

KARNATAKA LOKAYUKTA

No.UPLOK-1/DE/83/2018/ARE-13

M.S. Building,
Dr. B.R.Ambedkar Road,
Bangalore-56001,
Date:20/08/2019.

: Present:

Patil MohanKumar Bhimanagouda
Additional Registrar Enquiries-13,
Karnataka Lokayukta,
Bangalore.

:: ENQUIRY REPORT ::

Sub:- Departmental Enquiry against,
Sri.K.V. Badakar, Senior Sub-Registrar,
Sub Registrar Office, Karwar, Uttara
Kannada District - reg.

- Ref :** 1) Report u/s 12(3) of the K.L Act, 1984 in
Compt/Uplok/BGM-1366/2017/ARE-6
dated.18/12/2017.
- 2) Govt. Order No.RD 01 Mu No Se(1) 2018,
Bengaluru, dated 09/02/2018.
- 3) Nomination Order No.Uplok-1/DE/
83/2018, Bengaluru dated 20/02/2018.

1. This Departmental Enquiry is directed against Sri.K.V. Badakar, Senior Sub-Registrar, Sub Registrar Office, Karwar, Uttara Kannada District (herein after referred to as the Delinquent Government Official in short "DGO").

2. After completion of the investigation a report U/sec. 12(3) of the Karnataka Lokayukta Act was sent to the Government as per Reference No-1.
3. In view of the Government Order cited above at reference-2, the Hon'ble Upa Lokayukta-1, vide order dated: 20/02/2018 cited above at reference-3, nominated Additional Registrar of Enquiries-4 of the office of the Karnataka Lokayukta as the Enquiry Officer to frame charges and to conduct Enquiry against the aforesaid DGO. The Additional Registrar Enquiries-4 prepared Articles of Charges, Statement of Imputations of mis-conduct, list of documents proposed to be relied and list of witnesses proposed to be examined in support of Article of Charges. Copies of same were issued to the DGO calling upon him to appear before this Authority and to submit written statement of his defence. Later on he remained absent and hence, he was placed Ex-parte.
4. As per order of Hon'ble UPLOK-1 & 2/DE/Tranfers/2018 Dated 06/08/2018 this enquiry file was transferred from ARE-4 to ARE-13.
5. The Article of Charges framed by ARE-4 against the DGO is as below:

ANNEXURE NO-1

6. That, you-DGO/K.V. Badakar, Senior Sub-Registrar, Sub-Registrar Office, Karwar, the complainant Sri. Mohan Purussara

Gavankar, got the old shop constructed with mud and roof of Red Mangalore tiles measuring 423 sq. feet i.e 00-00-06 out of the total area of 0-01-04-00 bearing town panchayath House No.2574/IV out of survey No.487A situated at Ankola Taluk, District-Uttara Kannada under the registered release deed dated:17/12/2015 and the registered rectification deed dated:17/02/2016 from Sri. Ramanatha S/o Vittoba Shetty and both the above said documents registered in Sub-Registrar office, Karwar and subsequently who have registered the release deed dated:14/10/2016 in respect of the same property said to have been executed by Sri.Aravinda Mangesh Shetty as the General Power of Attorney of Sri. Ramanath S/o Vittoba Shetty in favour of Sri. Aravinda Mangesh Shetty (himself) and you have registered the said document in respect of the same property even though the said property had been released in favour of the complainant as stated above and thereby created problem and litigation inspite of computerisation of the documents in the Sub-Registrar office, Karwar. Thereby you-DGO being a Government servant failed to maintain absolute integrity and devotion to the duty, the act which is un-becoming of a Government Servant and thereby committed mis-conduct as enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.

ANNEXURE NO-II

STATEMENT OF IMPUTATIONS OF MISCONDUCT

7. On the basis of a complaint filed by Sri. Mohan Purussara Gavankar, Basagoda, Ankola Taluk, Uttara Kannada District

(herein after referred to as complainant for short), against you-DGO, an investigation was taken up under section 9 of Karnataka Lokayukta Act 1984, by invoking powers vested U/sec. 7(2) of the said Act.

8. The brief facts of the complainant's are that:

Complainant has submitted the documents of released deed dated:17/12/2015 and correction deed dated:17/02/2016 and the encumbrance, RTC copies. His contention is that subsequent to the said execution of deeds by Sri.Ramanath S/o Vittoba Sheety, he has again executed release deed in favour of one Aravinda Mangesha Shetty. But, on perusal of the documents submitted by him it is seen that transaction was taken place on 14/10/2016 and not on 16/10/2016. Further, on perusal of the order passed by Assistant Commissioner, Kumta Sub-Divison, Kumta dated: 05/11/2016, it is seen that katha has already been ordered to be transferred in the name of complainant pertaining to the said property. But, it appears without perusing the encumbrance you-DGO has registered the release deed dated:14/10/2016.

