

KARNATAKA LOKAYUKTA

No. Compt/Uplok/BD-479/2011/ARE-6

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

Date: 24/01/2019.

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

Sub: Complaint filed by Sri. Munivenkatappa D.A
– S/o. Dodda Appaiah and others R/o.
Aalagondahalli, Doddanalla Post,
Jadigenahalli Hobli, Hosakote Taluk,
Bangalore Rural District.– reg.

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On the basis of the complaint given by Sri. Munivenkatappa D.A – S/o. Dodda Appaiah and others R/o. Aalagondahalli, Doddanalla Post, Jadigenahalli Hobli, Hosakote Taluk, Bangalore Rural District. (hereinafter referred to as 'complainant' for short) against Sri. Amaresh.H-Tahasildar, Malur 2) Sri. Rangappa H.J- Sheristedar- Malur Taluk and 7 others of Tahasildar office, Malur Taluk, Kolar District, being Public/Government Servants have committed misconduct, an investigation has been taken up u/s 9 of the Karnataka Lokayukta Act, 1984.

2. The sum and substance of the allegations of the complainant in this case are that One Sri. Muniveerappa,

a government employee (presently retired) and his family members have illegally encroached the government land bearing survey No. 52 and the revenue and survey officials of Malur Taluk have failed to take action against illegal encroachment of government land and also illegal transactions of granted lands.

3. During the course of investigation allegations of cutting nilgiri trees in government land by Sri. Muniveerappa and his family member were also made by the complainant. The Tahasildar was directed to take steps to survey government land in the presence of complainant and demarcate the government land excluding the portion of land granted in accordance with law by and submit report.
4. The Tahasildar Sri. Girish has submitted his report dated 22.03.2017 and according to the said report:
 - i. An area of 38 ½ guntas in Sy.No. 14/3 and an area of 9 gunta in Sy.No. 35 of Hedaginabele village, are the patta lands purchased by Sri. Muniveerappa and an area of 20 guntas each in Sy.No. 74 & Sy. 80 of Hedaginabele, are the ancestral properties of Muniveerappa. Since they are not government lands no action can be taken.

- ii. Sri. Muniveerappa had purchased an area of 2 acres bearing Sy.No. 52/P3 and an area of three acre bearing Sy. No. 52/P26 of Hedaginabele and the said transactions were hit by the provisions of SC/ST(PTCL Act) and as such the sale transactions were cancelled by the Assistant Commissioner and appeals were dismissed by the Deputy Commissioner and now he has filed WP 49631/2015 challenging the said orders and Hon'ble high court has granted stay on 18/12/2015 and the matter is pending.
- iii. Smt. Bheeramma w/o. Sri. Muniveerappa has purchased an area of 1.01 acre in old Sy. No. 6 presently bearing Sy. No. 35 and an area of 2.21 acre in old Sy.No. 6 presently bearing Sy.No. 36, from a grantee belonging to muslim community. The said transactions were taken place after the expiry of prohibitory period and hence no action is taken against the said transactions.
- iv. Smt. Bheeramma wife of Sri. Muniveerappa was granted an area of 3 acre 30 guntas in government land Sy.No. 52 later assigned as Sy.No. 102. Since the said grant was made when Muniveerappa was in government service, the Assistant Commissioner vide order dated 10/12/2015 cancelled the said grant and accordingly possession of the said land is taken by the government and records have been corrected showing the name of the government as owner.
- v. It was found that an area of 2 acre 29 guntas in government land bearing Sy. No. 52 just adjoining to the land bearing new Sy. No. 102, was encroached by Muniveerappa and accordingly steps were taken and

the encroachment has been removed and possession of the land is taken over by the government.

vi. It is found that an area of three acre 10 gunta in government land Sy. No. 52 was granted to Sri. Muniyappa brother of Sri. Muniveerappa and after phodi it is assigned as new Sy.No. 101. Since, Muniyappa is residing separately and is not a member of family of Muniveerappa, the grant is in accordance with law and hence, action cannot be taken.

