

KARNATAKA LOKAYUKTA

No. Compt/Uplok/BD-415/2008/ARE-6

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

Date: 31/05/2017.

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

Sub: Complaint filed by Sri. Leo Aroja- S/o. A.John Aroja-
Ex.TMC Vice President, Managing Editor, Kannada
Weekly Report, "Anjali Priyadarshini" Azaad Road,
Kushawatchi, Thirthahalli, Shimoga District reg.

A complaint was registered on the basis of complaint filed by one Sri. Leo Aroja- S/o. A.John Aroja- Ex.TMC Vice President, Managing Editor, Kannada Weekly Report, "Anjali Priyadarshini" Azaad Road, Kushawatchi, Thirthahalli, Shimoga District (hereinafter referred to as complainant for short) against Sri. Rudresh - Tahasildar in Thirthahalli Taluk Office, Thirthahalli, Shimoga District (hereinafter referred to as respondent for short) alleging that, being Public/Government servant, has committed misconduct, an investigation has been taken up u/s 9 of the Karnataka Lokayukta Act, 1984.

2. According to the complainant (complaint at Annexure A) an area of 15 acres in Sy.No.79 of Kuruvalli village, Kasaba Hobli, Thirthahalli Taluk in Shimoga District, is a forest land. It has

been illegally entered in revenue records in the name of Pontiff of Puttigemutt. On the basis of incorrect and illegal entries pontiff of Puttigemutt has sold an area of 7.23 acre out of it to Taluka Panchayath for construction of Ashraya Scheme Houses on 06/12/2004. Thereby the Pontiff has sold government land to the government and has received sale consideration. A criminal case is registered against Pontiff in this regard. The respondent Tahasildar has made a statement that said land belongs to Puttigemutt.

3. The respondent Tahasildar submitted comments dated 16/06/2008(at Annexure B with enclosures) stating:

Land Sy.No.79 is government land totally measuring 43.03 acres as per akarband. An area of 28.03 acre is entered in the name of Puttigemutt as MR No. 1/56-57. Occupancy rights in respect of 6 acres out of 28.03 acres were granted to tenant, which is later acquired for Horticulture Department and further 14.02 acre out of 28.03 was given to Horticulture Department and an area of 35 gunta was given by Puttigemutt to Gram Panchayath by way of gift. Out of remaining area after obtaining permission from D.C. an area of 7.23 acre is sold by Puttigemutt to Taluka Panchayath for formation of Ashraya Scheme sites.

As per records of 1956-57 an area of 15 acres is shown as Aralimatt minor forest and was assigned as Sy.No.79/1 and

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area of 28.03 acres was shown as 79/2 in the name of Puttigematt. During survey, it was found that an area of 6 acres of forest land comes in the area of land handed over to Horticulture Department and an area of 9 acres forest land is in possession of Puttigematt. It is found difficult to evict both and handover possession of 15 acres to Forest Department and the same is reported to Assistant Commissioner.

4. The Assistant Commissioner, Shimoga was asked to submit report regarding state of affairs of land Sy.No.79 and accordingly Assistant Commissioner, Shimoga submitted report dated 02/05/2013(at Annexure C) with enclosures (Page Nos. 29 to 72 According to the said report Joint survey was conducted as reported by Tahasildar vide letter dated 23/07/2012 and according to Joint Survey-

“ಜಂಟಿ ಅಳತೆ ವರದಿಯಂತೆ ಮೇಲಿನ ಕುರುವಳ್ಳಿ ಸ.ನಂ.79ರಲ್ಲಿ ತೋಟಗಾರಿಕೆ ಇಲಾಖೆಗೆ ಪ್ರಕರಣ ಎಲ್‌ಎಸಿ 13/75-76ರಂತೆ 28 ಎಕರೆ 06 ಗುಂಟೆ ಜಮೀನು ಭೂ ಸ್ವಾಧೀನಪಡಿಸಿರುವ ಪ್ರದೇಶಕ್ಕೆ ರಿ.ಸ.ನಂ.112 ನೀಡಿದ್ದು ಇದರಲ್ಲಿ 6-00 ಎಕರೆ ಪ್ರದೇಶ ಮತ್ತು ಆಶ್ರಯ ಸಮಿತಿಗೆ ಮಂಜೂರು ಮಾಡಿರುವ 7-23 ಎಕರೆ ಜಮೀನು ಹಾಗೂ ಪುತ್ತಿಗೆ ಮಠ ಅವರ ಮೇಲಿನ ಕುರುವಳ್ಳಿ ಪಂಚಾಯತಿಗೆ ದಾನವಾಗಿ ನೀಡಿರುವ 0-35 ಗುಂಟೆ ಪ್ರದೇಶ ಒಳಗೊಂಡಂತೆ ಸ.ನಂ.79 ರಲ್ಲಿ 9-00 ಎಕರೆ ಒಟ್ಟು 15-00 ಎಕರೆ ಅರಣ್ಯ ಇಲಾಖೆಗೆ ಅಧಿಸೂಚನೆ ಜಿ.ಓ ನಂ.1126 ಎಫ್‌ಟಿ 27-33-11 ದಿ.22/08/1933ರ ಮೇರೆಗೆ ಹರಳೀಮಠ ಮೈನರ್ ಫಾರೆಸ್ಟ್ ಎಂದು ಇರುವುದಾಗಿದೆ. ಉಲ್ಲೇಖ(4) ಮತ್ತು (5)ರ ಪತ್ರಗಳಲ್ಲಿ ಅರಣ್ಯ ಇಲಾಖೆ 15-00 ಎಕರೆಯನ್ನು ದಾಖಲಿಸಿ ಕೊಡುವಂತೆ ಕೇಳಿರುತ್ತಾರೆ.

