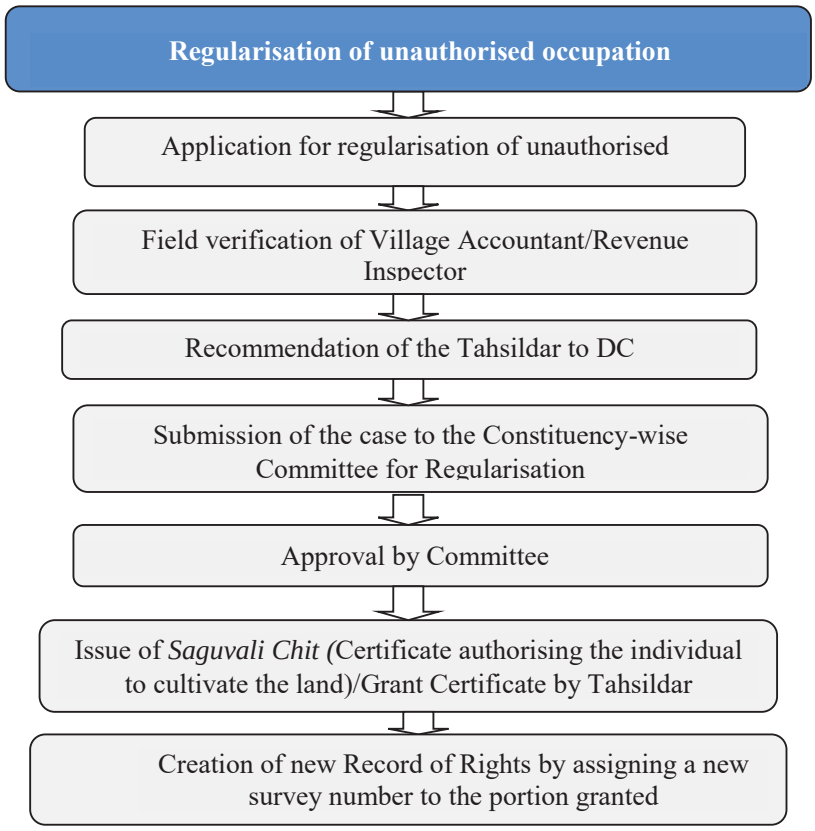
Chapter IX

Regularisation of the Unauthorised Occupation of Government land

9.1 Regularisation of the Unauthorised Occupation of Government land for agricultural purposes

The Government vide insertion of Section 94A[66] in 1991 to the KLR Act, 1964, introduced a scheme for regularisation of unauthorised occupation of Government lands prior to 14 April 1990 inviting applications from people in unauthorised occupation. Section 94B inserted in 1998 provided an opportunity for those who had not applied under Section 94A to apply for such regularisation. The last date for applications under Sections 94 A and 94B was 5 August 1991 and 15 July 1999 respectively. Rules 108-B to 108-M of the KLR Rules prescribe the procedures and eligibility for regularisation of such unauthorised occupation for agricultural purposes. The process flow for the regularisation is as given below:



[66] Salient features of 94A and B - The conditions for grant of land, under the Act and Rules, *inter alia* stipulates that:

i) As per Rule 108-F (iv) the applicant shall be in occupation of land prior to 13.4.1990 in general case and 13.4.1989 in case of SC/ST;

ii) The land granted together with the land already held by the grantee shall not exceed two hectares of land. (provision u/s. 94A(4)); and

iii) No *B Kharab* land such as *Devarakadu (Forest for God), Urduve*, *Gunduthopu*, tank bed, *Phut Kharab, Halla Kharab*, burial ground, etc., assigned for special purpose, shall be regularised (Rule 108-I).

9.1.1 Status of disposal of applications

Whether disposal of applications went off as planned?

The intention of the Legislature was to consider and dispose the applications within one year from the date of the Amendment Act of 1997, with effect from 27 April 2000. However, the pendency of the disposal of the applications necessitated several amendments to the Act with respect to the time frame for disposing off the applications. At the end of March 2017, there were 47,348 applications pending in the test-checked Districts, which covered an area of 1,64,874-24 A-G.