5. On the basis of above information the Tahasildar has stated that steps have been taken against all the points raised by the complainant and there is no illegal encroachments over the government land bearing Sy.No. 52.

6. It is seen from the records as well as scrutiny notes that, the Sy.No.52 of Hedaginabele is a government land. various portions were granted to different persons over a period of time and on the basis of phodi different portions granted have been assigned new survey numbers as from Sy.No. 86 to 102. It is seen that government land Sy.No. 52 was totally measuring 42.39 acres out of which after phodi different portions were assigned with new survey numbers from Sy.No.86 to 102. As per the report of the Tahasildar grant relating to 3 acre 30 guntas in the name

of Bheeramma bearing in Sy.No. 102 earlier portion of 52 has been cancelled and possession has been taken along with encroached portion of two area 29 gunta in Sy.No. 52. So also, an area of 2 acre and 3 acre of Sy.No. 52 covered by sale transactions in favor of Sri. Muniveerappa have also been cancelled and these were the portions not subjected to phodi.

7. Thereafter, the Tahasildar Sri.Girish has appeared on 27/09/2017 and submitted the report along with the sketch, copy of sale deed, the extent of gomal lands, the extent of lands that has already been granted and also the remaining extent of gomal lands available. He also submitted number of RTC extracts, check lists to show the names of grantees. He submits that in respect of land granted to an extent of 238.39 acres, durast work has been conducted. The remaining land is 94.31 acres. 95 persons have been granted lands, 27 persons have filed Form No.53. The total number of cattle in the village are 192.

8. The Tahasildar submits that western boundary shown in the sale deed dated 13/08/1997 is wrong. The western boundary should be government land in the place of Thimmarayappa's land. In fact, Thimmarayappa's land

on the western side comes after government land. So, the actual measurement comes upto thimmarayappa's lands is more than 10 acres. In respect of 2 acres of land as per the said sale deed, boundaries have been fixed. Steps will be taken to prevent encroachment of the remaining government land. It is submitted that in the remaining land Eucalyptus plantation is there.

9. The Tahasildar further submits that when he visited the spot in respect of land bearing Sy.No.101, measuring 3.10 guntas, the neighboring villagers told him that Sri. Muniyappa has encroached more extent of land than 3.10 acres. Therefore, he has already submitted petition to DDLR for cancellation of Durast order.
10. After perusal of the subsequent report of Tahasildar, it was noticed that a wrong boundary was shown in the registered sale deed pertaining to the extent of 2 acres of land on the western side. Therefore, DDLR and Senior Revenue Officers were directed to conduct fresh survey having regard to the extent of lands granted, the boundaries shown, the actual possession. Accordingly, DDLR submitted the report along with survey sketch pertaining to land bearing Re-Sy.No.90, 91,92,102 and 52

of Hedaginabele village, Re-survey No. 35,36 and 6 of Chennigarayapura village.

11. As per the survey sketch, land to an extent of 20 guntas in Re-Survey No.52, 3 acres 36 guntas in Re-survey No.92 totally measuring 4 acre 16 guntas is in occupation of one Sri.Muniveerappa. The total extent of Re-survey No.92 is 4 acres. As per RTC, one Sri.Krishnappa S/o. Thimmarayappa's name finds a place. 3 acre of land in Sy.No.52/P-26 is standing in the name of Muniveerappa.
12. The report further indicates that one Muniveerappa is in occupation of 1.13 acres in Re-survey No.90 and 12 guntas in Re-survey No.91. As per RTC in respect of Re survey No. 91 measuring 4 acres, the names of Ramakka, Thimmareddy, T.Rammareddy, S/o. Thimmarayappa finds a place. In respect of land bearing Re-Survey No. 80 measuring 4 acres the names of Pushpa and Ravikumar finds a place.
13. The report further indicates that in respect of Re-survey no. 52, two acres of land and in respect of Re-Survey no. 102 measuring 1.30 acres, totally measuring 3.30 acres is in occupation of one Smt.Bheeramma W/o. Muniveerappa. But, actually the name of said Bheeramma

W/o. Muniveerappa finds a place in respect of 3.30 acres in Re-survey No.102.

