

KARNATAKA LOKAYUKTA

Compt/Uplok/MYS/3841/2014/DRE-4

M.S. Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru, dated 16/07/2016.**REPORT UNDER SECTION 12(1) & 12(3) OF
KARNATAKA LOKAYUKTA ACT, 1984**

Sub: Complaint of Sri Chikkalakshmaiaha S/o Chikkaputtaiah, Sunnadadoodi Grama, Kasaba Hobli, Malavalli Taluk, Mandya District - recommending

(a) Report under Section 12(1) of Karnataka Lokayukta Act, 1984 sent to the competent authority for redressal of the grievance of the complainant. The Competent Authority shall report the compliance within 30 days from the date of receipt of the report under Section 12(2) of Karnataka Lokayukta Act, 1984.

(b) Report under Section 12(3) of Karnataka Lokayukta Act, 1984 for initiating disciplinary proceedings against Nagaraju, Taluk Surveyor, Taluk Survey Office, Malavalli Taluk, Mandya District for his lapses.

One Sri Chikkalakshmaiah son of Chikkaputtaiah, Sunnadadoddi Grama, Kasaba Hobli, Malavalli Taluk, Mandya District, in his complaint dated 14/11/2014 against Sri Nagaraju, Taluk Surveyor, Taluk Survey Office, Malavalli Taluk, Mandya District, has alleged that 36 ½ guntas of land in Sy.No. 103 bounded on east by the land of Dodabasavegowda, west by land of Chowdamma and another, north by land of Chikkalakshmaiah, south by land of Nidaghatta Kadle Huchegowda and another. Plot measuring 5 ½ guntas in the same Sy.No. 103 bounded on east

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by land of Basamma, west by land of Nanjundegowda, north by land of Nanjundegowda and south by the Malavalli Road, belonged to Doddegowda (a) Puttaswamygowda son of Cheluvegowda and after his death, his son P. Bogegowda and his son B. Sathish Chandra sold the said two portions of land in favour of Basavaraj son of Madegowda under the sale deed dated 23/2/1989 and in that sale deed, instead of describing the said portions measuring 36 ½ guntas and 5 ½ guntas as separate plots covered by different boundaries as mentioned above, the total extent of land was mentioned as one acre two guntas in the said sale deed and while doing the survey durasthi work, the land in possession of complainant in the said Sy.No. 103 had been included by the respondent and feeling aggrieved by the said measurement, he had filed appeal under Section 49(a) of Karnataka Land Revenue Act before the Technical Assistant for the Dy. Commissioner and Ex-Officio Dy. Director of Land Records, Mandya District, Mandya in Case No. Jithamsa:May:67/11-12 and the said Basavaraju and others are the respondents in the said appeal, which was disposed of on 24/5/2012, the durasthi done by the Surveyor came to be cancelled and the matter was remanded with a direction to issue notices to all the Hiduvalidars of Sy.No. 103 and to carry out the measurements and thereafter he had visited the office of the respondent several times with a request to do the durasthi as per the directions given in the appeal; but the respondent failed to do the said work by colluding with the said Basavaraj and others.

2. In his comments sent on 31/12/2014 Respondent stated that, in Sy.No. 103, an extent of four guntas stands in the khatha of Chikkalakshmaiah son of Doddaputtaiah but the said person is not in possession of that portion, another extent of one acre 16

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guntas is also shown in the name of one Chikkalakshmaiah son of Doddaputtaiah and in obedience to the direction issued by the Technical Assistant to the Dy. Commissioner and Ex-Officio Dy. Director of Land Records, Mandya District, Mandya under order dated 24/5/2012, notices were issued to all the persons whose names were shown in the revenue records pertaining to R.S. No. 103 requiring them to be present at the spot during measurement on 7/6/2014. He further mentioned that Basavaraju son of Madegowda is owner of 1 acre 2 guntas of land as per his sale deed and said land purchased by him under the sale deed consists of two plots. Whereas, the said Basavaraju is in possession of single plot and the said Basavaraju son of Madegowda, Chikkalakshmaiah son of Doddaputtaiah and Chikkalakshmaiah son of Chikkaputtaiah wanted him to carry out measurements as per actual possession and this being not possible, he returned the file to the office. He denied that he has neglected to perform his duties.

