

KARNATAKA LOKAYUKTA

No.Compt/Uplok/MYS-3188/2014/DRE-1 Multi Storied Buildings,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001
Date : 21/1/2020

Report under section 12(1) of Karnataka Lokayukta Act

Sub: Complaint filed by Sri.Prasanna Kumar S/o.Ravindra,
Editor, Malenada Minchu Fortnightly paper,
Sushantha Nagar, Hesgal Post, Mudigere Taluk,
Chikmagalur District.

1. On the basis of the complaint filed by Sri.Prasanna Kumar S/o.Ravindra, Editor, Malenada Minchu Fortnightly paper, Sushantha Nagar, Hesgal Post, Mudigere Taluk, Chikmagalur District, against (1) Sri Prabhakar, Surveyor, Revenue Department, Mudigere Taluk, (2) Sri Prasad.B.M. Range Forest Officer, Mutthodi, Chikkamagalur District, (3) Sri Abdul Ajeej, Range Forest Officer, Chikkamagalur Range, (4) Sri Venkatesh, Deputy Range Forest Officer, Chikkamagalur Range, (5) Sri Sathish.S.K. Forest Guard, P.T.Unit, Chikkamagalur, (6) Sri Raghu.H.B. Forest Guard, Gabgal Gasthu, Aldur Range, (7) Sri Ramesh Babu, Assistant Conservator of Forest, Mudigere, (8) Sri Srinivas Reddy.B. Assistant Conservator of Forest, Balehonnur Sub-Division, (9) Sri Kiran Kumar.G. Deputy Range Forest Officer, Monaji Ghataka, (10) Sri.S.Venkatesan, Field Director and Conservator of Forest, Bhadra Wildlife Division of Chikkamagalur District, (11) Sri G.Nanjundappa, the then Survey Supervisor, Taluk Office, Mudigere, Chikkamagalur District, presently working at Office of the ADLR, Shimoga Taluk, Shimoga, and (12) Sri Chinnaraju, the then Tahsildar, Mudigere, Chikkamagalur District, investigation is taken up under Sec.9 of Karnataka Lokayukta Act.

2. The brief averments of the complaint are that, during 2012, 361 trees in Government land bearing Sy.No.59 of K.Thalagur village, Aldur Range, Chikkamagalur District, have been cut illegally by the Forest Department and there is collusion of about 10 officers of Revenue Department and Forest Department causing loss of crores of rupees to the Government. In the complaint, the complainant has named the above respondents No.1 to 10. Further, following specific allegations have been made in the complaint with regard to the above event.

1. 361 trees in Government land have been illegally cut by forest department.
2. Only Rs.1 Lakh fine has been imposed for trees worth crores of rupees.
3. The Revenue Department had issued the sketch without conducting the survey properly.
4. There is suspicion of felling of more than 361 trees.
5. Wrong survey has been conducted by the survey unit of forest department.
6. The higher authorities inspite of having knowledge about the incident have failed to take any action.

Along with the complainant the complainant has produced the documents.

3. The respondent No.1 to 12 have filed their comments. The respondent No.1 in his comments has stated that at the instance of the application given by Sri Ramanathan @ Ganapathi Chettiyar, the khatedar of Sy.No.35 and 58 of K.Thalagur village for permission to fell Jungle wood and reserved kind trees situated in his land, as per the orders of Tahsildar joint survey was conducted by him, respondent No.2 and respondent No.8. It is further stated that, after joint survey list of boundary trees were

prepared and a sketch was prepared on 18/19.4.2012. The respondent No.1 has conceded that, while demarcating the boundaries of Sy.No.58 without his knowledge Sy.No.59 was also included in Sy.No.58 as there was no trench bifurcating the said two survey numbers and there were 30 years old coffee plants in both sy.No.58 and 59. He has further stated that, when he visited K.Thalaguru village for measurement of Sy.No.20 he came to know about the above mistake and immediately reported the same to Tahsildar and requested for an order for fresh joint survey. He has further stated that, accordingly fresh survey has been conducted and sketch has been prepared showing the Sy.No.59 separately. It is also stated that, as regards the felling of trees situated in sy.No.59, the officers of forest department having registered FOC No.15/2012-13 have compounded the offence by imposing fine of Rs.1 lakh and auctioned the felled trees for Rs.55,61,970/-. On the above grounds, it is contended that no loss has been caused to Government and he may be exonerated from the allegations. He has produced documents with his comments.