9. Report from Sub-Registrar, Karwar was called for. But it is seen that, you-DGO has not submitted the comments with regard to the complaint grievances. Notice has been served to Senior Sub-Registrar i.e., you-DGO. Therefore, Tahasildar, Ankola Taluk is only a formal party.

10. On perusal of the complaint and annexed documents it is seen that the complainant has submitted the documents of released deed dated:17/12/2015 and correction deed dated:17/02/2016 and the encumbrance, RTC copies. His contention is that subsequent to the said execution of deeds by Sri. Ramanath S/o Vittoba Shetty, he has again executed release deed in favour of one Aravinda Mangesha Shetty. But, on perusal of the documents submitted by him it is seen that, transaction was taken place on 14/10/2016 and not on 16/10/2016. Further, on perusal of the order passed by Assistant Commissioner, Kumta Sub-Division, Kumta dated:05/11/2016, it is seen that katha has already been ordered to be transferred in the name of complainant pertaining to the said property. But, it appears without perusing the encumbrance you-DGO has registered the release deed dated:14/10/2016. Accordingly, prayed to take action against the Sub-Registrar, Karwar.

11. Even though, comments of you-DGO were called and notice was served to you. But, you did not file any comment.

12. On careful perusal of the documents made available by the complainant. It is seen that one Ramanath S/o Vittoba Shetty has executed release deed dated:08/12/2015 in favour of the complainant pertaining to the property bearing Sy.No.487/A measuring 0-0-6 acre out of 0-1-4 acre which consists of old house property bearing Panchayath No.2574/4 measuring 349 square property. That

property was released in favour of the complainant for a sum of Rs.3,50,000/- pursuant to the registration of the documents, encumbrance certificate has also been issued in favour of the complainant.

13. It is further seen that subsequently they got executed correction deed dated:17/02/2016 with respect to the description of the property. In the said correction deed, the schedule is mentioned as follows:-

“ Part and parcel of old shop constructed with mud and roof of red Mangalore tiles measuring 423 sq. feet i.e., 00-00-06 anna out of total area of 0-01-04-00 bearing town panchayath number 2574/IV out of Sy.No.487A situated at Ankola Village, Ankola Taluk bounded on east-property of Digambar Ramarevankar West-property of Nagesh Venkataraman kale, North-road, south-property of Bhoi chaya chudiye. As per the RTC extract the name of executant Sri.Ramanath S/o Vittoba Shetty finds a place in respect of Sy.No.487/A. The remaining land in same Sy.No.was standing in the name of other three persons i.e., Digambar Ramarevankar, Nagesh Venkatarama Kale, Bhoi Chaya Chudiye and Narayana Devru. Thus, which shows that the said Ramanath was the owner of the property as described in the said schedule”.

14. The records further disclose that one Sri.Aravinda Mangesha Shetty claims to be the GPA holder of Sri. Ramanath S/o Vittobha Shetty, executed registered release deed dated:14/10/2016 in his own favour in respect of the same property. The document discloses that the said Aravinda Mangesha Shetty being the GPA holder of Sri. Ramanath got the release deed in his favour only. Therefore, both the executant and executor are one and the same. The alleged GPA has not been produced. The Sub-Registrar has issued encumbrance certificate in favour of the said Aravinda Mangesha Shety. But the value of the property is not shown in the said document. It appears there is mischief or fraud played with regard to execution of this subsequent document in respect of the same property. The document dated:28/03/3013 discloses that Sri. Ramanath S/o Vittoba Shetty has executed GPA in favour of Sri.Aravinda Mangesha Shetty in respect of the same property. Through this document all rights relating to this property i.e., measuring six anna was given to Sri. Aravinda Mangesh Shetty. Further the proceedings were taken place before the Revenue Authority with regard to change of katha. The Assistant Commissioner, Kumta Sub-Division has passed an order dated:05/11/2016 which reads as under:-

“ಅಂಕೋಲಾ ತಾಲ್ಲೂಕಿನ ಅಂಕೋಲಾ ಗ್ರಾಮದ ಸ.ನಂ.487ಅ ನೇದರಲ್ಲ ಒಟ್ಟು 0-1-4 ಕ್ಷೇತ್ರ ಇರುತ್ತಿದ್ದು, ಈ 0-1-4 ಗೆ ಸಂಬಂಧಿಸಿ ಮೂಲಗೇಣಿ ಹಕ್ಕನ್ನು ಸ್ಪಷ್ಟವಾಗಿ ಅಂಶವಾರಿ ಪ್ರಕಾರ ವಿಂಗಡಿಸಿ ಪಹಣಿ ಪತ್ರಿಕೆಯಲ್ಲಿ ಸ್ಪಷ್ಟವಾಗಿ ನಮೂದಿಸಲು ಕ್ರಮ ಕೈಗೊಂಡು ಅಂಶವಾರಿ ಹಕ್ಕು ಸ್ಪಷ್ಟವಾಗಿ ದಾಖಲಾದ ನಂತರ ಮೇಲ್ಮನವಿದಾರರು

