

**BEFORE THE HON'BLE LOKAYUKTA  
Justice Manmohan Sarin**

**Complaint No. C-1706/Lok/2012**

**In the matter of :-**

**Sh. Sat Prakash Rana, MLA**

**Complainant**

**Vs.**

**Sh. Bhupinder Gupta, Councillor**

**Respondent**

**Present :-**

1. Sh. R.N. Dahiya, AE (B) (SDMC), Najafgarh Zone
2. Sh. Chetan Lokur, Advocate, Amicus Curiae
3. Sh. Nand Lal Thapa
4. Sh. Devi Dayal Sharma
5. Sh. Revinder Kumar Bhel
6. Sh. Y. Prasad
7. Sh. B.K. Rao
8. Sh. Mahesh Gaur

Sh. Ajay Kumar Arora, Standing Counsel, MCD who was present in the court today, has been asked to assist the forum.

Sh. Nand Lal Thapa and Sh. Devi Dayal Sharma who were present expressed their difficulty in submitting the plan prepared by architect as according to them the architect was demanding exorbitant fee of Rs. 20,000/-. Today, Sh. Ajay Kumar Arora, Standing Counsel, MCD and Sh. R.N. Dahiya (AE) (B) submit that they will ensure that fee paid by them would be minimal considering their financial condition and a sum of Rs. 2500/- each would be sufficient to be paid by them to the architect for preparation of the plan.

Let Sh. Nand Lal Thapa and Sh. Devi Dayal Sharma to meet Sh. R.N. Dahiya (AE) (B) on 05.07.2013 at 2.00 P.M in his office, when he would advise them of the formalities and modalities to be followed by them. They would carry all the documents relating to their premises as available with them for scrutiny, when they visit Mr. Dahiya's office. SDMC would process the application and report the same to this forum.

Sh. Chetan Lokur, Advocate, Amicus Curiae will coordinate so that these persons belonging to the weaker sections can submit and have their regularization applications processed.

During the course of proceedings today, Ld. Counsel for MCD submitted that one of the conditions for regularization, even in the case of unauthorized regularized colonies is application of Municipal Bye-laws. He submits that accordingly the requirement with regard to documents of title/ownership would be necessary with chain of ownership being established.

There is an apparent dichotomy here. On the one hand Govt. of NCT of Delhi, has been projecting that the homeless persons, living in unauthorized colonies need to be protected and towards this end a legislation namely Delhi Laws (Special Provisions) Act, has also been passed, which provides protection in respect of these colonies upto December, 2014. Municipal Corporation also has provision for regularizing premises in unauthorized regularized colonies. Once application for regularization in unauthorized colonies are to be considered, of necessity, the authorities have to take cognizance of hard ground realities namely non availability of registered sale deed by occupants/holders residing there. Registration of sale deed was not permissible. In such cases, the transactions are either on the basis of agreement to purchase accompanied with power of attorney, Will etc. evidence of occupation with sanction of water and electricity connections may be available additionally.

In such cases, provision of registered sale deed as proof of ownership as a pre-condition for regularization, tantamounts to virtually negating the scheme for regularization of premises in unauthorized regularized colonies.

There would hardly be a case available in unauthorized regularized colonies where the requirement of chain of ownership being proved through registered sale deeds. This is because sale deeds were not permitted in unauthorized colonies which have since been regularized. The authorities, therefore, have to consider and approach this problem in a pragmatic manner taking into account the ground realities. Accordingly, in such cases, agreement to sell accompanied with power of attorney, will, GPA etc. and continuous evidence of occupation supported with water and electricity bills ought to be accepted as sufficient for the purposes of getting the structures regularized.

It needs to be recognized that regularization of these structures in consonance with Building bye-laws and permissible FAR results in augmentation of the municipal revenue with non-compoundable portions being demolished. Thus in such cases, consistent occupation over a period of time with water and electricity connections and agreement to sell, power of attorney or copy of will etc. should be accepted for the purposes of granting regularization. Otherwise the whole purpose of granting relief to weaker sections of the society gets negated. Regularization in the above manner would augment municipal revenue, ensure demolition of non-compoundable portions and compliance with FAR and provide a sense of security to weaker sections. A relaxation in the requirement of registered sale deeds as proof of ownership on the lines suggested above can serve the above objective without entailing any adverse fall outs.

Moreover, with a view to prevent misuse by speculative transfers, prescribing certain number of areas of occupation, can be considered. The above is for the consideration of the Corporation and Govt. of NCT, as suggestions, for improvement under Section 16 of the Delhi Lokayukta and Upalokayukta Act, 1995.

Mr. Arora states that he would take up the matter at the highest level within the Corporation seeking a solution to the problem on the lines proposed which would benefit the residents of unauthorized regularized colonies.

Copy of this order be also sent to Director (Local Bodies) as also Secretary (Urban Development), GNCTD. Copy of this order be also sent to Pr. Secretary to Lt. Governor, Delhi & Pr. Secretary to Chief Minister, Delhi, for necessary coordination and guidance in the matter, to the concerned authorities.

Renotify the matter on **31.07.2013 at 2.30 P.M.**

  
(Justice Manmohan Sarin)  
Lokayukta

**Dated : 03.07.2013**

r.a