulam
High Range Circle, Kottayam under whose jurisdiction the Munnar Forest Division falls. The Conservator sent the bill to the Regional Chief Conservator of Forests, Kollam\textsuperscript{48} for approval. After a few queries on 3.2.2006\textsuperscript{49} the Regional CCF approved the bill and returned it to the DFO through the CF. A cheque for Rs. 11,47,660 bearing No. 0577432 dated 18.03.2006 was issued to Mrs. Yacob and she cashed it on 27.03.2006.

The same procedure was repeated for the balance quantity of 361.700 kilogram of sandalwood which could not be sold on 24\textsuperscript{th} Nov. 2004. It was sold for Rs. 8,68,173 on 8.06.2006. \textit{Kudivila Bill} for Rs. 6,07,721/- (70\% of Rs. 8,68,173) was sanctioned by the CCF (Regional South) on 11.06.2007. Thus the Department took five years to clear the request of Mrs. Elaemma Yacob to extract sandal wood grown in her land.

\textit{Comments:} Many farmers complained to the researcher that it is very difficult to get the trees extracted and sold through the Dept. They further admitted that selling it to the agents of Sandalwood mafia is comparatively easy. The \textit{modus operandi} of the mafia is very simple. They will purchase the trees from land owner in an oral deed and ‘steal’ it in the night. The land owner can safely lodge a complaint in the local police station as well as in the forest office and comfortably forget the issue. The only risk in this operation is that only 50\% of the actual price for the wood can be expected. But, to many land owners that is a better option than bribing forest staff, killing trees and then waiting five to ten years for the payment. Moreover, keeping mature trees in private lands involves additional risks. For examples if the owner is not ready to sell his tree to the mafia, they may smuggle it in the night under gun point! During field visits in June 2005 and April

\textsuperscript{48} No. C3-4883/05 Dtd, 27..7..2005 of CF, HRC, Kottayam.

\textsuperscript{49} No. RS5-2818/05 Dtd, 3.2..2006 of CCF (Regional) South
2008 in Marayur village the researcher could not locate any sandalwood tree having girth more than 30cm at breast height in private lands!

Sandalwood trees can grow in almost all types of soils in Kerala, right from coastal sandy soil to high ranges of Munnar. The oil content in wood varies depending on edaphic and climatic factors. Content of oil in wood is the criterion deciding price of wood. Wood with less oil content can be used for handicrafts, pooja purposes etc. The price (Rs. 5000/kg) is very attractive. It is estimated that a tree of 50 years can fetch at least 20kg of heart wood. As per current market price this is equivalent to Rs. 1,00,000/-. About 150 trees can be grown in one hectare of land. The income per hectare will be Rs.150 lakhs. Therefore income per annum as per current prices would be Rs.3 lakhs. The biggest constraint in growing this tree on private lands is government’s regulations on harvesting and the virtual ownership of the government on trees. The owner of a tree is at the mercy of the government bureaucracy in harvesting and selling the produce.

5.7. **Tree felling is prohibited in private tree plantations** *(Case -7)*

Nilambur Kovilakam of Nilambur in Malappuram district was owning about 4,000 ha. of forest land in that area even during the British period. This case pertains to about 60 acres of a teak plantation raised by Mrs. Sharadha Thampatty who was one of the successors of the Kovilakam family. Thampatty and her husband, A.C.K Raja, raised teak in 24.29 ha. during 1952-53 after obtaining the required permission from the District Collector under Section 3 of the Madras Preservation of Private Forest Act, (Act 27 of 1949).

In 1971, when the Kerala Private Forests (Vesting & Assignment) Act was promulgated, the government vested the teak plantation of Thampatty also. Against this,
she filed an OA before the Forest Tribunal Manjeri, which was dismissed on 31.03.1979. Thampatty challenged this judgment in the High court. The Highcourt by its judgment on 01.10.1984, remanded the case to the Forest Tribunal Kozhikode, for fresh disposal. The case which renumbered as OA 36/85 in the Forest Tribunal, Kozhikode. This was later transferred to the Forest Tribunal, Palakkad and renumbered as OA 88/90. The Forest Tribunal, Palakkad adjudicated it in favour of the government on 27.03.1990. Aggrieved by the above judgment, Thampatty again filed MFA before the Highcourt. The appeal was allowed on 05.09.1991. Against this judgment the Government filed SLP before the Hon’ble Supreme Court. The SLP was admitted and appeal was taken into file as CA 2000/92. The Supreme Court upheld the order of the High court on 17.08.1994. Accordingly the area was restored to the legal heirs of late Thampatty on 22.10.1997, after notifying it under Section 5 of the KPT Act 1986.

