

KARNATAKA LOKAYUKTA

No. Compt/Lok/BGM/12/2005/ARE (2)

M.S.Building,
Bangalore,
Date: 17-07-2013

Sub:- Report u/Sec. 12(1) of Karnataka Lokayukta
Act against The Commissioner, Municipality,
Shimoga.

Ref:- Compt/Lok/BCD/12/2005/ARE-2

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This complaint involving grievances directed against the Commissioner of City Municipal Council, Shimoga, the grievances of the complainant is that though he had filed application before the respondent for issuing licence for construction of house and also make katha in respect of Sy.No. 31/c of Kallalli -Shimoga, the respondent has given a written endorsement that Sy.No.31 has already been acquired for formation of sites.

The respondent in his comment dated 11.03.2005 has stated that Sy.No.31/2001 of Kallalli village of Shimoga taluk measuring 1-10guntas of land was acquired by Government on 31.05.1980 for formation of site for distribution of the same to the economically weaker section and backward class deserving persons, and accordingly after acquisition, lay out has also been formed.

What is interesting to note is the fact that though properties referred by the complainant is 31/c, there is no whisper about the existence or non-existence of this property in the comment filed by the respondent. When specifically certain facts are mentioned and if those facts are not specifically denied, it is to be deemed that the concerned party admits the same. The copy of the RTC produced by the complainant show that there is property measuring 0-03 guntas, identified as 31/1c of Kallahalli village which positively indicates the existence of the said property.



Thereby, in the instant case, when the complainant has stated that he has submitted application for issuing licence and katha in respect of Sy.No.31/1C of Kallahalli village, enclosing copy of RTC, regarding the entries of which there is legal presumption as true, under Karnataka Land Revenue Act 1964, the respondent ought to have made reference about the existence or non existence of such properties in his comment, in the absence of which, the only inference to be drawn is that such properties do exist. Therefore, when the grievance of the complainant is that in respect of the said property, katha has not been issued, application for construction of house has not been considered, it amounts to causing hardship to the said persons though such property is in fact in existence on account of maladministration as defined in Karnataka Lokayukta Act 1988.

But, at the same time, what is also to be noted is the fact that, whether complainant is entitled for making katha in his favour and whether he is entitled for issue of licences under the City Municipal corporation Act, or not is a matter to be decided by or at the discretion of the concerned Authority in accordance with appropriate Law. Therefore, what can be directed in this case is to consider the application of the complainant regarding making katha in respect of Sy.No.31/c and move for grant/consideration of licence to construct his house in the said Sy. No.

Hence, in the instant case, in exercise of the power conferred u/Sec. 12(1) of Karnataka Lokayukta Act 1988, recommendation is made that the respondent **shall** consider the application filed by the complainant, as described in the endorsement issued by the respondent dated 19.01.2005 bearing No.ಸಂ.ಸಿ.ಸಿ.ಆರ್.134/2004-05 pertaining to the property referred in the said application and also consider his application for issuing licence for construction of house in the said Sy.No. mentioned in the application and pass appropriate order in accordance with Law.

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Hence, this report u/Sec. 12(1) of Karnataka Lokayukta Act.

The competent Authority is required to examine this report and within three months of date of this report, intimate or cause to be intimated to me the action taken or proposed to be taken on the basis of this report.

Y. Bhaskar Rao
17/7/2013

(Dr. Justice Y. Bhaskar Rao),
Hon'ble Lokayukta.