ಮೇಲಿನಕುರುವಳ್ಳಿ ಸ.ನಂ. 79ರಲ್ಲಿ ಒಟ್ಟು 43-03 ಎಕರೆ ಪ್ರದೇಶವಿದ್ದು 1933ರ ಅಧಿಸೂಚನೆಯಂತೆ 15-00 ಎಕರೆ ಹರಳೀಮಠ ಮೈನರ್ ಫಾರೆಸ್ಟ್ ಎಂದು ಇದ್ದು ಉಳಿದ ಪ್ರದೇಶ ದನಗಳಿಗೆ ಮುಫತ್ತು ಇದ್ದು ಈ ಪ್ರದೇಶವನ್ನು ಸರ್ಕಾರದ ಆದೇಶ ಆರ್ 7 18265-68 ಎಂಯುಜಡ್ 238-548 ದಿ. 16/02/1956ರ ಆದೇಶದಂತೆ ಪೂರ್ಣ 43-03 ಎಕರೆಗೂ ಪುತ್ತಿಗೆಮಠವೆಂದು ಕಂದಾಯ ದಾಖಲೆಯಲ್ಲಿ ನಮೂದು ಆಗಿರುವುದಾಗಿದೆ. (ಎಂಆರ್ 1/56-57) ಅರಣ್ಯ ಇಲಾಖೆಯವರು ಈಗ ಸದರಿ ಜಮೀನನ್ನು ಅರಣ್ಯ ಇಲಾಖೆಗೆ ದಾಖಲಿಸಲು ಕೇಳಿದ್ದು ಆದರೆ ಈಗಾಗಲೇ ತೋಟಗಾರಿಗೆ ಇಲಾಖೆಗೆ ಭೂಸ್ವಾಧೀನವಾದ ಸ.ನಂ.79ರ 28-06 ಗುಂಟೆಯನ್ನು 6-00 ಎಕರೆ ಡಿನೋಟಿಫಿಕೇಷನ್ ಆಗಬೇಕಾಗುತ್ತದೆ. ಹಾಗೂ ಆಶ್ರಯ ಯೋಜನೆಗೆ ಮಂಜೂರಾದ 7-23 ಎಕರೆಯನ್ನು ಮಂಜೂರಾತಿ ರದ್ದುಪಡಿಸಬೇಕಾಗುತ್ತದೆ. ಈ ನಡವಳಿಕೆಗಳು ನಡೆಸಲು ಹೆಚ್ಚಿನ ಕಾಲಾವಕಾಶ ಅಗತ್ಯವಿರುತ್ತದೆ”

5. Thereafter the Assistant Commissioner submitted his further report dated 30/01/2016 at Annexure D with enclosures (Page Nos.73 to 88) According to the report and proceedings of Action Committee meeting dated 14/12/2015 held in the presence of RFO, Deputy Director of Horticulture, Chief Officer, TMC, Thirthahalli and President and Secretary Gram Panchayath at Kuruvalli:-

I. a) Sy.No. 79 is “B’ Kharab land as per Akaraband measuring 43.03 acre. An order dated 16/02/1956 was issued by government granting Sy.No.79 on lease for 30 years on annual lease amount of 0-4-0 (ಆಣ) to Puttigematt without mention of exact extent of land covered by lease. Khata was made as per MR1/1956-57 in the name of Puttigematt.