ಅದಕ್ಕೆ ಅನುಗುಣವಾಗಿ ತಿದ್ದುಪಡಿ ದಸ್ತು ಮಾಡಿಕೊಂಡು ಹಕ್ಕು ಬದಲಾವಣೆ ಮಾಡಿಕೊಳ್ಳಬಹುದಾಗಿ ಸೂಚಿಸಿ ಮೇಲ್ಮನವಿ ತಿರಸ್ಕರಿಸಿ ಆದೇಶಿಸಿದೆ.

ಈ ಅಂಶವನ್ನು ಈ ಹೊತ್ತು ದಿನಾಂಕ 05/11/2016 ರಂದು ತೆರೆದ ನ್ಯಾಯಾಲಯದಲ್ಲ ಘೋಷಿಸಲಾಯಿತು.

15. It is pertinent to note that when document was registered in the office of Sub-Registrar and issued Encumbrance Certificate in respect of some property, if subsequent document is presented for registration in respect of the same property, in view of computerization of documents and also encumbrance made with regard to registration of document, it was the duty of the Sub-Registrar to verify through computer to know as to whether there was any document registered in respect of the same property. Here in this case, 3 documents have been registered in respect of same property. By doing this the Sub-Registrar i.e., you-DGO has created problem and litigation between two persons and thereby committed misconduct within the meaning of sec.3(1)(i) to (iii) of KCS (Conduct) Rules. Further, the computerisation of all the transactions with regard to transfer of properties and issuance of encumbrance certificate along with the registered documents is to avoid duplication, manipulation and fraud with regard to subsequent execution of the documents in relation to same property and to avoid litigation. But, here in this case you-DGO has failed to take note of the said intention, for the reasons best known to you. Further, you-DGO failed to submit your comments inspite of service of notice. That clearly

indicates that you-DGO has not followed the rules framed by the Government with regard to the registration of the documents and also created unnecessary litigation between two persons. Therefore, it is just and proper to take suitable action against you-DGO. Because, had you-DGO taken precaution by looking into the relevant entry through computer this litigation would not have taken place.

16. Since the said facts and materials on record prima -facie show that you-DGO being Public/Government Servant, has committed misconduct as per Rule 3(1)(i) to (iii) of the 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 you-DGO and to entrust the inquiry to this Authority under Rule 14-A of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957. In turn Competent Authority initiated disciplinary proceedings against you-DGO and entrusted the Enquiry to this institution vide Reference No.1 and Hon'ble Upa Lokayukta nominated this Enquiry Authority, to conduct enquiry and report vide reference No.2. Hence, this charge.

17. The DGO appeared before this Enquiry Authority on 09/04/2018 and on the same day his First Oral Statement was recorded U/Rule 11(9) of KCS (CC &A) Rules 1957. The DGO pleaded not guilty and claimed to hold an enquiry. Subsequently the DGO has filed his written statement of defence by denying the articles of charge and statement of imputations contending that, there is no such evidence

to prove that he has committed misconduct U/Rule 3(1) of KCS (Conduct) Rules, 1966. Accordingly, prayed to exonerate him from the charges framed in this case. Since the DGO later on remained Ex-parte the question of recording SOS, defence evidence and Questionnaire does not arise.

18. In order to substantiate the charge, the Disciplinary Authority examined one witness as PW-1 and got marked the documents at Ex.P-1 to P-13 and closed the evidence. Since the DGO remained Ex-parte, the question of recording SOS, defence evidence and questionnaire as provided U/Rule 11(9), 11(16), 11(17) and Rule 11(18) of Karnataka Civil Services (CC & A) Rules 1957 does not arise.