4. Respondent No.2 in his comments has taken the same defence that, due to mistake and as there was no trench in between the two survey numbers, Sy.No.59 was included and shown within Sy.No.58 in the sketch dtd. 18/19.4.2012. Even he has contended that as fine has been imposed and the felled trees having been auctioned for Rs.55,61,970/- which has been credited to the government, there is no loss to the government and he may be exonerated from the charges.
5. Respondent No.3 & 4 in their comments have reiterated the defence taken by respondent No.1 & 2. They have also produced documents in support of their contention.
6. Respondent No.5 in his comments has stated that, after attestation of the sketch and list of trees by the Range Forest

- Officer, Aldur and Assistant Forest Conservator, Mudigere Sub-Division, the said documents were transmitted for affixing P.T. Stamp and accordingly after confirming himself about the boundaries, he has affixed the P.T. Stamp to the trees.
7. Respondent No.6 has stated in his comments that, the records were received from the Deputy Conservator of Forest after joint survey by the Deputy Range Forest Officer of Saragodu Branch and he has visited the spot along with Deputy Range Forest Officer and has co-operated for spot inspection on the basis of revenue documents. He has further stated that, after he came to know about the encroachment of Sy.No.59 by the hiduvalidar, he has co-operated in drawing the mahazar and seizure of wooden logs and firewood made out of felled trees on the basis of which FOC No.15/2012-13 has been registered. He has also contended that, there is no loss to the government as the felled trees have been auctioned and an amount of Rs.55,61,970/- has been credited to the concerned Head of Account.
 8. Respondent No.7 has produced a copy of reply dtd. 14.2.2013 given by him to the notice issued by Deputy Conservator of Forest, Chikkamagalur along with his letter dtd. 17.12.2014. He has reiterated the defence taken by the above respondents in their comments and he has submitted the report that FOC No.15/2012-13 may be compounded by imposing fine to the khatedar and the seized articles may be forfeited to the Government.
 9. Respondent No.8 & 9 in their comments have contended that the mistake was due to the Survey Officer of Revenue Department. It is further contended that, since Sy.No.35 & 58 were private lands, the forest department had no documents pertaining to the said properties and therefore they could not make out that Sy.No.59 was included in Sy.No.58 during joint survey as there were coffee plants of about 25 years in both Sy.No.58 and Sy.No.59. It is also

contended that, since Rs.55,61,970/- has been realized by auctioning the felled trees and Rs.1 Lakh as fine there is no loss to the Government Exchequer.

10. Respondent No.10 in his comments after reiterating the same contentions as taken by respondents No.1 to 9 has further stated that, the seized wooden logs and firewood made out of 361 felled trees were transported to Kadur Depot and the case was closed after imposing fine of Rs.1 Lakh. He has further stated that, the seized wooden logs and firewood were auctioned for Rs.55,61,970/- and amount has been credited to the Government. He has produced the mahazar, FIR and Form 24 regarding compounding of offence in FOC No.15/2012-13.
11. Respondent No.11 & 12 who were impleaded subsequently, in their comments have contended that, in the complaint there is no specific allegation against them and the complaint as against them is barred u/s 8(2)(d) of Karnataka Lokayukta Act.
12. The complainant has filed rejoinder reiterating the complaint allegations. Additional Principal Chief Conservator of Forest and SP, KLA, Chikkamgalur were directed to conduct joint investigation and submit report. Accordingly, the report dtd. 28.3.2017 with documents have been submitted opining that, there is a case of negligence in due discharge of duties on their part and an explicit voluntary admission of it.
13. Perused the comments, report and the documents submitted by the respondents and the enquiry officers.
14. As noted in the enquiry report Mr.Ramanathan @ Ganpathi Chettiyar had applied on 3.2.2012 for permission to fell jungle and reserved kind trees in Sy.No.59 of K.Thalagur of Balur Hobli as per Form No.1 of Karnataka Preservation of Trees Rules, 1977. A joint survey by the officer of Revenue/Survey and Forest Department was ordered by the officers of the Forest Department