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- b) As per order in file No. LRFTKS/MKB/239/81-82 dtd.30/06/1979 occupancy rights were granted to Smt. Ramabai W/o. Taranath, which was modified vide order dated 09/01/2002 limiting grant of occupancy rights to 6 acres.
- c) In LAC 13/75-76 dated 08/05/1981 an area of 28.06 was acquired for Horticulture Department and it was assigned as new Sy.No.112 after Dhurasti. This acquired area covered 6 acres of Ramabai as well as portion of land in possession of Puttigematt for which compensation amount was apportioned between them.
- (d) The remaining government land in Sy.No. 79 was 14.37 acres. While preparing Tippan an area of 1.02 acre was found in excess and so the area of Sy.No.79 was shown as 15.39 acres.
- (e) Puttigematt sold an area of 17 gunta each to one S.G.Sadanand and S.Gangadhar, which are assigned with Sy.No. 79/2 and Sy.No.79/3 respectively. After excluding said 34 gunta remaining area with Puttigematt was 15.06 acres.
- (f) Out of 15.06 acre puttigemutt purported to have sold an area of 7.23 acre to Taluka Panchayath Thirthahalli for Ashraya Housing Scheme (06/12/2004)

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- (g) Puttigematt donated an area of 35 gunta to G.P. Kuruvalli
- (h) Puttigematt sold an area of 26 gunta to one A.S.Ramachandra.

II. Thus out of 15.39 acres in Sy.No.79, Puttigematt parted with 34 gunta, 7.23 acres, 35 gunta and 26 gunta (9.38 acres) and retained 6.01 acre.

III. As per government notification No. G.11/26 FD 27 33-11 dated 22/08/1933 an area of 15 acres in Sy.No.79 was granted to Forest Department.

IV. Now, there are 9 residential houses and building of Puttigematt for the last more than 35 years in Sy.No. 79

The said report came to be submitted to the D.C. Shimoga

6. The D.C.Shimoga was asked to submit factual report of status of Sy.No.79and accordingly report dated 05/05/2017 (at Annexure E) with enclosures (page Nos 89 to 101) is submitted and according to it:-

- (i) Total extent of Sy.No.79 as per Akaraband is 43.03 gunta
- (ii) Government order R7,18265-68/ MUZ 238-54-8 dated 16/12/1956 granting land on lease to Puttigematt without mention of extent.



(iii) As per order G1126 -FD-27-39-11 dated 22/08/1933, an area of 15 acres was granted to Forest Department.

7. Forest Department is having physical possession of following extent;

(a)	Block No.10 of Sy.No.79/1	1.37 acre
(b)	Block No.9 of Sy.No. 79/1	5.04 acre
(c)	New Sy.No. 112 (Part of acquired land for Horticulture)	<u>5.00 acre</u>
		<u>12.01 acre</u>
(iv)	Land in possession of Horticulture Department out of Sy.No. 79	22.28 acre(assigned with New Sy.No.112)

(v) Portion of land in Sy.No. 79 in possession of Puttigematt

(a)	Block No.1A	0.34 gunta
(b)	Block No. 1B	0.03 gunta
(c)	Block No. 1C	0.07 gunta
(d)	Block No.4	1.23 acre
(e)	Block No.6	<u>1.25 acre</u>
(f)	Block No.7	0.06 gunta
(g)	Block No.8	0.09 gunta
		<u>4.07 acre</u>

vi) Area occupied by Puttigematt 0.04 gunta(out of Block No.9)
Houses 0.32 gunta(out of Block No.9)

8. The above facts found from the comments of respondent, Tahasildar, at Anneure B reports dated 02/05/2013 and 30/01/2016 of Assistant Commissioner at Annexure C and D and report of Deputy Commissioner dated 05/05/2017 at

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Annexure E and survey sketch at Annexure E-1 enclosed to it
Prima facie show:-

- (i) An area of 15 acres in Sy.No. 79 of Kuruvalli totally measuring 43.03 acres was given by government to Forest Department vide order G-1126 FD 27-39-11 dated 22/08/1933, but name of Forest Department is not entered in the concerned revenue records and it's phodi and Durasti has not been made as on date.
- (ii) Puttigematt was granted land on lease in Sy.No.79 vide order 16/02/1956 without mention of extent of land and so at the best the lease could have been of remaining area 28.03 only after excluding 15 acres earlier given to Forest Department.
- (iii) Name of Puttigematt was incorrectly entered in revenue records under MR No. 1/1956-57 in respect of entire area of 43-03 acres of Sy.No.79. The name of Puttigematt was shown as a lessee in Revenue records including RTC and said incorrect entries in revenue records were allowed to continue.
- (iv) Eventhough Puttigematt was only a lessee of land in Sy.No.79, compensation amount has been disbursed in respect of 16 acre out of 28.06 acres in the acquisition proceedings in favour of Horticulture Department,

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though Puttigematt was not entitled for the same as acquired portion in it's possession was government land.