19. Upon consideration of the charge leveled against the DGO, the evidence led by the Disciplinary Authority by way of oral and documentary evidence, the only point that arises for my consideration is as under:

Point No-1) Whether the Disciplinary Authority has satisfactorily proved that, when the DGO Sri.K.V. Badakar was working as the Senior Sub-Registrar, Karwar, the complainant Sri. Mohan Purussara Gavankar, got the old shop with mud and roof of Red Mangalore tiles measuring 423 sq. feet i.e 00-00-06 out of the total area of 0-01-04-00 bearing town

panchayath House No.2574/IV out of survey No.487A situated at Ankola, Taluk Ankola, District-Uttara Kannada, under the Registered Release Deed dated:17/12/2015 and the registered rectification deed dated: 17/02/2016 from Sri. Ramanatha S/o Vittoba Shetty and both the above said documents were registered in the office of DGO i.e Senior Sub-Registrar office, Karwar and subsequently the DGO has registered the Release Deed dated: 14/10/2016 in respect of the same property said to have been executed by Sri.Aravinda Mangesha Shetty as the General Power of Attorney of Sri. Ramanath S/o Vittoba Shetty in favour of Sri. Aravinda Mangesha Shetty (himself) and the DGO has without verifying the records and Encumbrance Certificate, registered the said document in respect of the same property even though the said property had already been released in favour of the complainant and the encumbrance was standing in the name of the complainant and thereby failed to maintain absolute integrity and devotion to duty, which act is unbecoming of a Government Servant and thus committed mis-conduct as

enumerated U/R 3 (1) (i) to (iii) of Karnataka Civil Service (Conduct) Rules, 1966.

20. My finding on the above point is held in "**Affirmative**" for the following:

:: REASONS ::

21. **Point No-1:-** The case of the Disciplinary Authority in brief is that,

The complainant by name Sri. Mohan Purussara Gavankar resident of Ankola has been examined as PW-1 and he has reiterated the facts stated in the complaint. The complainant states that, the shop bearing Sy.No.487/A of Ankola village measuring 349 sq.feet was owned by Sri. Ramanatha S/o Vittoba Shetty. The said vendor Ramanatha S/o Vittoba Shetty has transferred the said shop in the name of complainant by registered Release Deed dated 17/12/2015. PW-1 further states that, the Release Deed has been duly registered in the office of Sub Registrar, Karwar. Accordingly the Encumbrance Certificate was also issued in the name of complainant. Based upon these two documents, the complainant approached the Learned Tahasildar, Ankola to register his name as per the registered Release Deed. However, the Learned Tahasildar raised objections with regard to the schedule and told that, the khatha cannot be changed because there are differences in the schedule.

22. PW-1 further states that, hence he approached Sri. Ramanatha S/o Vittoba Shetty on 17/02/2016 and got executed the registered rectification deed. The rectification deed was also duly registered in the office of Sub Registrar, Karwar. Thereafter he again approached the Learned Tahasildar to change the khatha. However, the Learned Tahasildar again rejected the application on the ground there was no provision in the software for rectification deed. Hence, he approached the Learned Assistant Commissioner. The Learned Assistant Commissioner by order dated 05/11/2016 directed the Tahasildar to make rectifications in the record of rights and to change the khatha as per the registered Release Deed and rectification deed.

23. The complainant further states that, he again approached the Learned Tahasildar to rectify the defects in the record of rights extract and change the khatha in his name.

24. PW-1 further states that, on 14/10/2016 one Sri. Aravinda Mangesha Shetty depicted himself to be the Power of Attorney holder of Ramanatha S/o Vittoba Shetty and he got a Release Deed executed in his name. The same person Sri. Aravinda Mangesha Shetty has got executed the Release Deed in his own name, posing himself has the Power of Attorney holder of Sri. Ramanatha S/o Vittoba Shetty. The DGO who was the Senior Sub Registrar, Karwar has without verifying the earlier records and encumbrance standing in the name of complainant has illegally entered the name of Sri. Aravinda Mangesha Shetty on the basis of subsequent Release Deed.

25. PW-1 further states that, the Learned Tahasildar, Ankola had rejected his applications but strangely allowed the application of Sri. Aravinda Mangesha Shetty and illegally changed the khatha in the name of Sri. Aravinda Mangesha Shetty.

26. PW-1 further states that, the DGO with ulterior motive has illegally rejected his documents and issued the Encumbrance Certificate in the name of Sri. Aravinda Mangesha Shetty. Though based upon the registered Release Deed dated 17/12/2015 and correction deed dated 17/02/2016, the DGO had issued the Encumbrance Certificate in respect of the said property in the name complainant, he has illegally accepted the subsequent Release Deed in the name of Sri. Aravinda Mangesha Shetty and issued the Encumbrance Certificate in the name of Sri. Aravinda Mangesha Shetty. PW-1 further states that, the DGO has not verified the previous Release Deed, rectification deed and the encumbrance standing in his name in respect of property bearing No. 2574/IV out of Survey No.487A of Ankola and he has illegally issued fresh Encumbrance Certificate in the name of Sri. Aravinda Mangesha Shetty.

27. PW-1 in support of his contentions has produced the following documents. Ex.P-1 is the complaint filed before the Hon'ble Lokayukta. Ex.P-2 and P-3 are the Form No-I and II filed in the office of Hon'ble Lokayukta.