After taking possession of the land from the Forest Department in 1997, the owners sought permission to cut the teak trees. Since the area was notified under Section 5 of the KPT Act permission for cutting of trees was deneid. A detailed plan for the management of the plantation was prepared after due discussion with forest authorities and the same was submitted to the government of Kerala through the DFO, the CF and the CCF. The CCF recommended that the management plan had been scrutinized and found to be prepared in a scientific and realistic manner and the proposals were in conformity with the provisions of the working plan for Nilambur (North) Division approved by the Government of India in 1998. On 09.06.1998 the government sent the

50 (No. 209/77)
51 (MFA 156/79)
52 MFA No. 287/91
53 SLP (No.18988/91)
54 GO(P) No.34/97/F&WLD dated 25..06..1997
plan to the Regional CCF (Central), Bangalore who after a personal hearing of the owners sent it to the Ministry of Environment and Forests, New Delhi. The Ministry approved the management plan with certain conditions. By that time Government of Kerala had enacted the Kerala Forests (Vesting and Management of Ecologically Fragile Lands) Act, 2003. The Forest Department now sought clarification of the Advocate General as to whether the area should be vested in government under the new Act. The Advocate General advised the Department to vest the plantation in government due to the following reasons.

The land is a teak plantation lying contiguous to Reserve Forest having two sides Kanjirapuzha River as boundary and two sides Reserve Forests as boundary. Any forest land or portion thereof held by any person and lying contiguous to encircled by Reserve Forest is defined as Ecologically Fragile Land and the same is brought within the purview of the Act. Since the land in question is lying contiguous to Reserve Forest without any doubt the land qualifies as an Ecologically Fragile Land under Section 2(b) (i) of the Act and the same vests with the Government along with possession with effect from 2.6.2000 free from all encumbrances. (See 4.2.31) On the basis of this legal advice, the custodian, Ecologically Fragile Land had notified this teak plantation as Government property. Since the vesting was under section 3(1) of the EFL Act the owner did not get any compensation for trees or land. The case is now pending with Hon’ble Supreme Court.

5.8. Tree felling in Tribal Lands (Case - 8)

55 Notification No. EFL-121/06 dtd. 10..08..2006 published in Govt. Gazette No. 36 dtd, 12.09.2006 item No. 4
Background: Tribals are the most ancient settlers in forests. There are about 75000 tribals living in the forests of Kerala. About 80% of them are leading a settled life surviving on Non-Timber Forest Products (NTFP), on agriculture or on animal husbandry. They occupy 289Km² of forest land in 671 settlements. (GOK-2000)\(^{56}\) Certainly, the area of settlements will be more as there are large scale encroachments (mainly by outsiders) in almost all tribal colonies.

Alienation of tribal lands by encroachers is a problem in Kerala. During January -February 2003, a group of tribals forcefully entered Muthanga in Wynad wildlife sanctuary. Forest Department forcefully evicted them that resulted in the death of a tribe on 19.2.2003. 103 women and 47 children were arrested and six cases were registered against them. A CBI enquiry against the atrocities on women and children are going on.

In none of these tribal colonies the occupants have any freedom to fell trees even if it is grown by them probably, due to the fear of the government that the trees from adjoining forests also would be removed under the cover of trees grown by the occupants. Therefore, for quite some time one of the grievances of the occupants of the tribal colonies was to permit them to harvest the trees which they have grown and this issue was pending before the Government for many years. Finally, during June 1992 Government stopped\(^{57}\) salvage felling of Anjily trees in occupied lands and in March 1993\(^{58}\) permitted felling of the following 11 species of trees grown by the tribals and occupants.


