

**BEFORE THE LOKAYUKTA
Justice Manmohan Sarin**

Complaint No. C-1050/Lok/2011

Sh. Arun Rai & Another
Complainants
Through Mr. Abhijat Bal, Advocate

Vs.

**Smt. Kamlesh, Municipal Councillor,
Ward No. 207, Madanpur Khadar.**

Respondent

ORDER

1. The Complainants namely Sh. Arun Rai S/o Sh. Ram Dhariwal, who claims to be a public spirited citizen and Sh. Ramvir Singh Bidhuri S/o Sh. Ramphal, a former Member of the Legislative Assembly, have filed the present complaint against Smt. Kamlesh, Municipal Councillor of Ward No. 207 Madanpur Khadar, and a Public Functionary, alleging frauds of colossal proportion, misuse of the benevolent scheme for regularization of unauthorized colonies for personal gain and gain to her relations and associates. The Complainants allege gross misuse of power as also encroachment of public land by Respondent and her family and unauthorized construction.
2. The allegations made in the complaint relate to, fraudulently and in collusion with officers and functionaries of Govt. of NCT of Delhi, obtaining provisional regularization certificates in respect of the under mentioned colonies :-

- (A) Kotla Mahi Gram Extension Jasola, New Delhi – 110076.
 - (B) Abul Fazal Enclave part – II, Block G & H, Road No. 13-A, Jasola Village, New Delhi – 110025.
 - (C) Radha Kishan Vihar, Village Kotla Mahigram, Tehsil Kalkaji, District South, New Delhi.
- and
- (D) Usurpation and grabbing of Government and public land.

(3) Kotla Mahi Gram Extension Jasola, New Delhi – 110076.

As per the averments and allegations made in Para – 7.1 to 7.14 of the complaint, the father-in-law of the Respondent Sh. Har Swarup was the owner of 1/12th undivided share of the land comprised in Khasra No. 315/1, 316/1 & 317/1, which stood acquired vide Land Acquisition Award No. 205/86-87. It is alleged that the father-in-law of the Respondent Sh. Har Swarup and other Co-Owners duly received compensation from the Govt. and the land vested in the Government. The Respondent and her family despite having received compensation from the Govt. sought to unlawfully usurp the acquired land by gross abuse of power and fraudulent misuse of the benevolent scheme for regularization by applying for regularization of the purported unauthorized colony named “Kotla Mahi Gram Extension Jasola, New Delhi – 110076” through Sh. K.M Goel, President of the Resident Welfare Association, Sarita Vihar, (RWA) and a close associate of the Respondent. The purported RWA under the name and style of “Resident Welfare Association, Pocket – M & N, Sarita Vihar, New Delhi – 110044 filed a list of persons shown as members of the association and occupants of the land.

This was an unjust and illegal attempt by the Respondent and members of her family to enrich themselves and deprive the state of the land already acquired.

The total area of the colony was claimed to be 5960.62 sq. mtrs. False particulars were furnished regarding purported list of members occupying 12 plots admeasuring upto 100 sq. mtrs, 5 plots admeasuring above 250 sq. mtrs and 1 vacant plot admeasuring above 250 sq. mtrs. Gross misrepresentations in the regularization application qua the lay out plan and other particulars required to be furnished were made. The Dy. Secretary (UC) had vide communication dated 13.8.2008 informed that on preliminary scrutiny application was found to be deficient by certain documents, which were mandatory for issuance of provisional certificate of regularization. However, within a week and without the applicant association furnishing the required documents, it was confirmed that the colony bearing registration No. ELD 26 was found to be eligible for issuance of provisional certificate. Provisional certificate for regularization dated 17.09.2008, without complying with the requisition for documents was handed over on 4.10.2010. It is alleged that the UD Department of Govt. of NCT had not obtained any land status report for the area from DDA and concerned SDM. The Complainant alleged that the land which has been declared as an unauthorized colony provisionally regularized is a bare tract of land violating the conditions with regard to 50% built up area.

(4) **Abul Fazal Enclave part – II, Block G & H, Road No. 13-A, Jasola Village, New Delhi – 110025.**

It is alleged that an application seeking provisional regularization of purported unauthorized colony “Abul Fazal Enclave part – II, Block G & H, Road No. 13-A, Jasola Village, New Delhi – 110025” was made by the RWA, Abul Fazal Enclave part – II, Block G & H. The unauthorized colony comprised in Khasra Nos. 490/421, 546/491/421, 548/492/421, 562/424, 426, 431, 436, 438 and 790/449 min. Jasola Village, New Delhi. The purported unauthorized colony bearing registration No. 1182 was found eligible for issuance of provisional certificate for regularization and the provisional certificate of regularization was issued to Abul Fazal Enclave part – II, Block G & H, Road No. 13-A, Jasola Village represented through Sh. Alimuddin, President of the Resident Welfare Association. Counsel Mr. Bal urges that there was no habitation existing on the land at the time of issuance of provisional certificate and the registration had been granted without verification of the ground realities. The verification of the lay out plan from the aerial survey was also dispensed with since the area even today is stated to be un-built and bare land, thus not fulfilling the requirement of minimum 50% built up area. It is alleged that the land which is now fraudulently claimed as an unauthorized colony is in fact government land sought to be encroached upon by the Respondent and the land mafia. It is alleged that the land except in khasra No. 438 had been taken over by DDA on 19.01.2006.

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The possession taking over proceedings recorded by the DDA show that there were few rooms constructed thereon for agricultural purposes. The regularization certificate was obtained on the basis of misrepresentation and false claims. The list of owners submitted seeking regularization certificate of this non-existing unauthorized colony reveals that as many as 14 plots are purportedly owned by the Respondent, her husband and other members of her family, details of which are given in Para – 8.9 of the complaint.