14. It is further stated that 1.28 acre in Re-survey No.52/P-3 is a disputed land between Muniveerappa and Narayanappa. The name of Muniyappa S/o. Muniyappa(Brother of Muniveerappa) finds a place in respect of 3.10 acres of land in Re-survey No.101. The said measurements were shown after measuring the lands as per the occupation of the persons and as shown by the Village Accountant.
15. The survey report in respect of Chennirayapura lands discloses that Re-survey No.6 is a government gomal land. One Smt. Bheeramma w/o. Muniveerappa is in occupation of 2.10 acres. The extent of land in Re-Sy.No.35 is 1.01 acre and Re-Sy.No.36 is 2.21 acre. The name of Smt. Bheeramma W/o. Muniveerappa finds a place in respect of the said lands also.
16. Subsequently, the DDLR, Kolar has submitted report dated 16/11/2017 along with the survey sketch prepared by Taluk surveyor, Malur Taluk and the mahazar. The said report indicates that one Sri.Muniyappa is in possession and enjoyment of 1.20 acres, in Sy.No.101 of Hedaginabele village and also he is in possession and

enjoyment of 3 acres of land in Sy.No. 6 of Chennigarayapura village, But, there are no boundary stones at the spot. It was also noticed that there is difference with regard to identification of properties as per possession and also the documents.

17. The Tahasildar, Malur has also produced copy of the order dated 10/12/2015 passed by the Assistant Commissioner, Kolar sub-division. On perusal of the said order, it is seen that the grant made in favour of Smt. Bheeramma D/o. Venkatappa, in respect of land measuring 3.30 acres in Sy.No.52/2 of Hedaginabele village has been cancelled on the ground that she was not eligible to be granted, as her husband was working as a government servant in survey department.
18. The overall facts and circumstances would show that one Sri. Muniveerappa who was working in the survey department, has misused his position and got sanctioned several extent of lands in favour of his own family members. When ARE-6 personally visited the spot on 19/06/2018, he also noticed that the family members of Muniveerappa were claiming that several lands were granted in their favour. The alleged grant certificates do not indicate the boundaries of the lands said to have been

granted. Vast extent of government lands are there at the spot and Eucalyptus trees are grown in that entire area. Even though several persons have been claiming that lands have been granted in their favour in Sy.No.6 of Chennigarayapura village, Sy.No.52 and 101 of Hedaginabele village, but, even as per the survey report there is difference with regard to actual possession and the survey documents. The Tahasildar, Malur has not able to produce the relevant documents to show the genuiness of the alleged grants.

19. It is pertinent to note that this complaint has been filed in respect of lands bearing Sy.No.101 of Hedaginabele village, Sy.No.52, 62 and 39 of Chennigarayapura village. As per the latest report dated 15/11/2017 submitted by the DDLR, Kolar, it is seen that the total land is measuring 3 acre 10 guntas in Sy.No.101. As per the spot inspection made by ARE-6, one Sri.Muniyappa claimed that he was in possession of 1 acre 20 guntas in the said Sy.No. He also claimed that he was in possession in respect of 3 acres of land in Sy.No.6 of Chennigarayapura village. But, the DDLR noticed that, the boundaries as shown by Sri. Muniyappa do not tally with the survey documents. Even boundary stones were not there at the

spot. As per the written submission made on behalf of Sri. Muniyappa by his advocate, the said Muniyappa was granted 3 acres 10 guntas in old Sy.No.101 and new Sy.No.52. He claims that 2 acres of land was granted in favour of one Venkataramanappa S/o. Pemmaiah of Madivala village. Subsequently, the said Muniyappa purchased the said 2 acres of land under a registered sale deed dated 13/08/1990 from Sri. M.V.Rajappa S/o. Venkataramanappa. But, on perusal of the alleged grant certificate it is seen that proper boundaries have not been mentioned. Without any basis Sri. Muniveerappa S/o. Muniyappa got the registered sale deed in respect of the said land by mentioning his own imaginary boundaries.

