

BEFORE THE HON'BLE LOKAYUKTA

(Justice Manmohan Sarin)

Complaint No.601/Lok/2010.

Lokayukta on its own motion Re:

Ms.Preeti Behn, Original Informant

And

Mr. Rama Kant Goswami,MLA

Present:

1. Mr. Chetan Lokur, Advocate, Amicus Curiae,
2. Mr. Sanjay Yadav, E.E. (Bldg.)HQrs.,MCD,
3. Ms. Madhu Saini, Advocate on behalf of Mr. R.N.Vats, Advocate.

In the instant case, a reply has been filed. Mr. Rama Kant Goswami avers in the reply that the property in question is still in the name of Respondent's father, Late Dr. Girdhari Lal Goswami who died on 19.04.1991. There has been no legal partition of the property among the legal heirs of late Dr. Girdhari Lal Goswami. The ground floor of the premises is in exclusive possession of Shri Laxmi Kant Goswami who is settled in USA. The first floor is in exclusive possession of Shri Beni Madhav Goswami and the second floor is in the exclusive possession and occupation of the Respondent applicant. A copy of the lease deed in favour of the Respondent's father has also been produced.

The Respondent claims that vide letter dated 25.05.2010 to the Deputy Commissioner, Karol Bagh Zone, MCD he has applied for regularization of the additional construction on the second floor in his possession including the room constructed on the top floor which is claimed to be used for his day to day office work. The MCD vide its letter bearing No.D/EE/(BB)/KBZ/2011/31 dated 7<sup>th</sup> January, 2011 from the Assistant Engineer informed that the floor-wise sanction/regularization, has been kept in abeyance till a final decision is taken Accordingly, the case for regularization of 2<sup>nd</sup> and 3<sup>rd</sup> floor cannot be considered. Respondent claims to be paying house tax for the additional construction.

From the Respondent's own averments, it is clear that there has been no legal partition. Hence, the property is jointly held by the legal heirs of Late Dr. Girdhari Lal Goswami. The Amicus Curiae and Shri Sanjay Yadav, Executive Engineer (Bldg.) Hqrs. submit that the requirement would be to have the application for regularization signed by all the joint owners. In the absence thereof, it could not be processed.

Regarding the plea of limitation since no construction was carried-out after 1991, the same would not make any material difference, since it is the continuous wrongful user and beneficial enjoyment of property, having unauthorized construction, which provides a continuous cause of action in terms of Section 2(b) of the Act.

There is also encroachment in the form of projection of one meter. Apart from that there is encroachment by erection of boundary wall on public land which is stated to be 12.80 Sq.mtrs. This encroachment on public land would need to be removed. The reply of Respondent on this aspect is silent. In the situation that has emerged, the Corporation would submit complete report with regard to the extent of compoundable and non-compoundable construction on each of the floors of the building which is in possession of the Respondent and his brothers.

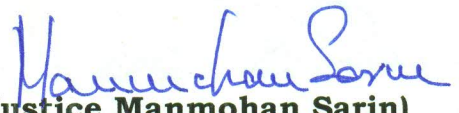
At this stage, when the order is being dictated Ms. Madhu Saini, Associate Advocate submits that a short date may be given to enable Mr. R.N. Vats, Senior Counsel, to obtain instructions and apprise this Forum of the Respondent's stand on the above issues. I am sure that by the next date the Respondent's Counsel would have taken complete instructions. It is hoped and expected that

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the Respondent, who is presently occupying a high position in Cabinet of Government of NCT of Delhi, would keep in mind the desirability of adherence to norms of conduct expected of persons in high positions and issue suitable instructions to Counsel accordingly.

Re-notify the case on 30.03.2011 at 2.30 PM.

  
(Justice Manmohan Sarin)  
Lokayukta,

Dated 11.03.2011.

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