

KARNATAKA LOKAYUKTA

No.Compt.Uplok.Mys.4131/2014

M.S.Building,
Bangalore,dt.1.3.2018.

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

**Sub:- Complaint filed by Smt.A.Rekah, r/o Mandya
Reg.**

The complainant Sri Smt.Rekah.A., W/o late M.Mahadevappa, r/o Mandya, has filed this complaint against the Chief Officer, TMC, Maddur, Mandya Dist.

2. Brief facts of the complaint are that, the complainant has purchased a site bearing katha No.73/72 situated at Maddur from one Ganesh, S/o Venkataswamaiah who had katha of the said site in his name during the year 1980. The katha was changed in the name of complainant on 20.1.1980 and the complainant is paying tax. The TMC, Maddur, granted the above site in favour of one Puttaswamy, S/o Kottaiah Shetty on 30.10.1987 and issued a notice to the complainant stating that the above said site No.30 does not belong to the complainant. Complainant showed the registered sale deed in her name to the TMC and told that she would file a suit. Thereafter the TMC

passed a resolution on 30.6.1988 by confirming site No.30 in favour of complainant by asking her to pay upset price at Rs.20/- per sq.mt. A Govt. order bearing No.VaNaEe 106 TMC 84 was issued by fixing price per sq.mt. at Rs.50/- for 55 sites formed at Leelavathi Layout, where the abovesaid site of complainant is situated. In the said list issued under above Govt. order, the site of complainant was not included. When it was brought to the notice of concerned, a proposal was sent in 2002 to the Govt. In turn, the Ministry concerned wrote a letter to the Chief Officer, TMC, to send proposal. Now the complainant is in possession of site, but the TMC has not granted site to her and she is being subjected to harassment.

The respondent submitted comments stating that in the year 2007, complainant Smt.Rekha submitted an application to the Director of Municipal Administration requesting to allot the said site in her favour. In this regard, the Director of Municipal Administration asked the R.1 to verify the records and take suitable action within the legal framework. In this regard, on 24.4.2007 the municipal authority asked the DC, Mandya to fix the offset price of Rs.62 per sq.ft.in the year 2007 and allot the site to the complainant. On 12.8.2011, market price was obtained from the Sub-Registrar, Mandya, and the rate was fixed to the site No.30 as Rs.350/- per.sq.ft. and total market value was fixed at Rs.10,22,000/- and same was sent to the DC ,

Mandya for his consideration. On 14.12.2012 again the Commissioner of Municipal Authority, Bangalore wrote a letter to DC, Mandya stating that disputed site nO.30 should be reserved for construction of commercial complex which will come to the help of the municipality in future.

The complainant and respondent have produced about 35 documents in this case. From the materials available and from the averments of complaint, comments and the rejoinder, it reveals that the TMC, Maddur, formed layout viz.,Rajakumari Leelavathi Layout consisting of 330 sites. This fact is not disputed by respondent. It is an admitted fact that site No.30 was allotted to one Ganesh in the year 1979 in the auction and the offset price was collected from him. It is also admitted fact that tax assessment list was showing the name of said Ganesh in r/o katha No.72 (site No.30). respondent during enquiry has informed that the documents in r/o allotment of sites are not available.

From the records, it is seen that out of 330 sites, 321 sites have been allotted as mentioned in the report of the Chief Officer dt.19.4.2017 and also in the letter of Chief Officer dt.10.12.1986. From the records, it reveals that 58 sites are approved through Govt.order HUD 75 MDC(s) dt.14.12.1982. 24 sites are allotted through auction 114 sites are allotted by the order of Mysore Divisional Commissioner dt.8.6.1979. 44sites are approved as per



the G.O.HM.MA.42 TD 176 ddt.11.2.1976. 26 sites reserved for KHB quarters. In r/o 50 sites, permission sought for allotment and same are approved by the Govt.

Out of above allotted 321 sites, admittedly no auction proceedings has been conducted except for 24 sites. Balance 9 sites remained unallotted. Out of 9 sites complainant claims that site No.30 was allotted to her vendor as per resolution No.763 on 14.11.1979 and that her vendor Ganesh had deposited the amount fixed by the TMC and that katha was entered in the name of Ganesh.