20. During the spot inspection made by ARE-6 on 19/06/2018, he also noticed that the boundaries in respect of the said land measuring 2 acres do not tally at the spot. Because, the boundaries mentioned in the said sale deed are not at all in existence at the spot. Therefore, the reports submitted by the DDLR stating that there are no boundary stones and there are difference with regard to boundaries is prima facie true and correct. Therefore, the claim made by Sri. Muniveerappa S/o. Muniyappa in respect of the said land is doubtful in nature. Since, there

are no boundaries mentioned in the alleged grant and the boundaries mentioned in the alleged registered sale deed do not reflect the actualities, it becomes doubtful transaction therefore, the claim cannot be believed and accepted.

21. In respect of land bearing Sy.No. 102 (old Sy.No.52) measuring 3.30 acre is concerned, the same was granted in favour of Smt. Bheeramma W/o. Muniveerappa under darkest. But, thereafter it was noticed that at the time of the said grant her husband Sri. Muniveerappa as a government servant working as Band Jawana in the Taluk Office. Accordingly, the Assistant Commissioner, Kolar conducted proceedings as per LND/RUO(A)06/2014-15. By the order dated 10/12/2015, the Assistant Commissioner has ordered to cancel the grant made in favour of Smt. Bheeramma and directed the Tahasildar, Malur to take possession of that land by changing the revenue documents accordingly. Pursuant to the said order, the Tahasildar, Malur has taken possession of that land, as per his report dated 29/12/2017. Therefore, it is clear that there was a suppression of material facts and played the fraud with regard to grant of said land.

22. In respect of land measuring 2 acres in Sy.No.52/P3, 3 acres of land in Sy.No.52/P26 of Hedaginabele village, are concerned, the report of Tahasildar discloses that Sri. Muniveerappa had purchased the said lands through a registered sale deed. But, the Deputy Commissioner, Kolar has passed an order under the SC/ST (PTCL) Act and thereby cancelled the said transaction and now the matter is pending before the Hon'ble High Court of Karnataka in W.P. 49631/15 and the Hon'ble High Court of Karnataka has granted stay. Therefore, steps cannot be taken to recover the possession in respect of said lands.
23. The report of Tahasildar further reveals that the land measuring 1 acre 1 gunta in old Sy.No.6 and new Sy.No.35 and 2 acre 21 guntas in old Sy.No.6 and New Sy.No.36 of Chennigarayapura village have been purchased from the original grantees. The original grantees belongs to muslim religion and after completion of the prohibition period the lands have been purchased.
24. The report further reveals that Sri.Muniveerappa has been separated from his brother Sri. Muniyappa and accordingly, residing separately. The grant to an extent of 3.10 acres in new Sy.No.101 and old Sy.No.52 of Hedaginabele village is in accordance with law.

25. The report further reveals that Sri. Muniveerappa was in unauthorized occupation of land measuring 2.29 acres in new Sy.No.102(Old Sy.No.52) and that grant is adjacent to the land measuring 3.30 acres which was standing in the name of Smt. Bheeramma W/o. Muniveerappa and subsequently cancelled by the Assistant Commissioner. By noticing the unauthorized occupation, steps were taken as per rule 108(k) of KLR Rules 1969 and accordingly, evicted him and taken possession of that land to the government.
26. The report further reveals the out of 42.39 acres in old Sy.No.52 of Hedaginabele village, 8.17 acres has been granted in favour of 6 persons and accordingly katha has been mutated in their favour. In respect of remaining 34.22 acres of land, 16 persons have filed Form No.53 for regularization of unauthorized occupation. The said applications are pending for consideration. In respect of the said process the matter is pending before Hon'ble High Court of Karnataka in W.P.16474/17 and there is a stay order.
27. The report further reveals that there are about 82 cattles, 23 buffaloes, 173 sheeps, 119 goats, 20 pigs in the Hedaginabele village. The Tahasildar stated that all steps