28. Ex.P-4 is the copy of registered Release Deed dated 08/12/2015. On careful perusal of this document it is observed that, this is a registered Release Deed executed by Sri. Ramanatha S/o Vittoba Shetty i.e the Releasor in favour of the Releasee Sri. Mohan Purussara Gavankar. The property is described in the schedule which is as follows.

“SCHEDULE OF PROPERTY

Part and parcel of old shop constructed with mud and roof of Red Mangalore tiles measuring 349 sq.ft 00-00-06 (6 anna) out of total area of 0-01-04-00 bearing town panchayath H.No.2574/IV out of survey No.487A situated at Ankola Village, Ankola Taluka, Dist-Uttara Kannada and same is bounded as under:-

East : Property of Digambar Rama Revankar
West : Property of Nagesh Venkatraman Kale
North : Road
South : Property of Bhoi Chaya Chudiya

Value of the claim hereby released is Rs.3,50,000/- (Three lakh Fifty Thousand only) ”.

29. On careful perusal of this document it is observed that, the Releasor Sri. Ramanatha S/o Vittoba Shetty has executed a Release Deed in respect of the old shop measuring 349 Sq.feet bearing town panchayath House No.2574/IV out of Sy.No.487/A situated at Ankola

District Uttara Kannada. The property has been sold to the complainant for a valuable consideration of Rs.3,50,000/-.

30. Ex.P-5 is the correction deed executed by Sri. Ramanatha S/o Vittoba Shetty in favour of the complainant Sri. Mohan Purussara Gavankar. This correction deed is executed on 17/02/2016. On careful perusal of this registered document, it is observed that, there were some mistakes in the Release Deed at Ex.P-4. In order to rectify the said mistakes the Releasor Sri. Ramanatha S/o Vittoba Shetty has executed the Correction Deed.

31. Ex.P-6 is the copy of letter issued by the Tahasildar, Ankola to the Senior Sub Registrar dated 05/03/2016. The Learned Tahasildar has opined that, there is no option of rectification deed in the software and hence, the J. Form has been rejected.

32. Ex.P-7 is the Encumbrance Certificate i.e Form No.15 issued by the Senior Sub Registrar, Karwar in respect of property No.2574/IV out of Survey No.487/A. On careful perusal of this document, it is observed that, as per the Release Deed and rectification deed at Ex.P-4 and P-5, the name of the complainant has been entered as the Releasee of the said property and the valuable consideration is shown at Rs. 3,50,000/-, which is as per Ex.P-4 Release Deed.

33. Ex.P-8 is the copy of record of rights extracts of Sy.No.487/A of Ankola village. On careful perusal of this document, it is observed that, the name of the vendor Sri. Ramanatha S/o Vittoba Shetty is appearing in Column No.9.

34. Ex.P-9 is the copy of the Registered Release Deed executed by Sri. Ramanatha S/o Vittoba Shetty in the name of Sri. Aravinda Mangesha Shetty dated 14/10/2016. However it is pertinent to note that, the said Sri. Aravinda Mangesha Shetty has shown himself to be the Power of Attorney holder of Sri. Ramanatha S/o Vittoba Shetty and he has sold the property to himself in the capacity of Power of Attorney holder of the Releasor.

35. Ex.P-10 is the Encumbrance Certificate i.e Form No.15 issued by the Senior Sub Registrar, Karwar in respect of property No.2574/IV out of Survey No.487/A. On careful perusal of this document, it is observed that, as per the Release Deed at Ex.P-9 the name of the Sri. Aravinda Mangesha Shetty has been entered as the Releasee of the said property and the valuable consideration is shown as Nil.

36. Ex.P-11 is the mutation register extract of M.R. No. H131 of Ankola issued by the revenue authorities. On careful perusal of this document, it is observed that, the name of Sri. Aravinda Mangesha Shetty has been mutated as per the Release Deed at Ex.P-9.

37. Ex.P-12 is the copy of record of rights extracts of Sy.No.487/A of Ankola village. On careful perusal of this document, it is observed that, the name of the Sri. Aravinda Mangesha Shetty is appearing in Column No.9.
38. Ex.P-13 is the copy of alleged General Power of Attorney executed by Sri.Ramanatha S/o Vittoba Shetty in favour of Sri. Aravinda Mangesha Shetty.
39. The DGO has remained ex-parte and hence, the evidence of PW-1 has totally remained unchallenged.
40. I have carefully gone through the oral and documentary evidence adduced by the Disciplinary Authority. On careful perusal of the documents produced by the complainant at Ex.P-4 to P-13, It is observed that, one Ramanatha S/o Vittoba Shetty has executed Release Deed dated:08/12/2015 in favour of the complainant pertaining to the property bearing old house property bearing Sy.No.487/A measuring 0-0-6 acre out of 0-1-4 acre. The old house property was released in favour of the complainant for a consideration of a sum of Rs.3,50,000/-. The Released Deed and Correction Deed are at Ex.P-4 and P-5. Pursuant to the registration of the documents, Encumbrance Certificate has also been issued in favour of the complainant. The said Encumbrance Certificate is at Ex.P-7. In the Encumbrance Certificate the name of complainant is appearing as the Releasee, as per the Release Deed at Ex.P-4.