The status of applications disposed under Section 94A and Section 94B as of March 2017 in the test-checked Districts is as shown **Table 9.1** below:

Table 9.1
Disposal of cases under Section 94 A and 94 B as of March 2017

Sl. No.	Section	No. of applications received/ Extent of land (in A-G)	No. of applications regularised/ Extent of land (in A-G)	No. of applications rejected/ Extent of land (in A-G)	No. of applications pending/Extent of land (in A-G)
1.	94A	157792 334769-25	67843 105739	88491 214370-01	1458 14660-24
2.	94B	164185 447967-05	25619 49487-27	92676 248266-18	45890 150213
	Total	**321977** **782736-30**	**93462** **155226-27**	**181167** **462636-19**	**47348** **164873-24**

The applicants whose applications were pending for disposal continued to be in possession of the Government lands for over 18 years, awaiting a decision.

9.1.2 Discrepancies in regularisation of unauthorised occupation of Government land under Sections 94 A and B

Sections 94 A and B of the KLR Act, read with Rule 108-B to 108-M of KLR Rules, provide for regularisation of unauthorised occupation of Government land for cultivation purpose based on the conditions for grant of land, under the said Act and Rules.

Whether regularisation of agricultural land was as per the stipulated conditions/provisions?

Audit reviewed 1,022 files in 11[67] Tahsildars' Offices pertaining to regularisation of land under Sections 94 A and B during 2011-12 to 2016-17.

Non-compliances like grant of excess land, grant of *Gomala* land (where shortage was reported), grant to ineligible beneficiaries, grant of land without applications, *etc*. were noticed. As a result, 1,055-19 A-G of land was alienated under the scheme for regularisation contrary to the eligibility conditions/provisions of the scheme/Act/Rules.

[67] Chikkaballapura, Chikkamagaluru, Chinthamani, Doddaballapura, Gubbi, Hosakote, Mudigere, Ramanagara, Tumakuru, Sedam and Sira.

Details in this regard are given below:

172-11 A-G of land valuing ₹ 22.68 crore in 110 cases between 2012-17.	Revenue Inspector/Tahsildar of the respective Villages reported shortage of *Gomala* land and recommended for rejection of applications. But the Committee for Regularisation headed by the jurisdictional elected representative granted land overlooking the recommendation.
89-17A-G of land valuing ₹ 2.89 crore in 77 cases between 2012-17..	Applications were for grant of 159-01 A-G of land against which, the Committee granted 248-18 A-G, resulting in excess grant of 89-17 A-G over that applied for.
176-02 A-G of land valuing ₹ 6 crore in 69 cases between 2012-17.	As per Rule 108 F, no person shall be eligible for grant of land unless he has attained the age of eighteen years and has been in unauthorised occupation of land for at least a continuous period of not less than 3[68] years prior to 14 April 1990. Audit analysis of the date of birth/age on the applications revealed that age of the applicants would be between 8 and17 years when they were purportedly cultivating the land. Such unrealistic applications should have been rendered invalid, but were accepted and land granted.
585-14 A-G of land in 240 cases in six Taluks.	Land was granted though applications were reported to be not available.
32-15 A-G of land in 14 cases.	Land was granted in a different Village/survey number than the ones applied for.

9.1.3 Non-inclusion of names of beneficiaries in the RTC

On regularising the land under Sections 94 A and B by issuing *Saguvali Chit* (Grant Certificate), the Department is required to reduce the extent of land so regularised from the original survey number (which is Government land) and allot a new survey number exhibiting the extent of land, name of the grantee and a remark incorporating the condition of grant for non-alienation for 15 years/25 years, etc.

[68] One year in case of Scheduled Caste and Scheduled Tribes.

Whether the modifications required in RTC were carried out after regularisation?