The complainant's vendor claims to have acquired right over said site No.30 as per resolution of TMC. It shows that the TMC resolved to grant site measuring 30*80 abutting to the western side of site No.30 @ Rs.20 per sq.mt. to Ganesh. On 24.3.1980, the Chief Officer of TMC Maddur issued an endorsement asking Ganesh to deposit Rs.4459-20 towards site which was resolved to be granted to him, which is abutting to the site No.30 and measuring 30*80 @ Rs.20 per sq.mt.

Complainant contends that she has purchased site No.30 having katha No.73/72 situated at Leelavathi Extn. Maddur Town in the year 1980 as per sale deed dt.20.11.1980 from Ganesh. Her name was entered in katha on 20.11.80. She has paid tax upto 1988-89. From records it reveals that all of a sudden on 16.3.88 a show-cause notice was issued by

TMC to Ganesh informing that katha has been illegally transferred and that Ganesh could not have sold the municipal property to the complainant. It is also clarified that resolution No.763 (14) was in respect of corner piece of land situated on the western side of site no.30. It is also clarified that though the extent is mentioned in the resolution as 30*80 feet, proposed site was a corner site measuring only $24+49/2 * 80$. In this notice, it is also mentioned that the katha of site No.30.

From the records, it reveals that one Puttaswamy, S/o Puttaiah Shetty filed an application for grant of the same site. The TMC, Maddur, without looking into the documents, passed a resolution on 30.10.1987 to grant the said site to Puttaswamy. On 30.6.1988 R.No.31(A) was passed by TMC and resolved to confirm the allotment of site No.30 to the complainant as she was an innocent purchaser. It was resolved to adjust the amount collected from Ganesh to the complainant's account. On 3.9.1988, complainant deposited additional amount of Rs.966-20 per sq.ft. On 31.10.1988, the Asst. Director of Town Planning Mandya also gave consent to allot the said site to the complainant for residential purpose. However, no further action is taken.

Even after Resolution No.31(A) dt.30.6.1988, and the subsequent developments, no action is taken. On the other

hand Govt. has given approval for 55 sites on 21.8.1995, but not to those 9 sites which were remaining. Another resolution was passed by TMC on 3.1.2002 to submit requisition to Govt. for allotment of site No.30 to the complainant by collecting market value. There was no objection from any person. Even after this resolution, no action was taken till Sept.2002. Finally, on 28.9.2002, the Dept. of Municipal Administration gave direction to conduct public auction as per its letter dt.28.9.2002 addressed to the Chief Officer, TMC. From Sept.2002, to November 2006, the authorities kept quiet. On 6.11.2006 the Chief Officer, TMC, disposes the application of complainant by referring to the directions issued by DC and Director of Municipal Administration. On 28.11.2006, complainant gave request letter to the DMA and to the DC.

Sec.72 of the KMC Act, Sec.64 deals with competency of municipal council to lease, sell and contract. Sec.70(2) reads as follows:

.... no free grant of immovable property whatever may be its value, no grant for an upset price and no lease for a term exceeding 5 years and no sale or other transfer of immovable property exceeding Rs.25,000/- value shall be valid unless the previous sanction of the Govt. is obtained.

The question of according sanction as per the provisions of Sec.72(2) of KMC Act has to be considered in

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each transaction and only after the auction takes place and when all the terms of sale are available.


In the present case, during enquiry, the respondent appeared and submitted that since the records are very old and at the time of shifting municipal office, same have been missing and are not available. From the available records it reveals that the Govt. has given sanction for 321 sites on different dates. Very recently in the year 1985, sanction for 95 sites is given but sanction for 9 sites is not given. The reasons for not giving sanction to remaining 9 sites is not forthcoming. Apart from that, respondent on the direction of the DC and DMA, has given notice only to the complainant cancelling her site No.30. To the remaining 8 site owners, no notice is given. The respondent as well as Govt. has made differentiation among the allottees of the site. Further, to form 330 sites and to allot them the Govt. has not followed the procedure laid down in Sec.72(A) of the KMC Act. The allotment of sites to the other persons is a self illegal. The Govt. cannot take action only against the present complainant. The Govt. ought to have taken action against all the site owners .

10. Therefore, under the provisions of Section 12(1) of the Karnataka Lokayukta Act, recommendation is made to the competent Authority to direct the concerned to consider the request of the complainant.

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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.


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