



IN THE COURT OF DY. COLLECTOR, DIU
U.T. ADMINISTRATION OF DADRA & NAGAR HAVELI &
DAMAN AND DIU, OFFICE OF THE COLLECTORATE, DIU.

The Mamlatdar, Diu.

... ..

Appellants

V/S

Shri Shashikant Mavji & others

Bhucharwada, Zolawadi, Diu.

... ..

Respondents

ORDER

1. **WHEREAS**, this office has received a complaint dated 04/09/2020 from Shri Deugi Lacmane native of House No. 449, Bhagat Sheri, Main Road, Jolawadi, Diu against Shri Shashikant Mavji. The said complaint is received by Land Section and it is revealed that he encroachment on Government land;
2. **AND WHEREAS**, he stated that there exist a land belonging to the Government situated on Diu-Kesaria junction which has been utilized as Children's Cemetery or graveyard since ages for burial of children for the people of Zolawadi. The said land is situated behind Shivam Bar and Hotel which belongs to Shri Shashikant Mavji. Shri Shashikant Mavji is using his political power unlawfully and illegally encroached upon the said Government land and has erected stone compound around the piece of land for using it as an extension for his bar and hotel;
3. **AND WHEREAS**, this office has forward the said complaint to Chief Executive Officer, District Panchayat, Diu and Mamlatdar, Diu for submitting a detail report in this regard;
4. **ANDWHERE AS**, in reply, the Mamlatdar, Diu vide letter No. MAM/GEN/2019-20/1588 dated 16/09/2020 that the inquiry report into the matter has already submitted to the Hon'ble Collector, Diu vide letter No. MAM/DIU /2020- 21/Govt. Land Report/1476 dated 11/09/2020.
5. **AND WHEREAS**, as per the report of Mamlatdar, Diu dated 11/09/2020, informed that the site inspection and demarcation has been carried out by the concerned Talathi and Field Surveyor of Collectorate, Diu and found that following persons have encroached Government Land bearing Survey No. 211/1(P) situated at Ketorpal Masan, Zolawadi, Diu are as under.

Sr. No.	Name of Encroacher	Survey No.	Encroached area in Sq.mts.
1	Shri Lakhman Bhikha	211/1(P)	243 sq.mts.
2	Shri Lakhman Bhikha	211/1(P)	57 sq.mts.
3	Smt. Mulibai Mavji and Nathiben Govind	211/1(P)	550 sq.mts.
Total area			840 sq.mts.

6. **AND WHEREAS**, as per form-I & XIV records of rights, the land bearing Survey No. 211/1 area admeasuring 8200 sq.mts. situated at Ketor Pal Masan of Village Bhucharwada is

[Handwritten Signature]

entered in the name of Government in which there is Bal Mandir, PWD Tank, Samsan and Bharad;

7. **ANDWHERE AS**, on the basis of the report of Mamlatdar, Diu, this office has issued Show Cause Notice to Shri Lakhman Bhikha and two others, vide No. 65-01-Illegal Encr.-2020-21-LND/2106, dated 22/09/2020 alongwith encroached site plan directing him/her to show cause within 07 days from the date of issue of the Notice as to why she should not be evicted from the above mentioned land, failing which action for removal of the unauthorized encroachment on Govt. land will be taken under Section 40 of Goa, Daman & Diu Land Revenue Code, 1968 and Rules made thereunder;

8. **ANDWHERE AS**, in reply, Smt. Mulibai Maugi Solanki and Smt. Nathiben Govind Vala both resident of Zolawadi, Bucharwada Diu and Smt. Bhanuben Lakhman Wd/o. late Lakhman Bhikha have submitted their reply dated 29/09/2020 stating as under:-

- (i) That the notice appears to be based on incorrect and misconceived facts in the report dated 11 /09/2020 of Mamlatdar, Diu .
- (ii) That the power and jurisdiction under Section 40 of the Goa, Daman & Diu Land Revenue Code, 1968 are conferred on the Office of the Collector, your goodself, as Deputy Collector, lack power and jurisdiction under this Section 40, the present notice, with respect, becomes without jurisdiction and hence, not legal or valid and is arbitrary, non-est and void-ab-initio.
- (iii) That, the basis of the present notice is alleged encroachment on Government land by them. Therefore, the present notice, Under Section 40 is not competent as it does not deal with "encroachment".
- (iv) At the outset, they crave to mention that at no point of time they have encroached on any Government land as alleged in the said Notice. The said land (500 sq.mts.) is part and parcel of their entire property Survey No. 211/1(P) from the time of their predecessors-in-title for more than 70 years, wherein 60 years old TALPADA and HOKA trees grown by them are standing and as such, they are in possession of the said 550 sq.mts. land as owner in continuous possession, nee vi, nee clam, nee precario i.e. "without force, without secrecy, without permission". Hence, by the principle of adverse possession, tacked with that of their predecessors-in-title with their possession after they became owners of their said property, their ownership rights over the said land are now perfected and crystallised as the said adverse possession is of more than 70 years i. e. more than the prescribed period of 30 years. Thus, they, in no way, have become liable to be evicted from the said land as alleged in notice. Under the circumstances, with respect, they say that notice is no proper, legal or valid and is required to be withdrawn and it is prayed accordingly.
- (v) That, under the circumstances, they have a just cause available to them to resist any forceful unilaterally decided eviction, this reply may kindly be taken and treated as their resistance against forceful summary eviction from the said land and a proper summary inquiry be held as envisaged in Section 184 of the Goa, Daman and Diu Land Revenue Code, 1968 requires to be held wherein they can have an opportunity to place and prove their cases in their defence.