- (v) Even though the lease period in favour of Puttigematt stood expired on 16/02/1986 (i.e., 30 years from 16/02/1956) it was allowed to continue in possession of 15.39 acres on spot and no action was initiated by revenue authorities to re-possess the land.
- (vi) Even after expiry of lease period of 30 years on 16/02/1986, Puttigematt sold 17 gunta each to one S.G.Sadanand and S.Gangadhar and unmindful of the fact that said Puttigematt had no right to sell the land the revenue officers have effected MR H3/2013-14 dated 10/12/2013 and MR H11/2013-14 dated 21/06/2014 showing the names of purchasers on the basis of sale transactions and had assigned the said portions of 17 gunta each as Sy.No.79/2 and 79/3.
- (vii) Similarly, without having any ownership right over any portion of land in Sy.No. 79, Puttigematt is stated to have been sold an area of 7.23 acres to Taluka Panchayath on 06/12/2014, stated to have sold an area of 26 gunta to one A.S.Ramachandra and stated to have made a gift of 35 gunta to Gram Panchayath out of land.
- Viii) As per the report of D.C. dated 05/05/2017, Horticulture Department is having possession over 22.28 acres

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(excluding the area of 6 acres belonging to Forest Department); the Forest Department is having possession over 12.01 acres as against 15 acres given to it right back in the year 1933; Puttigematt and others are having possession over an area 5.08 acre as shown in the survey sketch(Annexure E1) enclosed to the report at Annexure E; i.e., Block No.III of Survey sketch Annexure E land measuring 35 gunta of Sy.No. 79/1 is in the possession Gram panchayath Kuruvalli and portion of 18 gunta in Sy.No.112 shown at Block No.II in Sy.No.112 in the survey sketch Annexure E-1 is in the possession of Gram Panchayath wherein water supply pump house and water tank are situated.

10. In view of the above facts, noticed from the reports of Assistant Commissioner and the Deputy Commisisoner the Government in Revenue Department in consultation with Forest Department, Horticulture Department and RDPR are required to take following steps to protect and retain the Forest and the government land in view of the decisions of Hon'ble Supreme Court prohibiting use of land notified as forest land for any other activities other than forest activities under the supervision of Forest Department in view of mandatory provisions of Forest (Conservation) Act 1980.

(a) As Puttigematt was only a lessee for a period of 30 years, which expired on 16/02/1986, neither Puttigematt nor

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the transferees of different portions in Sy.No. 79/1, 79/2 and 79/3 have no right in law over any portion and hence the revenue department shall have to repossess the portions of land in Sy.No.79/1 as identified as Block 1A, Block 1B, Block 1C, Block 4, Block 6, Block 7, Block 8, Block 9 and Block 10 and also portion of land in Sy.No. 79/2 and 79/3 each measuring 17 gunta as described in Survey sketch Annexure E1 enclosed to the report Annexure E, By removing all sort of encroachment on the said portions,

- (b) Revenue Department shall hand over possession of portion of land which is presently not in possession of Forest Department out of 15 acres as identified in survey sketch Annexure E-1 enclosed to report dated 05/05/2017 of DC at Annexure E.
- (c) The entries in RTC of Sy.No. 79/1, 79/2 & 79/3 as they appear at present shall be corrected by showing extent of 15 acres in the name of Forest Department and remaining portion shall be shown as Government 'B' Kharab land by removing all other entries.
- (d) The incorrect entries in RTC of Sy.No. 79/2 and 79/3 showing names of purchasers on the basis of M.R H3/2013-14 dated 10/12/2013 and MR H1/213-14 dated 21/06/2014 shall be cancelled in accordance with

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law^{as they} had no title to transfer ownership of any portion of land forming part of Sy.No.79.

- (e) Revenue Department in consultation with Department of Horticulture shall take steps to recover the compensation amount paid to Puttigematt in the acquisition proceedings of land Sy.No.79 in favour of Horticulture Department as Puttigematt was only a lessee and acquired land was a government land.
- (f) The Revenue department in consultation with RDPR shall take steps to recover sale consideration paid if any by Taluka Panchayath Thirthahalli to Puttigematt in the said transaction of 7.23 acre out of Sy.No. 79/1.
11. Hence, this report is made under Section 12(1) of the Karnataka Lokayukta Act, to the competent authority to take steps as recommended in Paras above.
12. 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.

Copies of connected records are enclosed.

S.M.
31-5-17
[JUSTICE SUBASH B ADI]
Upalokayukta
Karnataka State, Bengaluru.