41. It is further observed that, as there were some mistakes in the Release Deed and the Learned Tahaisldar, Ankola had raised objections the parties subsequently got executed Correction Deed dated:17/02/2016 in respect of the description of the property. In the said Correction Deed at Ex.P-5, the schedule is mentioned as follows:-

“ Part and parcel of old shop constructed with mud and roof of red Mangalore tiles measuring 423 sq. foot i.e., 00-00-06 anna out of total area of 0-01-04-00 bearing town panchayath number 2574/IV out of Sy.No.487A situated at Ankola Village, Ankola Taluk bounded on east-property of Digambar Rama revankar West-property of Nagesh Venkataraman kale, North-road, south-property of Bhoi chaya chudiye ”.

42. As per the RTC extract at Ex.P-8 the name of executant Sri.Ramanatha S/o Vittoba Shetty finds a place in respect of Sy.No.487/A. The remaining land in same Sy.No.was standing in the name of other three persons i.e., Digambar Rama revankar, Nagesh Venkatarama Kale, Bhoi Chaya Chudiye and Narayana Devru. Thus, Ex.P-8 shows that the said Ramanath was the owner of the property as described in the said schedule.

43. The records at Ex.P-9 to P-13 disclose that one Sri.Aravinda Mangesha Shetty claims to be the GPA holder of Sri. Ramanatha S/o

Vittobha Shetty. He has executed Registered Release Deed dated:14/10/2016 in his own favor in respect of the same property. The document at Ex.P-9 discloses that the said Sri.Aravinda Mangesha Shetty being the GPA holder of Sri. Ramanatha got the Release Deed in his favour only. Therefore, both the Releasor and Releasee are one and the same person. The alleged GPA has not been produced. The Sub-Registrar has issued Encumbrance Certificate in favour of the said Sri. Aravinda Mangesha Shetty which is at Ex.P-10. But the value of the property is not shown in the said document.

44. From perusal of these documents, it is observed that, mischief and fraud have been committed with regard to execution of this subsequent Release Deed i.e Ex.P-9 in respect of the same property. The GPA dated:28/03/3013 at Ex.P-13 discloses that Sri. Ramanath S/o Vittoba Shetty has executed GPA in favour of Sri.Aravinda Mangesha Shetty in respect of the same property. Through this Release Deed at Ex.P-9, all rights relating to this property i.e., measuring six anna was given to Sri. Aravinda Mangesha Shetty.

45. It is pertinent to note that, when the complainant had approached the revenue authorities for transferring the khatha in his name based upon the Release Deed at Ex.P-4 and rectification deed at Ex.P-5, the Learned Tahasildar had rejected the application. The complainant had approached the Assistant Commissioner and he in turn had passed an order dated:05/11/2016 which reads as under:-

“ಅಂಕೋಲಾ ತಾಲ್ಲೂಕಿನ ಅಂಕೋಲಾ ಗ್ರಾಮದ ಸ.ನಂ.487ಅ ನೇದರಲ್ಲ ಒಟ್ಟು 0-1-4 ಕ್ಷೇತ್ರ ಇರುತ್ತಿದ್ದು, ಈ 0-1-4ಗೆ ಸಂಬಂಧಿಸಿ ಮೂಲಗೇಣಿ ಹಕ್ಕನ್ನು ಸ್ಪಷ್ಟವಾಗಿ ಅಂಶವಾರಿ ಪ್ರಕಾರ ವಿಂಗಡಿಸಿ ಪಹಣಿ ಪತ್ರಿಕೆಯಲ್ಲಿ ಸ್ಪಷ್ಟವಾಗಿ ನಮೂದಿಸಲು ಕ್ರಮ ಕೈಗೊಂಡು ಅಂಶವಾರಿ ಹಕ್ಕು ಸ್ಪಷ್ಟವಾಗಿ ದಾಖಲಾದ ನಂತರ ಮೇಲ್ಮನವಿದಾರರು ಅದಕ್ಕೆ ಅನುಗುಣವಾಗಿ ತಿದ್ದುಪಡಿ ದಸ್ತ ಮಾಡಿಕೊಂಡು ಹಕ್ಕು ಬದಲಾವಣೆ ಮಾಡಿಕೊಳ್ಳಬಹುದಾಗಿ ಸೂಚಿಸಿ ಮೇಲ್ಮನವಿ ತಿರಸ್ಕರಿಸಿ ಆದೇಶಿಸಿದೆ.