The complainants allege that after obtaining provisional regularization certificate of the non existence colony, Respondent and her family members have constructed about 25-30 rooms to give the semblance of habitation. The Complainant claims it to be case of non existing colony and occupation of Govt. land.

(5) Radha Kishan Vihar, Village Kotla Mahigram, Tehsil Kalkaji, District South, New Delhi.

This case is also based on misrepresentations and false representations made in the application for grant of regularization. A regularization application seeking provisional regularization of “Radha Kishan Vihar, Village Kotla Mahigram, Tehsil Kalkaji, District South, New Delhi” was made by RWA of the Radha Kishan Vihar, Village Kotla Mahigram, Tehsil Kalkaji, District South, New Delhi. The purported unauthorized colony is claimed to fall in the immediate vicinity of the Apollo Hospital and the DLF Mall and in front of the Metro Station, thus making it a prime location.

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It is the Complainant's case that there was no habitation existing on the land at the time of grant of provisional certificate. The fraudulent and bogus claim had been wrongfully verified. It is alleged that the mandatory requirement of verifying the lay out plan of the area from the aerial survey was also dispensed with. Land comprised in khasra No. 164, 168/2, 169, and 176, Village Kotla Mahigram, Jasola is also stated to be acquired by the Govt. Here again as per the list of plot owners submitted in the application, members of the Respondent and her family are stated to be the plot owners and holders. It is a bare tract of land and by no means can the same be said to be an unauthorized colony.

(6) Usurpation and grabbing of Government and public land.

Apart from the alleged fraud in the unauthorized colonies in the grant of provisional regularization certificates to the above non existing colonies and part of them being acquired land, the complainants allege large scale encroachment of land by the Respondent and her husband in village Madanpur Khadar.

The Respondent and her husband Mr. Brahm Singh have encroached on land admeasuring 25 bighas situated in Village Madanpur Khadar, Gram Sabha, Khasra No. 1076/784 (min). Another piece of land measuring one acre in village JJ colony, Pocket A, House No. 9 & 10 as also the land adjacent to Dr. Prabhakar Medical Centre and Dev Medical Centre and opposite Plot A-37, Kanchan Kunj, Madanpur Khadar are said to be encroached. It is alleged that the said plot of land which belongs to DDA has been encroached upon by the Respondent and her husband.

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The Respondent and her husband Sh. Brahm Singh, have also encroached on land admeasuring 5 bighas situated at Agra Karnal Road, khasra Nos. 538(2-09), 539 (0-03), 540(0-11), 541(0-19), award No. 125/80-81 and 34/81-82 which has been converted into a small furniture market by constructing and renting out small shops. The Respondent is earning lakhs of rupees per month by renting out the aforesaid shops. The Respondent has also encroached on a parcel of Government land earmarked for DDA District Park admeasuring one acre situated at the main Mathura Road opposite Madanpur Khadar Senior Secondary School, where she has constructed residential buildings under the name and style of 'Shanti Niwas'. The land is comprised in Khasra No. 22/1 (4-16) Village Saidabad, New Delhi and had been acquired vide Award No. 29-76/77.

It is further alleged that the Respondent has illegally constructed two residential houses on agricultural land in Bhangad Mohalla Village Madanpur Khadar. The same are being run as a guest house under the name and style of 'Buddha Residency'. The said construction has been raised without sanction of any building plans. The building is being misused for commercial purpose.

The complainants also claim that the land in question in the purported unauthorized colonies is extremely valuable and if regularized today can be sold at the market rate of Rs. 3-4 lacs per sq. yds. which should enable fathoming the extent of fraud.

(7) The Complaint is duly supported by the personal affidavits of both the Complainants, relevant extracts from the regularization applications, photographs in support of non-habitation as also the alleged encroachment on public land and properties are filed on record.

Counsel Mr. Bal urges that the above case discloses gross abuse of power, fraudulent misuse of benevolent scheme for regularization for personal gain and gain of relations and associates, encroachment on public land and properties, gross misuse of power and position for self aggrandizement.

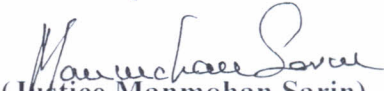
On perusal of the complaint, averments and the allegations which have been noted above and the supporting affidavits and documents, a prima facie case for inquiry into the allegations for breach of section 2 (b) (i) (ii) (iii) & (iv) read with section 7 of the Delhi Lokayukta and Upalokayukta Act, 1995, is made out. Issue notice to the Respondent returnable on 23rd December 2011 at 2:30 Pm for enquiry into the allegations for her conduct in violation of section 2 (b) (i) (ii) (iii) & (iv) read with section 7 of the Delhi Lokayukta and Upalokayukta Act, 1995, as alleged in the complaint. Copy of the complaint together with the annexures, be sent to the Respondent.

It would also be necessary for a proper inquiry in the matter, to issue notice to the Secretary, Urban Development Department, Govt. of NCT of Delhi for production of record in relation to the processing of the applications for grant of Provisional registration certificates, its scrutiny and the decision making process in respect of three colonies mentioned in the complaint.

Notice be also issued to the Secretary, Department of Revenue, Govt. of NCT of Delhi, to produce the revenue record showing the title and current status of the properties and lands which are stated to be the subject matter of encroachment as alleged in Para -- 10 of the complaint in so far the same are situated in the NCT of Delhi.

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Notice be also issued to the Secretary, DDA to give the current status regarding these properties as regards the occupiers and ownership, which are stated to have been encroached upon by the Respondent as per details in Para – 10 of the complaint. Copy of the Notice together with complaint and annexures, be sent to the Secretary (UD), Secretary (Revenue) and Secretary (DDA).


(Justice Manmohan Sarin)
Lokayukta

Dated : 23-11.2011

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