

KARNATAKA LOKAYUKTA

No. Compt/Uplok/BGM-9168/2017/ARE-6

M.S. Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru.

Date: 19/02/2019.

**REPORT UNDER SECTION 12 (1) OF THE
KARNATAKA LOKAYUKTA ACT, 1984**

Sub: Complaint filed by Sri. Nagendra Shankar
Naik- Yelabhar, Heruru, Bhatkal Taluk,
Uttara Kannada District.- reg.

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On the basis of the complaint given by Sri. Nagendra Shankar Naik- Yelabhar, Heruru, Bhatkal Taluk, Uttara Kannada District (hereinafter referred to as 'complainant' for short) against Assistant Commissioner- Bhatkal Sub-division, Bhatkal and Tahasildar, Bhatkal Taluk, Bhatkal (hereinafter referred to as respondent Nos. 1 and 2), being Public/Government Servants have committed misconduct, an investigation has been taken up u/s 9 of the Karnataka Lokayukta Act, 1984.

2. The complainant alleged that one Sri. Sridhara Subbaraya Hebbar has encroached the land situated at Heruru village, which is a forest land. The respondents have not taken any action to remove the encroachment. Accordingly, prayed to take action in the matter.

3. After registration of the complaint, the respondents were asked to submit their comments. Accordingly, the respondents submitted their comments wherein, it is stated that since the land is reserved as minor forest area, the forest department has to take action.
4. In view of the said comments, the DCF, Karwar was asked to examine the matter and to submit the report. Thereafter, on the point of jurisdiction the DCF, Honnavar division, was asked to submit the report. Accordingly, the DCF, Honnavara, sub division has submitted the report dated 04/06/2018.
5. The report of DCF discloses that survey no. 12 of Heruru village is a forest land. As per the government notification dated 30/01/1928, the land measuring 15-10-00 acre has been reserved as kumki land. On inspection of the spot they noticed that in the kumki land natural forest has been grown, but Sri. Sridhara Subbaraya Hebbara has not cut and removed any forest trees. He has not utilized the said land for any non forest activities. The said Sridhara Subbaraya Hebbara was in occupation of excess land measuring of 09-20-00 acre. He gave voluntary statement stating that he would vacate the said land without any objection. Accordingly, the possession of that land measuring 09-20-00 acre has been recovered and put up barbed wire fence around the said land.

Except that there is no other encroachment of forest land by Sri. Sridhara Subbaraya Hebbar.

6. Thereafter, the complainant was asked to submit his rejoinder. Accordingly, the complainant has submitted his rejoinder dated 13/10/2018 along with copies of seven photographs. The complainant has accepted the report of DCF, Honnavara in part. But, he has disputed the report to some extent. According to the complainant in the encroached areas Sri. Sridhara Hebbar got constructed permanent compound wall and thereby preventing the public to take their cattle in the road. He is also abusing the villagers who try to enter that area along with cattle. Accordingly, stated that, that wall should be removed and encroachment should be cleared permanently. It is also stated that the entry in the revenue records also to be removed. The photographs reveal about plantation of cashew nuts, existence of compound wall and path way.
7. Having regard to the above facts and circumstance, I have carefully perused the documents made available by the DCF, Honnavar division. The RTC extracts pertaining to land bearing Sy.No 13 of Heruru village discloses that land measuring 4.24 acres is standing in the name of Sri. Sridhar S/o. Subbaraya Hebbara. The land measuring 4.03 acre in Sy.No. 24 is standing in the name of Yogesha S/o. Sridhara


Hebbara. As per RTC pertaining to land bearing Sy.No. 12/2 of Heruru village, it is measuring 59.6 acres. It is shown as minor jungle. As per column no. 11, 15.10 acre is shown as Kumki for the owners of land bearing Sy.No. 13 & 24. The gazette notification dated 02/06/1898 also discloses the said fact. The survey report and the spot mahazar also reveal that 15.10 acre is a kumki land and remaining encroached land has been recovered as per the statement dated 14/05/2018 given by Sri. Sridhara Subbaraya Hebbara. The forest department has also put up barbed wire fence around the forest land.

8. The complainant in his rejoinder has not disputed the fact with regard to removal of encroachment in respect of 9.10 acres. His grievance is that the said Sridhara Hebbara has put up permanent compound wall and preventing the villagers to make use of the path way to take their cattle. The DCF, Honnavara has not whispered anything regarding the existence of compound wall and other shed. The other contention of the complainant that, the entry made in the RTC regarding Kumki rights is to be removed, cannot be considered by this institution. Because, that right was reserved during 1898 itself and that matter is to be adjudicated by the competent court of law. However, having regard to the contention of the complainant that permanent compound wall

and shed have been put up by Sridhara Hegde in the forest land, it has become necessary to make recommendation u/s 12(1) of KL Act for removal of encroachment over forest land permanently.

9. Since, there is a prima facie to make recommendation to the competent authority to take steps for removal of all kinds of encroachments, obstructions made in respect of the minor forest area existing in Sy.No. 12 of Heruru Village.
10. Hence, this recommendation u/s 12(1) of K.L.Act is made to the competent authority for taking steps for removal of all kinds of encroachments, obstructions made in respect of the minor forest area existing in Sy.No. 12 of Heruru Village in accordance with law.
11. Further, as per Section 12(2) of Karnataka Lokayukta Act, 1984, the Competent Authority shall intimate the action taken or proposed to be taken on this report within one month from the date of receipt of this report.

Copies of connected records are enclosed.


(JUSTICE N.ANANDA)
UPALOKAYUKTA-1 20/2
STATE OF KARNATAKA.