46. It is pertinent to note that, when Ex.P-4 Release Deed was registered in the office of Sub-Registrar and the Sub Registrar had issued Encumbrance Certificate in respect of same property, if subsequent document is presented for registration in respect of the same property, in view of the encumbrance and registration of earlier document, it was the duty of the Senior Sub-Registrar i.e the DGO to verify the records in his office to know as to whether there was any document registered in respect of the same property. Here in this case, three documents have been registered in respect of same property. By not verifying the earlier documents i.e Ex.P-4 and P-5 and also not verifying the Encumbrance Certificate i.e Form No-15 at Ex.P-7, the DGO has committed mis-conduct in issuing the second Encumbrance Certificate as per Ex.P-10. If the DGO had gone through the Encumbrance Certificate at Ex.P-7, which was very much available in his office, he should have come to know that the property was already transferred by Sri.Ramanatha S/o Vittoba Shetty in the name of complainant. However, the DGO has

committed dereliction of duty by registering the second Release Deed at Ex.P-9 in respect of the same property.

47. On perusal of the Release Deed at Ex.P-9 it is observed that, both the Releasor and Releasee are one and the same person. Sri. Aravinda Mangesha Shetty has posed himself to be the GPA holder of Sri. Ramanatha S/o Vittoba Shetty. In his capacity as the GPA holder, he has executed the Release Deed as per Ex.P-9 in his own name. It is pertinent to note that, the said Sri. Aravinda Mangesha Shetty has committed an illegality by executing a document in his own name. A single person has got a document executed by acting to be both a Releasor and Releasee. This illegality has been committed by colluding with the DGO. If the DGO had gone through the recitals of the Ex.P-9 Release Deed, he would have come to know the fraud committed by the person. It appears that, the DGO has colluded with the said person in executing a bogus document by a person in his own name. This conduct of the DGO clearly goes to show that, he has committed misconduct.


48. For the reasons stated above the DGO, being the Government/Public Servant has failed to maintain absolute integrity besides devotion to duty and acted in a manner unbecoming of Government servant. On appreciation of entire oral and documentary evidence I hold that the charge leveled against the DGO is established. Hence, I answer point No.1 in the "**Affirmative**".

:: ORDER ::

The Disciplinary Authority has proved the charge against the DGO Sri. K.V. Badakar, Senior Sub-Registrar, Karwar, Uttara Kannada District.

49. This report is submitted to Hon'ble Upa Lokayukta-1 in a sealed cover for kind perusal and for further action in the matter.

Dated this the 20th day of August 2019


(Patil Mohan Kumar Bhimanagouda)
Additional Registrar Enquiries-13,
Karnataka Lokayukta,
Bangalore.

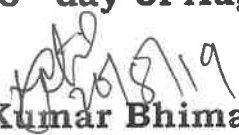
ANNEXURE

Witness examined on behalf of the Disciplinary Authority
PW-1: Sri. Mohan Purussara Gavankar (Original)
Witness examined on behalf of the DGO
Nil
Documents marked on behalf of the Disciplinary Authority
Ex.P-1: Complaint (Original)
Ex.P-2: Form No-I (Original)
Ex. P-3: Form No-II (Original)
Ex. P-4: The copy of registered Release Deed dated 08/12/2015 (Xerox)
Ex.P-5: The correction deed executed by Sri. Ramanatha S/o Vittoba Shetty in favour of the complainant Sri. Mohan Purussara Gavankar (Xerox).
Ex.P-6 : The copy of letter issued by the Tahasildar, Ankola to the Senior Sub Registrar dated 05/03/2016 (Xerox).
Ex.P-7 : The Encumbrance Certificate i.e Form No.15 issued by the Senior Sub Registrar, Karwar in respect of property No.2574/IV out of Survey No.487/A (Xerox).
Ex.P-8 : The copy of record of rights extracts of Sy.No.487/A of Ankola village(Xerox)
Ex.P-9: The copy of the registered Release Deed executed by Sri. Ramanatha S/o Vittoba Shetty in the name of Sri. Aravinda Mangesha Shetty dated 14/10/2016(Xerox)
Ex.P-10 : The Encumbrance Certificate i.e Form No.15 issued by the Senior Sub Registrar, Karwar in respect of property No.2574/IV out of Survey No.487/A(Xerox).
Ex.P-11 : The mutation register extract of M.R. No. H131 issued by the revenue authorities (Xerox).
Ex.P-12 : The copy of record of rights extracts of Sy.No.487/A of Ankola village (Xerox).