- and the Tahsildar and accordingly joint survey was conducted and sketch was prepared on 18/19.4.2012 wherein admittedly Sy.No.59 was included in Sy.No.58 which resulted in granting felling permission to fell the trees situated not only in hiduvali lands of Sy.No.34 and 58, but also in Government land bearing Sy.No.59. It is conceded by all the respondents that, in the joint survey sketch dtd. 18/19.4.2012 which is marked as Annexure-1 in the enquiry report, Sy.No.59 was not separately demarcated and it was shown within Sy.No.58.
15. It is undisputed that sy.No.58 is the hidulvali land of Ramanatha @ Ganapathi Chettiyar and Sy.No.59 is a government land. From the comments of the respondents and also the enquiry report it also becomes clear that Sy.No.59 has been encroached by the said Ramanatha @ Ganapathi Chettiyar.
16. It is contended by the respondents that, since there were no trenches bifurcating Sy.No.58 and Sy.No.59 and since in both the lands coffee plants of about 25 to 30 years were in existence, respondent No.1, 2 & 9 could not identify and bifurcate Sy.No.59 which has resulted in the present incident. According to the respondents, 'it is only a mistake'. However, as per the enquiry report a P.T.sheet (plain table sheet), a survey document shall be in possession of a Surveyor and the P.T. Sheet reveals that both Sy.No.58 & 59 were originally part of Sy.No.48. It is further reported that, Sy.No.58 has been granted from Sy.No.48 only. It is also observed in the enquiry report that, in the 'Bhoomi' generated copy of RTC Sy.No.48 is recorded as 'of forest department'. Infact, in the sketch dtd. 18/19.4.2012 it is written as "(1)ಸ.ನಂ. 35 ಮತ್ತು 58 ರ ಮಾಫಿ ಹದ್ದುಬಸ್ತು ಅಳತೆಯನ್ನು ಮಾನ್ಯ ತಹಸೀಲ್ದಾರ್ ರವರ ಆದೇಶ ಸಂಖ್ಯೆ.ಟಿಕ್ಕೂಎಂಪಿಹೆಚ್‌ಬಿ 202/2011-12 ರ ಪ್ರಕಾರ ಮೂಲ ಪಿ.ಟಿ. ಜಮೀನು". Hence, it becomes clear that Tahsildar has ordered for survey as per original P.T. and the P.T sheet was in existence as on the date of said survey.

17. Though the respondents have contended that, there was no bifurcating mark so as to identify Sy.No.59 separately, in the enquiry report it has been observed specifically that Sy.No.58 & 59 are almost entirely separated by a kutchra road and in Sy.No.58 there were coffee plants of about 30 years old and in Sy.No.59 coffee plants of about 15 years were in existence at the time of inspection on 21.3.2017.
18. Respondent No.3, 4 & 6 are the officers of Forest Department, who have recommended for grant of felling permission on the basis of the sketch dtd. 18/19.4.2012. In their comments, they have admitted that after receipt of sketch and report from the revenue department they visited the spot and inspected as per the revenue documents. From the enquiry report it can be made out that as per RTC, Sy.No.48 was shown as belongs to "forest department". Therefore, the forest department shall have the custody of all the documents relating to Sy.No.48. Sy.No.59 is part of Sy.No.48. Therefore, the contention of the Respondent No.3 to 8 and 10 that non-showing of Sy.No.59 and inclusion of the said survey number in Sy.No.58 in sketch dt.18/19.4.2012 was only the mistake of revenue and survey officers cannot be held tenable. Even according to the felling permission dtd.16.6.2012, the responsibility was on the Range Forest Officer and his staff to confirm themselves about the boundaries, boundary trees and boundary trench before allowing the khatedars to fell the trees.
19. Further, the comments of the respondents and also the enquiry report are totally silent as regards the steps taken for removal of encroachment of more than 15 acres (as per enquiry report) in Government land bearing Sy.No.59 and to recover possession of the same. Hence, recommendation is made u/s 12(1) Karnataka Lokayukta Act to take steps for removal of encroachment and suitable action against the encroacher by following the principles of natural justice and in accordance with law.

20. The Competent Authority shall intimate or cause to be intimated to this Authority about the action taken on the report within one month thereafter as stipulated under Section 12(2) of Karnataka Lokayukta Act, 1984.

Connected records are enclosed herewith.

Early 22-1-20
(Justice B.S.Patil)
Upalokayukta-2

State of Karnataka, Bengaluru
Bm
21/1/2020