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\(^{56}\) GOK 2000- Forests & Forestry in Kerala, Kerala Forest Dept, Tvm-2000

\(^{57}\) G.O (Rt) No. 232/92/Forests Dated, 22.06.1992.

\(^{58}\) G.O (MS) No. 23/93/Forests Dated, 15.03.1993
Soon after the lifting of regulations, large scale felling of *Anjily* trees started in some tribal settlements. Among the 11 species that were permitted for felling, *Anjily* and Jack were felled in maximum numbers because those were the trees that commanded good demand. Smelling, a mayhem, soon the Government deleted *Anjily* and Jack from the list of 11 trees mentioned above\(^{59}\).

**The Case:**

This case is about the developments that took place between the issuance of those two Government Orders mentioned above in Palode forest range in Thiruvananthapuram District. There are more than 100 tribal settlements in Palode Range. While some of them situate very near to or amidst forests, some are located far away from forests. Though these colonies are well developed like any other village of Kerala, the status of the land was still Reserved Forests. Because of locality factors, chiefly due to lateritic soil, *Anjily* is being grown profusely in this locality. There was no permission for the occupants to fell any tree from the land they occupy, even if it is grown by them. But, there was constant pressure on the Department as well as on the Government for relaxation of these restrictions. Finally, during February 1993 the then Forest Minister in a public function at Kerala Forest School, Arippa, Trivandrum District declared that the restriction on felling of *Anjily* and Jack would be lifted soon. This was disclosed to the researcher during a personal interview with Mr. Rajendran, a retired Asst. Conservator of Forests who was Range Officer in Paruthippilly, an adjoining forest Range, at that time. Government order was issued on 15.3.1993. On knowing this, the brokers and timber merchants soon

\(^{59}\) G.O (MS) No. 36/93/Forests dtd. 19.05.1993.
jumped into the arena and started brisk business by purchasing Anjily & Jack trees from tribals. It is very pertinent to note that though the order was applicable to the whole of the State, large scale felling was reported only from three Ranges, Palode in Trivandrum, Vadaserikkara in Pathanamthitta and Erumeli in Kottayam District.

Tree felling was so rampant that thousands of Anjily and Jack trees were felled within two months. As the supply was huge the price of trees dropped drastically. Tribals were ready to sell the trees at a throw away price mainly due to rumours that the Government would reintroduce ban on felling at any time. Also, they were keen to get rid off the nuisance created by the trees by way of shade & leaf fall. There was heavy rush in forest offices to process the applications for transport passes and for verifying and hammering timber lying in the field. Since the regular staff was not sufficient, staff from other places (e.g: Flying Squad, Trivandrum and Territorial Squad of Kollam) were also deputed for these works. In the whole of Palode Range the entire trading of timber was controlled by a prominent political leader of the ruling party and a tribal leader (Personal discussion with Rajendran). Seeing the wanton destruction of huge trees and the heavy underhand dealings, the media sensationalized the issue and finally on 19.5.199360 government withdrew Anjily & Jack from the list of 11 trees that can be felled from tribal lands and encroached forest lands.

Even after the issue of prohibitory order mentioned above, tree felling continued unabatedly for some more time. This was firstly due to the slackness of forest staff in implementing the government order and secondly due to the confidence given to occupant’s by traders and officers that passes for all timber felled would be issued in due

60 G.O (MS) No. 36/93/Forests dtd, 19.05.1993.
course of time. This malpractice continued till the Vigilance Wing of the Department entered the scene and started booking cases for fresh fellings. About 400 cases for illicit felling of Jack & Anjiliy were booked in Palode Range during May and June 1993. This remains as an all time record! Traders and politicians kept their word. As expected, Government on 18.08.1993\(^\text{61}\) ratified all fellings already done and ordered issue of passes for timbers said to have been felled between 15\(^{\text{th}}\) March 1993 and 19\(^{\text{th}}\) May 1993. It was assessed that 7330 M\(^3\) of Anjily timber and 153 M\(^3\) of Jack timber was lying in the field at that time. Even now tribals and encroachers continue their demand for permission to fell jack and anjily trees that they have grown.