In 201 out of 503 test-checked cases of regularisation involving 327-06 A-G of land, modifications were not carried out in RTC. Individual beneficiaries' names, along with the extent of land granted, was neither included in the RTC relating to the Government land nor allotted a new survey number. Consequently, the overall extent of Government land in that particular survey number becomes overstated and title of the land does not get created in the name of the grantee. This has a risk of re-grant of the same land to others and litigations in the future.

9.1.4 Benefit impact assessment and alienation of land regularised for agricultural purposes

In the test-checked Districts, the Government regularised and granted 1,55,226-27A-G of Government land as of March/June 2017. However, the Government did not envisage monitoring the usage of the land granted for agricultural purposes. Data such as crop grown by the grantees, annual income earned from the land granted, etc. were not collected. Thus, the benefits accrued to poor landless cultivators remained unassessed. It would be prudent for the Government to conduct a benefit impact assessment of such regularisation policy.

Whether land regularised for cultivation could be alienated?

As per the KLR Rules governing the conditions of regularisation under Sections 94 A and 94 B of KLR Act, land shall not be alienated or used for non-agricultural purpose for a period of 25 years (15 years up to 24.8.2011) from the date of issue of *Saguvali Chit*/Grant Certificate. Besides, the grantee shall plant (and replant in case of damage) and maintain 10 trees, at his cost per hectare of land granted, within six months of such grant order.

In 23 cases, the Government accorded permission (between June 2006 and May 2016) under Rule 9 of the KLG Rules for sale of 43-38 A-G of land, regularised under Sections 94A and B of the KLR Act (between August 1994 and July 2005), after 10 to 12 years of regularisation. Rule 9 of the KLG Rules provides for alienation of land within the stipulated period in cases of lands granted for agricultural purposes under the KLG Rules. Hence, permission to alienate regularised land under Rule 9 of the KLG Rules was irregular and contrary to the scheme for regularisation.

9.2 Regularisation of unauthorised occupation of Government land for dwelling purpose under Sections 94 C and 94 CC of the Karnataka Land Revenue Act

The Government introduced in the KLR Act Section 94 C[69] with effect from 11 July 2013 and Section 94 CC[70] with effect from 12 January 2015, which provided for regularisation of unauthorised occupation of Government lands for dwelling purposes in rural and urban areas respectively.

Audit scrutiny of the provisions of the Section 94 C and 94 CC revealed the following deficiencies in the implementation of the conditions envisaged under the sections:

Conditions envisaged	Deficiency in implementation
Applicant or his family should not own a house or site other than the one sought to be regularised.	Applications were processed based on a self-certificate of the applicant and there was no mechanism to verify the correctness. As the Government implements many housing schemes like Ashraya, distribution of sites to poor, etc. and allot houses/sites to identified beneficiaries, the risk of overlapping of such beneficiaries could not be ruled out.
House should have been constructed before 1 January 2012.	Proof of the house having been constructed on Government land before 1 January 2012 was not documented in any of the cases.
Section 94 C permitted regularisation of land up to 4,000 sq.ft. in rural areas, Section 94 CC permitted regularisation of land up to 600 sq.ft. in urban areas.	The Tahsildars did not initiate action to recover the Government land under encroachment in excess of 600 sq.ft.

Recommendation 9 – The Department may consider instituting a mechanism to verify and document fulfilment of eligibility conditions and also devise an Action Plan to resume Government land encroachment in excess of 600 sq.ft. in urban areas and 4000 sq.ft. in rural areas.

[69] Section 94 C of the KLR Act, 1964, which was substituted by the Act No. 51 of 2013, w.e.f 11 July 2013 read with Rules 108-O to 108-T of KLR Rules, 1969, provides for regularisation of unauthorised occupation of Government land for dwelling purpose in rural areas.

[70] Section 94 CC of the KLR Act, 1964, which was inserted by the Act No. 7 of 2015, w.e.f 12.1.2015 read with Rules 108-U to 108-Z of KLR Rules, 1969, provides for regularisation of unauthorised occupation of Government land for dwelling purpose in urban areas.