3. When copy of the comments of respondent was sent to the complainant for his rejoinder, he sent his rejoinder on 4/4/2015 reiterating his earlier stand.
4. According to Section 137 of Karnataka Land Revenue Act, the disputes relating to boundaries of villages, survey numbers, sub-divisions of survey numbers or holdings shall be fixed and all disputes relating thereto shall be determined, by Survey Officers or by such other officers as may be appointed by the Government. According to Section 140 of the said Act, at the time of a survey, the boundary of a survey number, a sub-division of a survey number or a holding,— (a) if undisputed, shall be recorded and marked as pointed out by the holder or person in occupation, and

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(b) if disputed, or if the holder or person in occupation is not present, shall be fixed by the Survey Officer, in accordance with the land records relating to the land and after making such inquiry as he considers necessary. If any dispute arises concerning the boundary of a holding which has not been surveyed, or if at any time after the completion of a survey, a dispute arises concerning the boundary of a survey number, a sub-division of a survey number or a holding, the Tahsildar according to sub-Section (2) of Section 140 of the Act, shall decide the dispute having due regard to the land records, if they afford satisfactory evidence of the boundary previously fixed, and if not, after such inquiry as he considers necessary. According to Section 142 of the Act, the settlement of a boundary under this Chapter 12 of the Act shall be determinative— (a) of the proper position of the boundary line or boundary marks, and (b) of the rights of the land-holders on either side of the boundary fixed in respect of the land adjudged to appertain or not to appertain, to their respective holdings, under sub-Section (2) of Section 142, the Tahasildar has got power to summarily evict any land-holder, who is wrongfully in possession of any land which has been adjudged in the settlement of a boundary, not to appertain to his holding or to the holding of any person through or under whom he claims. In the present case, the present complainant had filed appeal No. Jithamsa:May:67/11-12 before the Technical Assistant for the Dy. Commissioner and Ex-Officio Dy. Director of Land Records, Mandya District, Mandya, complaining that although under the sale deed of said Basavaraju son of Madegowda, the land sold therein consists of two separate plots; one measuring 36 ½ guntas and another measuring 5 ½ guntas in Sy.No. 103 of Gajanur village and they were covered by separate boundaries and they were shown as single plot measuring one acre two guntas contrary to the tenor of the sale deed, at the

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time of survey. Upholding the claim of the present complainant, the appellate authority allowed the appeal as per the following final order dated 24/5/2012.

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ಮೇಲ್ಕನವಿಯನ್ನು ಪರಿಶೀಲಿಸಿ. ಮಳವಳ್ಳಿ ತಾಲ್ಲೂಕು, ಕಸಬಾ ಹೋಬಳಿ, ಗಾಜನೂರು ಗ್ರಾಮದ ಸ.ನಂ. 103/1.2ರ ದುರಸ್ತಿ ಕ್ರಮವನ್ನು ರದ್ದುಪಡಿಸಿದೆ. ಸದರಿ ಸರ್ವೆ ನಂಬರಿನಲ್ಲಿ ಬರುವ ಹಿಡುವಳಿದಾರರಿಗೂ ನೋಟೀಸು ನೀಡಿ ಅವರ ಹಕ್ಕು ಅನುಭವ ಪಡೆದುಬಂದಿ ಅನುಸರಿಸಿ ಆಳತೆ ಮಾಡಿ ದುರಸ್ತಿಪಡಿಸಲು ಕರ್ನಾಟಕ ಭೂಕಂದಾಯ ನಿಯಮಾವಳಿಗಳಂತೆ ತಹಶೀಲ್ದಾರ್. ಮಳವಳ್ಳಿ ಇವರಿಗೆ ಆದೇಶಿಸಿದೆ.

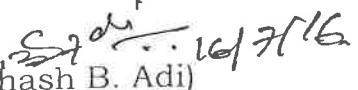
5. After remand from the appellate authority, the file was sent to the respondent for carrying out the measurement. The respondent issued notice to the parties i.e. present complainant Sri Chikkalakshmaiah and the said Sri Basavaraju, another Sri Chikkalakshmaiah son of Doddaputtaiah, Smt. Sarojamma wife of late Papanna, Smt. Lakshamma @ Chikkannamma wife of Channakeshavaiah requiring them to be present at the spot on 30/10/2014. Under law, the respondent was required to identify the plots as per the above sale deed executed in favour of Basavaraju and demarcated the boundary. He has failed to do so. The complaint allegations are prima facie made out. The respondent having prima facie been shown to have lacked devotion to duty.
6. The allegations in the complaint can thus be said to have been made out prima facie. Being a Government servant, the Respondent having prima facie been shown to have lacked devotion to duty, which is unbecoming of a Government servant.
7. Hence, a report under Section 12(1) of the Karnataka Lokayukta Act, is sent to the Competent authority for redressal of the grievance of the complainant. The Competent Authority shall

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report the compliance within 30 days from the date of receipt of this report.

8. Since said facts and material on record prima-facie show the respondent has committed misconduct as per Rule 3 (1) of KCS (Conduct) Rules, 1966, now, acting under Section 12(3) of the Karnataka Lokayukta Act, recommendation is made to the Competent Authority to initiate disciplinary proceedings against the respondent and to entrust the inquiry to this Authority under Rule 14-A of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.
9. Further, as per section 12(4) of Karnataka Lokayukta Act, 1984, the Competent Authority is hereby directed to intimate this Authority within one months from the date of receipt of this report, the action taken or proposed to be taken on this report as the complaint is of the year 2014.

Connected records are enclosed.


(Justice Subhash B. Adi)
Upalokayukta,
State of Karnataka.