5. 9. Tree felling in any type of land tenure (Case – 9)

Mr. K.D Paulose, Kottalil House, K.P Vallon Road, Kadavanthara, Cochin-682 020 is a retired Government Servant. He retired in March 1995 as Managing Director of Kerala State Bamboo Corporation, a Public Sector Undertaking of the State. He sold a few teak trees grown by him in his own land to a timber merchant. The Forest Department sued him for illegal felling of teak trees.

Paulose owns about 1 acre (0.4 ha) of land as ancestral property in survey Nos. 267/6C, 267/7B and 268/2A of Kottappady Village of Kothamangalam Taluk. This place is about 45 kms from his present residence at Kochi. He sold 29 teak trees of different girths from the above property to Mr. Devasykutty, Pallikal House, Kaladi.P.O who is a timber merchant. As per the sale deed dated 16.04.2001, Devasykutty, had to procure cutting permit and transportation passes for the trees. He felled the trees before procuring

\(^{61}\) GO(MS)62/93/Forests dated 18.08.1993
the required cutting permit. The Village Officer, Kottappady in his report\(^{62}\) of 30.05.2001 recommended the issue of transport pass for the 64 pieces of timber collected from the felled trees. In the same report the Village Officer clearly stated that Paulose had clear title and ownership over the land and Government did not have any right over those trees. At this stage, on 16.06.2001 some rivals of Devasy kutty or Paulose sent an anonymous petition to the DFO, Malayathur stating that unlawful tree felling was going on in Paulose’s property. On 17.06.2001 the Forest Department registered a case\(^{63}\) against Paulose for violation of the Kerala Preservation of Trees Act, 1986. After detailed enquiry, this case was charged in the Court of Judicial First Class Magistrate, Perumbavoor\(^{64}\) for an offence punishable under Section 4(1) and Sec. 9 (1) of the KPT Act. To Paulose, who had more than 30 years unblemished service in Government, these developments were a shock. He put in a request to the PCCF pleading innocence. His plea in short were that (i) he was not aware of the rule that he should get a permission from the forest officers to fell a tree standing in his own land even if the same was sold to someone else, (ii) he was under the impression that only a pass is required while transporting timber and (iii) he was a Public Servant in the Government of Kerala, and was a law abiding citizen who will not flout the law.

The PCCF who was convinced about the facts in the representation of Paulose, directed the DFO, Malayattoor to compound the case by imposing a fine of Rs. 1000/-. Paulose remitted the fine\(^ {65}\) and requested the DFO to withdraw the case against him which was charged in the court of Judicial First Class Magistrate, Perumbavoor. The

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\(^{62}\) No. 84/01dtd, 30.05.2001 of Village Officer, Kottappady, Kothamangalam Taluk, Ernakulam Dist. to the DFO Malayattoor Forest Division.

\(^{63}\) No. OR 2/2001 of Mekkappala Station, Malayattoor Forest Division

\(^{64}\) S.T No.987/2002

\(^{65}\) vide Chelan No. 596 Dtd.5.04.2002 of SBT, Perumbavoor
Magistrate denied permission to withdraw the case, on the grounds that PCCF did not have powers to compound such an offence. The Magistrate ordered that only Government has powers to recommend withdrawal of the case. Therefore, on 11.05.2002 Paulose submitted a request to the Chief Minister of Kerala requesting Government’s sanction to withdraw the case against him. The Chief Ministers’ Office in turn sent the representation to the Forest Department for its remarks. On 26.07.2002 the DFO, Malayattoor recommended withdrawal of case. Later the DFO was asked by the government to submit the request in the proforma prescribed for the purpose. Accordingly on 28.09.2002 the DFO again submitted a request in the prescribed proforma. On 29.01.2003 Government directed District Collector, Ernakulam to withdraw the case. Government’s decision was communicated to the Assistant Public Prosecutor, Perumbavoor on 1.2.2003. The issue came up for a final hearing in the Court on February 25, 2003. According to Paulose, while hearing the case the Magistrate expressed his displeasure by enquiring why the Government is so keen to withdraw this case alone when tens of similar cases were pending in the same Court. However, (according to Paulose) with great reluctance the Magistrate agreed to withdraw the case. Although Paulose did not get any written order from the Court till date, he believes that the case against him was dropped because an order to this effect was pronounced in the open Court by the Magistrate on February 25, 2003. Paulose appeared 10 times in the Court at Perumbavoor for this case. Paulose is very lucky, one must say, because he could escape from the legal imbroglio within two years, a case which could have taken at least 10 years! Probably his influence in bureaucracy and politics might have helped him.

