

KARNATAKA LOKAYUKTA

No.Compt.Uplok.BD.1277/2017

M.S.Building,
Bangalore,dt.24.2.2018.

REPORT U/S 12(1) OF THE KARNATAKA LOKAYUKTA ACT

**Sub:- Complaint filed by Sri Y.R.Raghunath Rao,
against the Deputy Director of Mines and
Geology, Bangalore Rural Dist. Bangalore.**

The complainant Sri Y.R.Raghunath Rao, r/o Anugraha Layout, Bannerghatta Road, Bangalore-76, has filed this complaint against the Dy.Director, Mines and Geology Department, Bangalore Rural Dist., alleging that the respondent has failed to stop illegal mining in land RS No. 226 and 226/2 of Sadahally Village in Devanahally Taluk, and thereby the respondent has committed dereliction of duty.

2. In pursuance to the notice, the respondent appeared and submitted that in spite of his requests, the Tahsildar and ADLR of Devanahally Taluk have not conducted survey of the alleged land bearing 226 and 272 of Sadahally Village so as to know the illegal mining and hence requested for a direction to Tahsildar and ADLR to conduct joint survey of the above said lands. Accordingly, Tahsildar and ADLR were directed to conduct joint survey and submit report in this regard.

3. In the meantime, the aggrieved party by name A.N.Murthy who is having licence for quarry in Sy.No.272 appeared through

his counsel and filed an impleading application. Though there is no provision for impleading the independent party, an opportunity was granted to said A.N.Murthy to submit his say in this case. Accordingly, he filed his objections and same are placed on record.

4. Later, the ADLR, Devanahally submitted survey report along with the survey sketch. It is found that the aggrieved person A.N.Murthy has encroached 9 guntas of land in Sy.No.226 and one Chandrashekar has encroached 4 guntas of land in Sy.No.226 and they were involved in illegal mining in alleged encroached area. The aggrieved person A.N.Murthy submitted that he has not encroached in Sy.No.226 and the report submitted by the ADLR, Devanahally is not correct. In the objection statement, A.N.Murthy disputed the alleged joint survey. The survey records disclose that the ADLR by following the procedure and giving notice, has conducted the survey through ETS. However, the aggrieved person A.N.Murthy submitted in his objection statement that he is granted licence for conducting quarry for a period of 20 years commencing from the year 31.12.2014 in an area of 1.08 acres in Sy.No.272 and he will stick-on with the said area in connection with his quarry operations.

5. From the records submitted by the respondent, it reveals that about 7 persons were illegally involved in quarry operations i.e.in Sy.No.272, 198/1, 198/2 and 223 of Sadarahally village. Sy.No.16 and 17 of Chowdanahally village, Sy.No.167 of Bidanur

village, it is shown that the respondent lodged complaint against 7 persons before Kempegowda International Air-port Police-station, but the police registered only 5 cases and in 2 cases, police have not registered the case. The note file also disclose that a direction was issued to Police Inspector, Kempegowda International Air-port Police-station, Devanahally, to receive the complaint and register case, seize the vehicle and submit report, but so far, the Police Inspector has not complied with the abovesaid order.

6. The note file also disclose that the ADLR, Devanahally was asked to submit about the existence of survey No.226/2 and it is reported that no phody is effected in Sy.No.226 and therefore Sy.No.226 is not in existence.

7. Complainant Raghunath Rao is claiming that he is owner of 1.20 acres in Sy.No.226/2. He has produced Xerox copy of sale deed, but he has neither produced the original sale deed copy nor the RTC extracts of land Sy.No.226/2. Absolutely there is no material on record to hold that complainant is the owner in possession of Sy.No.226/2 of Sadarahally Village. The report of respondent disclose that some persons were operating for illegal quarry in Sy.No.226 and they had brought the vehicles bearing No.K 43M 7092, KA 04 P 7668 and KA 18 M 5741. The said vehicles are seized and handed over to the Kempegowda International Air-port Police-station, Devanahally, and the complaint was registered for the offences punishable under the MMRD Act and the fine was imposed u/s 23-A of the said Act.

The owners of the vehicles have paid fine amount of Rs.50,000/-, Rs.25,000/- and Rs.25,000/- respectively.

8. The complainant Raghunath Rao has not produced any document to show that he is the owner in possession of Sy.No.226/2. He has not produced licence to conduct quarry operations in Sy.No.226/2. Raghunath Rao is in no way concerned with the alleged land bearing Sy.No.226/2 of Sadarahally Village, nor Sy.No.226/2 is in existence.


9. Respondent has alleged that AN Murthy is involved in illegal quarry in the extent of 9 guntas of land in Sy.No.226 and same is denied by said AN Murthy. Records disclose that AN Murthy was granted quarry licence bearing No.921 commencing from 31.12.2014 to the extent of 1.08 acres in Sy.No.272 of Sadarahally village for a period of 20 years. During enquiry, AN Murthy and his counsel submitted that they will stick on with quarry operations to the extent of 1.08 acres only. Respondent has not reported the quantity of grey stones taken out by said AN Murthy from the alleged encroached land in Sy.No.226. The records do not disclose action taken by the respondent against another encroacher Chandrashekar. Since it is the duty of the respondent to look out the illegal quarry operations in his jurisdiction and to take suitable action in the matter. But till filing of the instant case, the respondent has not taken any action. The respondent has submitted that in spite of his requests, the Tahsildar and ADLR have not conducted survey of the land See No.272 and 226. Unless the lands are surveyed and boundaries are demarcated, it is difficult to assess the quantum

of encroachment. However, after joint survey, it is found that AN Murthy and Chandrahekar have may assess the quantity of the stones if any, removed from the encroached portion. If the respondent finds that the ~~stones~~^{scavengers} are removed by encroachers, then he may assess the quantity of stones and to take action for recovery of the said fine as per the provision of Mines and Minerals Act. Further, the rights of complainant over land Sy.No.226/2 measuring 1.20 acres, cannot be decided by this authority and he has to approach proper civil court for necessary relief.

10. Therefore, under the provisions of Section 12(1) of the Karnataka Lokayukta Act, recommendation is made to the competent Authority to direct the respondent to take necessary action against the encroachers, under the provisions of Karnataka Mines and Minerals Act and to recover the amount by imposing fine etc.

11. As required u/s 12(2) of the Karnataka Lokayukta Act, the Competent Authority is required to 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.


26/2
(Justice Subhash B Adi)
Upalokayukta,
State of Karnataka.
Syahi
28/2/18