The Government accepted the audit recommendation and stated that the field offices had to evict encroachments in excess of 600sq.ft. and 4000 sq.ft. in urban and rural areas respectively.

9.2.1 Discrepancies in Regularisation under Sections 94 C and 94 CC

Whether regularisation for dwelling purposes was as per the stipulated conditions/provisions?
Reviewed all 397 cases under Section 94 C and 140 files out of 529 files of land grants under Section 94 CC approved by the Tahsildars (between October 2014 and March 2017) for issue of provisional grant order/Demand Notice.
Discrepancies like short collection of cost, non-collection of conversion/ compounding fine and grant of excess built-up area were noticed in 332 cases under Section 94C.
There were 14 applications under Section 94CC where built up area was in excess of 600 sq.ft. These cases were not evicted.

***Details in this respect are given below*:**

Short collection of cost of land of ₹ 24.38 lakh in 220[71] cases. (Section 94C).	Guidance value for agricultural land was collected in 220 cases instead of Site rate. Further, in 20 cases, though the Sites were having roads on two sides, additional 10 *per cent* of the GV was not levied and collected
Non-collection of conversion fine/compounding fee of ₹ 3.86 lakh in 56[72] cases. (Section 94C).	Though land was utilised for residential purpose, conversion fine/compounding fee applicable was not collected.
Excess grant of 8872 sq.ft.of land, costing ₹ 10.56 lakh in 31[73] cases. (Section 94C).	As against 23,640 sq.ft. of actual built up area as applied for by the beneficiary, the Department granted 32,512 sq.ft. resulting in excess grant of 8872 sq.ft.
Grant of 5,277 sq.ft. of built-up area in five[74] cases. (Section 94C).	In these cases, applications were not on record.

[71] Devanahalli (164 cases) and Dodaballapura (56 cases) Taluks between 2014 and 2016.
[72] Dodaballapura Taluk.
[73] Dodaballapura Taluk.
[74] Dodaballapura Taluk.

Excess built-up area of 6762.25 sq.ft. in 14[75] cases. (Section 94 CC).	In all these cases, applications submitted for regularisation were more than the permissible limit of 600 sq.ft. These cases were not evicted.

9.3 Non-repealing of the Karnataka Land Revenue (Regularisation of Unauthorised Occupation of Land) Rules, 1970

The Karnataka Land Revenue (Regularisation of Unauthorised Occupation of Lands) (RUOL) Rules, 1970, deals with grant of land both for agricultural and dwelling purposes. The person in unauthorised occupation of Government land should apply in Form I to the DC for grant of the land. No cut-off date for submission of applications was prescribed under these Rules.

What were the implications of Karnataka Land Revenue (RUOL) Rules, 1970 after insertion of Sections 94A and 94B of KLR Act and Rules?

After introduction of Sections 94A and 94B, cases of lands under unauthorised occupation beyond the city limits for cultivation purpose are being regularised under these Sections only. The last date for receipt of applications under the KLR Act was 15 July 1998.

However, 'Karnataka Land Revenue (RUOL) Rules, 1970' was not repealed on introduction of Sections 94A and 94B under the KLR Act. This resulted in an open opportunity for people under unauthorised occupation of Government lands even after 1998 to apply for grant of such lands.

Recommendation 10 – The Government may consider the necessity of the Karnataka (RUOL) Rules in the present scenario of encroachments for agricultural purposes, and propose for its repeal in view of later laws, so as to avoid any confusion regarding regularisation of land under unauthorised occupation.

During the Exit Conference (September 2017), the Government informed that the repeal status of the said Rules was not readily available and would be informed to Audit early. No reply was received in this regard (October 2017).

[75] Bangalore (East) Taluk.

Conclusion

Land is a precious resource, which should be managed in a scientific manner striking a balance between the sustenance of environment and the developmental activities. It requires definite policies for the management and disposal of land. This Performance Audit revealed the following deficiencies apropos the Audit Objectives:

Audit Objective 1: Whether inventory of Government land available for grant/lease is available and the transfer of Government land for private/public purpose by way of lease/grant is carried out through a clear, transparent and judicious process.