- (vi) Smt. Bhanuben Lakhman Wd/o. late Lakhman Bhikha, Lakhman Bhikha, her husband, on whom this notice is issued has' died before about three years on dated 18/08/2017, leaving behind him as his legal heirs and representatives, herself, and four sons VIZ. (1) Balu Lakhman, (2) Dinesh Lakhman (since dead), (3) Pradip Lakhman and (4) Dharmendra Lakhman. As such, they all have inherited all their properties and assets, including the subject matter of this notice and jointly are owning and occupying these properties.
- (vii) Smt. Bhanuben Lakhman Wd/o. late Lakhman Bhikha, she IS not authorized by the above mentioned legal representatives to accept or receive any process or notice, summons etc. for and on their behalf and that no process or notice is received by her on their behalf and the present notice was also served forcibly on her even though it was not addressed to her in her name. Therefore, she make it clear that the present reply IS strictly being given for her only and not on behalf of the other joint- owners of the properties inherited by them from her late husband, who are not served with the above said Notice.
- (viii) At the outset, she craves to mention that at no point of time have they encroached on any Government land as alleged in the said Notice. The said land (243 & 57 sq.mts.) is part and parcel of their entire property Survey No. 211/1(P), from the time of their predecessors-in-title for more than 70 years, wherein 60 years old TALPADA and HOKA trees grown by the, are standing, and, as such, they are in possession of the said 243 & 57 sq.mts. land as owner in continuous possession, Nee vi, nee clam, nec precario i.e. "without force, without secrecy, without permission". Hence, by the principle of adverse possession, tacked with that of their predecessors-in-title with their possession after they became owners of their said property, their ownership rights over the said land are now perfected and crystalised as the said adverse possession IS of more than 70 years, more than the prescribed period of 30 years. Thus, they, in no way, have become liable to be evicted from the said land as alleged in notice. Under the circumstances, with respect, they say that notice is no proper, legal or valid and is required to be withdrawn and it is prayed accordingly.
- (ix) That, under the circumstances, they have a just cause available to them to resist any forceful unilaterally decided eviction, this reply may kindly be taken and treated as their resistance against forceful summary eviction from the said land and a proper summary inquiry be held as envisaged in Section 184 of the Goa, Daman and Diu Land Revenue Code, 1968 requires to be held wherein they can have an opportunity to place and prove their cases in their defence.

9. **AND WHEREAS**, as per the submission dated 29/09/20208 of Smt. Mulibai Maugi Solanki and Smt. Nathiben Govind Vala both resident of Zolawadi, Bucharwada Diu and Smt. Bhanuben Lakhman Wd/o. late Lakhman Bhikha are not acceptable and denied as the report of the Mamlatdar, Diu is sufficient to prove the case in favour of Government due to the area of survey No.211/0(part) shows extant possession of government land is with the respondents;

10. **NOW THEREFORE**, keeping the above facts, submissions and reasons in view, I, **HARMINDER SINGH, DANICS, DEPUTY COLLECTOR, DIU** do hereby ordered the eviction of the respondent & removal of the encroachment from Government land totally area admeasuring



243 + 57 + 540 = 840 sq.mts. which is part of land bearing survey No.211/0(part) as per map attached, situated at Bhucharwada, Diu and also order that the cost of removal of the encroachment from the said Government Land and restoration of the Government Land shall be recovered from the respondent in the form of arrears of land revenue, and direct the Mamlatdar, Diu to do the needful immediately.

11. Given under my hand & seal of this Court on 27th day of November, 2020.


(HARMINDER SINGH, DANICS)
DY. COLLECTOR, DIU

To:-

1. Mamlatdar, Diu for necessary action.
2. Smt. Mulibai Maugi Solanki resident of Zolawadi, Bucharwada Diu for compliance.
3. Smt. Nathiben Govind Vala resident of Zolawadi, Bucharwada Diu for compliance.
4. Smt. Bhanuben Lakhman Wd/o. late Lakhman Bhikha resident of Zolawadi, Bucharwada Diu for compliance.
5. NIC, Diu to upload it on the official website.
6. Guard File.

Copy to: Collector, Diu for information.


(HARMINDER SINGH, DANICS)
DY. COLLECTOR, DIU