66 Ltr. No. B 5083/01 of DFO Malayattoor
67 Govt. Ltr No. 27267/L3/2002/Home dated, 29.01.2003
5.10. The success of rubber (Case – 10)

Rubber, though not considered as a forestry tree in India its success as a tree crop in Kerala is studied here as a case to demonstrate how government policies can be helpful in tree growing on private lands.

It is believed that Rubber was first introduced in Kerala in 1905 by a planter in Thattekkad in Ernakulam District. Now the State holds a near monopoly position in cultivation (83% area) and production (93%) of natural rubber in India and Kerala has been maintaining this unique position ever since the introduction of the crop in the country (Rubber Board 2008). Another important feature of the Natural Rubber economy of Kerala is the dominance of small holdings sector (0.5 ha) with a share of 89% in the area under cultivation.

In 1950, the total area under rubber in Kerala was 70,365 ha. As on 2006-07 Kerala has an area of 502740 ha. under rubber cultivation which is about 13% of its geographical area (Rubber Board (2008)). Over a period of 58 years, the area has grown by 700%. The growth of rubber cultivation in the country as a whole also was inspiring. Over a period of 30 years the area under rubber cultivation has increased by 283%. See Table 5.3 below)
1997-98  935456  22590  958046  544534  
1998-99  948553  22746  971299  553041  
1999-00  963613  23197  986810  558584  
2000-01  968656  23220  991876  562670  
2001-02  980511  23978  1004489  568584  
2002-03  991042  16486  1007528  569667  
2003-04  1000254  16571  1016825  575980  
2004-05  1012557  16718  1029275  584090  
2005-06  1032728  16927  1049655  597610  
2006-07  1055885  17235  1073120  615200  

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**Table - 5.3**: Area under rubber cultivation in India

This case narrates various factors, mainly policies and programmes that contributed to this achievement.

Rubber tree is a native of the Amazon river-basin of South America. It was introduced to tropical Asia in 1876 through Kew garden of U.K with the seeds brought from Brazil by Sir. Henery Wickham. Rubber is a sturdy, quick-growing, tall tree. It grows on many types of soils provided the soil is deep and well drained. The latex obtained by tapping the bark of the tree is the major commercial product. Rubber is normally grown as pure crop (monoculture) in plantations. Normal spacing is 4.5m x 4.5m and one hectare can accommodate 450 to 500 trees. Taping starts in the 5th or 6th year of planting and done daily or alternate days through out the year except in peak summer. Latex is normally sold in the form of Ribbed Smoked Sheets (RSS). Average annual yields is 1880 kg dried sheets/ha. Current price of R.S.S 4 grade sheet is Rs.60/kg in Kottayam Market. (It had gone upto Rs. 150/kg during September 2008). Table 5.4 shows year-wise increase in area under rubber in Kerala.
Kerala’s agriculture sector has undergone significant structural transformation since the early 1970s in favour of relatively less labour intensive perennial crops often at the expense of annual crops and homegardens. Among all the crops (viz. paddy, tapioca, coconut, rubber, coffee, tea and cardamom), the maximum increase in the relative share of area has been registered by natural rubber during the period between 1970-71 and 2006 - 07 (Rubber Board-2008).

Fast growth of rubber cultivation in Kerala has been attributed to relative price stability, profitability and better institutional support. Relative profitability of rubber to other crops, both annual and perennial, is the single major factor which contributed to the exponential growth of rubber plantations in Kerala (Lekshmi and Tharian 2003). The institutional support extended to natural rubber has been unique as it incorporated in all stages of operations from cultivation to marketing. The enactment of the Rubber Act, 1947 the establishment of the Rubber Board and the Rubber Research Institute of India (RRII) in 1947 and 1955 respectively augmented the process of rubber growing in the State. (For motivational policies of Rubber Board please see Appendix 5.1)

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