Under the Karnataka Land Revenue Act, while the Karnataka Land Grant Rules 1969 govern the grant/lease of Government lands, the Karnataka Land Revenue Rules, 1966 govern the general administration of the Government land and impose restrictions on disposal of certain types of Government land meant for public purpose. It was observed that the Karnataka Government (Transaction of Business) Rules provided for all land grant/lease proposals not in accordance with the KLR Act and allied Rules to be submitted to the Cabinet for decision. The grant of lands under the Karnataka Government (Transaction of Business) Rules in exercise of Rule 27 of the KLG Rules or otherwise is in direct contravention of the KLR Rules, which specifically prohibited the grant of such lands and thus defeated the intention of the Legislature in protecting certain kinds of public lands.

There was no strategic planning in identification and disposal of Government land. Databases relating to the lands available for disposal and also the lands already disposed as grants/leases were not maintained. Identification of the land by the beneficiaries themselves, coupled with incomplete verification of the information regarding the land or the beneficiary, resulted in grant/lease of deemed forest/forest/forest buffer zone, land already granted to other parties, etc.

Applications for grant/lease were not systematically compiled and hence the processing of the applications was not verifiable. A few grants were made even without application by the beneficiaries. These depicted lack of fairness and transparency in the transfer of Government lands. No mechanism existed in the Department for evaluation of the extent of land required for the grantees/lessees which resulted in grant of excess/surplus land.

Lands reserved for public purposes, which were specifically prohibited from being granted/leased by the KLR Rules, were granted under Rule 27 of the KLG Rules and using the provisions of Karnataka Government (ToB) Rules.

Hence, the process of inventory management was weak and consequently, the transfer of land suffered from non-transparent and injudicious processes.

Audit Objective 2: Whether system of pricing for transfer of land is adequate.

The Government granted more concessions to Institutions than those prescribed in the KLG Rules without recording specific reasons. There was no uniformity in the grant of concessions.

Incorrect adoption of Guidance/Market Value of lands resulted in incorrect computation/short-levy of the value of land amounting ₹ 17.83 crore. Non-adoption of the principles under the Central Valuation Committee guidelines led to undervaluation of lands transferred. Besides, an ambiguity in the Rules related to lease rents prevented field Offices from raising demands correctly and computing arrears.

Audit Objective 3: Whether effective monitoring exists to ensure the usage of the land for the intended purposes.

Monitoring of the land grants/leases was not satisfactory and consequently resulted in non-collection of lease rent, non-retrieval of land after expiry of lease period and more importantly, locking up of Government lands with the grantees/lessees without being used for the purpose for which it was granted.

Audit Objective 4: Whether system for timely detection and eviction of encroached Government land and process of regularisation of unauthorised occupation of Government land was effective.

As per statistics maintained by the Government, encroachments were static and no additions were recorded (except in Bengaluru Urban District) after August 2013, which was found to be not in consonance with the public complaints made to the KPLC/DCs/Tahsildars. The Government did not formulate an Action Plan to resume land in respect of rejected applications under the scheme of regularisation of unauthorised occupation of Government lands.

Significant number of public complaints on encroachment of Government land pending over five years indicated lack of due diligence in the protection of Government lands. Further, lack of proper security to the evicted lands, and non-transfer of the cases of encroachment to the Specially Designated Court, *etc*., slackened the process of evictions.

Action of the Department in regularising unauthorised occupation of land contrary to provisions of KLR Act/Rules resulted in irregular grant of Government land. No mechanism was established to cross-verify the correctness of claims made by the applicants for regularisation of land for dwelling purposes.

Hence, it is necessary that while the process of regularisation of unauthorised occupation of Government lands needs to be swiftly completed ensuring fulfilment of all eligibility criteria, the system for identification and eviction of encroachment needs to be strengthened.

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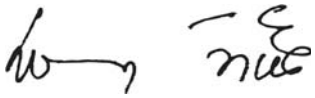

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