Ex.P-13: The copy of alleged General Power of Attorney executed by Sri.Ramanatha S/o Vittoba Shetty favour of Sri. Aravinda Mangesha Shetty(Xerox)

Documents marked on behalf of the DGO
Nil

Dated this the 20th day of August 2019


(Patil Mohan Kumar Bhimanagouda)
Additional Registrar Enquiries-13
Karnataka Lokayukta
Bangalore



KARNATAKA LOKAYUKTA

No.UPLOK-1/DE/83/2018/ARE-13

Multi Storied Buildings,
Dr.B.R.Ambedkar Veedhi,
Bengaluru-560 001,
Date: 22/08/2019

RECOMMENDATION

Sub:- Departmental inquiry against Sri K.V. Badakar, Senior Sub-Registrar, Karwar, Uttara Kannada District – Reg.

Ref:-1) Government Order No. ಕಂಇ 01 ಮುನೋಪೇ(1) 2018 Bengaluru dated 09/02/2018.

2) Nomination order No. UPLOK-1/DE/83/2018 Bengaluru dated 20/02/2018 of Upalokayukta-1, State of Karnataka, Bengaluru.

3) Inquiry Report dated 20/08/2019 of Additional Registrar of Enquiries-13, Karnataka Lokayukta, Bengaluru

The Government by its Order dated 09/02/2018 initiated the disciplinary proceedings against Sri K.V. Badakar, Senior Sub-Registrar, Karwar, Uttara Kannada District (hereinafter referred to as Delinquent Government Official for short as DGO) and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No. UPLOK-1/DE/83/2018 dated 20/02/2018 nominated Additional Registrar of Enquiries-4, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGO for the alleged charge of misconduct, said to have been committed by him. Subsequently by Order No. UPLOK-1 & 2/DE/Transfers/2018 dated 06/08/2018 the Additional Registrar of Enquiries-13 was re-nominated as Inquiry Officer to conduct Departmental inquiry against DGO.

3. The DGO Sri K.V. Badakar, Senior Sub-Registrar, Karwar, Uttara Kannada District was tried for the following charge:-

“That, you-DGO/ K.V. Badakar, Senior Sub-Registrar, Sub-Registrar Office, Karwar, the complainant Sri Mohan Purussara Gavankar, got the old shop constructed with mud and roof of Red Mangalore tiles measuring 423 sq. feet i.e., 00-00-06 out of the total area of 0-01-04-00 bearing town panchayath House No. 2574/IV out of survey No. 487A situated at Ankola Taluk, District-Uttara Kannada under the registered release deed date: 17/12/2015 and the registered rectification deed dated; 17/02/2016 from Sri Ramanatha s/o Vittoba Shetty and both the above said documents registered in Sub-Registrar office, Karwar and subsequently who have registered the release deed dated: 14/10/2016 in respect of the same property said to have been executed by Sri Aravinda Mangesh Shetty as the General Power of Attorney of Sri Ramanatha s/o Vittoba Shetty in favour of Sri Aravinda Mangesh Shetty (himself) and you have registered the said document in respect of the same property even though the said property had been released in favour of the complainant as stated above and thereby created problem and litigation inspite of computerization of the documents in the Sub-Registrar office, Karwar. Thereby, you-DGO being a Government Servant failed to maintain absolute integrity and devotion to duty, the act which is unbecoming of a Government Servant and thereby committed misconduct as enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966”.

4. The Inquiry Officer (Additional Registrar of Enquiries-13) on proper appreciation of oral and documentary evidence has held that, the Disciplinary Authority has proved the above charge against DGO Sri K.V. Badakar, Senior Sub-Registrar, Karwar, Uttara Kannada District.


5. On re-consideration of inquiry report, I do not find any reason to interfere with the findings recorded by the Inquiry Officer. It is hereby recommended to the Government to accept the report of Inquiry Officer.

6. As per the First Oral Statement submitted by DGO Sri K.V. Badakar, he is due to retire from service on 31/05/2037.

7. Having regard to the nature of charge proved against DGO Sri K.V. Badakar, it is hereby recommended to the Government for imposing penalty of withholding four annual increments payable to DGO Sri K.V. Badakar, Senior Sub-Registrar, Karwar, Uttara Kannada District and also deferring the promotion of DGO Sri K.V. Badakar by four years, whenever he becomes due for promotion.

8. Action taken in the matter shall be intimated to this Authority.

Connected records are enclosed herewith.


(JUSTICE N. ANANDA) 22/8
Upalokayukta-1,
State of Karnataka,
Bengaluru