have been taken to prevent the illegal encroachment over the government lands. He has also furnished the list of 27 persons in respect of Sy.Nos.31, 52, 62 who have filed Form No.53. The Tahasildar has also submitted the RTC extracts, mutation register extract in respect of the said lands. The said documents reveal about granting of various extents of lands.

28. In this regard, it is relevant to quote ***“the decision reported in ILR 1998 Karnataka 2757 in a case between S.Siddaddappa and others and State of Karnataka is relevant to this case. In the said judgment the Hon’ble High Court of Karnataka has held as follows.***

The provisions of Karnataka Land Revenue Act and rules have been amended from time to time enabling the revenue authorities to find out extra land of the Government for distribution amount landless and other needy persons. Section 94A of the said act is amended for the specific purpose of constituting the land Grant Committee.

The Government of Karnataka thought it fit to introduce Rule 108 I of the Karnataka Land Revenue Rules of 1966. Under this special rule, the Government has directed the authorities to reserve certain Government land for the purpose notified therein which reads as follows:-

Certain lands not to be Granted: Notwithstanding anything contained in this chapter lands assigned for special purpose under Section 71 of the Act, and lands described in revenue records as Devarakadu, Urduve, Gunduthope, Tankbed, Phut Kareb Kharab Halla, date reserve, burial gorunds and such lands which in the opinion of the Government is required for public purposes, shall not be granted”.

Devarakadu, Urduve, Gunduthope, Tankbed, Phut Kareb Kharab Hall, date reserve, burial gorunds can only be found in the revenue records. In fact, one finds it difficult even to locate a Gunduthope or a Tankbed in the villages. The gomal lands and the gunduthope is a gift to the villagers. They have been tampered with successful”

29. In view of the above facts and circumstances, prima facie shows that some grants are not lawful. Prima facie there is a fraud played by Sri. Muniveerappa in collusion with the then Revenue officials and got the fictitious grant certificates in favour of his family members. Without mentioning the correct boundaries and without conducting proper durast, revenue entries have been made. The said boundaries are not at all in existence at the spot. Therefore, it is proposed to make recommendation u/s.12(1) of K.L.Act to the competent authority to direct the Assistant Commissioner, Kolar to


examine in detail the correctness of the various grants made pertaining to the above said Sy.Nos. and to take suitable action to cancel the grants in case of any illegality and in respect of the grants without showing the correct boundaries and to submit the report. Since, large extent of government gomal lands are the subject matter of this complaint, to prevent any illegal encroachment and to preserve the gomal land for the purpose for which it was reserved, as per the aforesaid judgement, such a recommendation is made to the competent authority.

30. Further, a recommendation is also necessary to the competent authority that till examination of all the relevant grant certificates and consequent revenue documents there shall not be any transaction in respect of the above said lands.
31. Hence, this recommendation u/s 12(1) of K.L.Act is made to the competent authority for taking steps in accordance with law for examination of all the documents pertaining to alleged grants in respect of the above said Sy.Nos. and to cancel the grants if it is found that the said grants are either not lawful or illegal. It is made clear that, in respect of the matters pending before the Hon'ble High Court of Karnataka this recommendation is not applicable and the

authorities shall follow the directions to be given by the Hon'ble High Court of Karnataka.

32. Further, recommendation is also made u/s.12(1) of K.L.Act to the competent authority to direct the concerned to prevent any transactions in respect of the said lands and to preserve the lands as it is till the enquiry in that regard is concluded.
33. 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)
I/c. UPALOKAYUKTA-2
STATE OF KARNATAKA