



IN THE COURT OF DEPUTY COLLECTOR, DIU
U.T. ADMINISTRATION OF DAMAN & DIU, COLLECTORATE, DIU.

The Mamlatdar, Diu. Appellant

V/S

Shri Nanji Bhgwan
R/o Patelwadi,
Bhucharwada, Diu Respondent

ORDER

1. **WHEREAS**, this office has received a letter No. B.V.P./F.37/2016- 2017/334 dated 25-05-2016 (C/4) from the Sarpanch, Village Panchayat Bhucharwada as well as letter dated 26-05-2016 From the President Cum Chief Counselor, District Panchayat, Diu concerning to remove the encroachment on Government land for road widening from Sitlamata Temple to Kalikamata Temple, Bucharwada Stating that Bhucharwada Panchayat has proposed for road widening from Sitlamata Temple to Kalikamata Temple, Bhucharwada.

2. **AND WHEREAS**, the said road is declared as Village Road vide Notification No. PWD/SE/DMN/TB/F.30-B/390 dated 29-05-1997 from the Assistant Secretary (Rev.), Secretariat, Daman;

3. **AND WHEREAS**, it was further alleged in the above letters that some persons have encroached Government land and have constructed shed, store room and residential structures on Govt. land, because of which road widening from Shitlamata Temple to Kalikamata Temple, Bhucharwada is held up, where during marriage ceremony Hindu people of entire Diu district come to Kalikamata Temple, Bhucharwada to pray and hence, bus, bullock carts and four wheels cannot pass easily from the said road, because of which they have requested to remove the said encroachment from Shitlamata Temple to Kalikamata temple, Bhucharwada so that the work of road widening can be started by the Bhucharwada Panchayat;

Sharma
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4. **AND WHEREAS**, this office issued letter No.65-01-illegal Encr.2016-LND/1131, dated 30/06/2016 to Mamlatdar, Diu requesting to submit field report of the encroachment on Government land from Sitlamata Temple to Kalika Mata Temple, Bucharwada-Diu;

5. **AND WHEREAS**, in response to this office letter Mamlatdar, Diu vide letter No.MAM/DIU/LND/2016-17/2480 dated 12/07/2016 has informed that some villagers of Patelwadi Village have made encroachment in road widening area on the land bearing survey no. 320/1 situated at Patelwadi, Bhucharwada, Diu, the details of which are as under :-

Sr. No.	PTS No.	Total Area in Sq.mts.	Name of the present Occupant	Name of Encroacher with address	Nature of Encroachment	Approximate area in sq.mts.
1	2	3	4	5	6	7
1.	320/1(P)	--	Govt.	Shri Nanji Bhgwan	Parking Shed	46
2.	do	--	-do-	Shri Lalji Vira	Pucca Hut	18
3.	do	--	-do-	Shri Amratlal Ramji	Garage	14.5

3. **AND WHEREAS**, in pursuance of the above, a notice No.65-01-ILLEGAL ENCR.2016-LND/1883 dated 23/08/2016 under section 40 of GDDLRC was issued to **Shri Nanji Bhgwan R/o Patelwadi, Bhucharwada, Diu** who has encroached upon Government land bearing Survey No.320/1 (Part) area admeasuring 46 sq.mts. by constructing Parking Shed, to show cause within 07 days of receipt of the Notice as to why proceeding under Section 40 of Goa, Daman & Diu Land Revenue Code, 1968 and rules made there under at his cost and consequences should not be initiate against him ;

4. **AND WHEREAS**, **Shri Nanji Bhgwan R/o Patelwadi, Bhucharwada, Diu** through his advocate submitted reply dated 07/09/2016 as under :

a. "Applicant submits that copy of said letter is very much essential, because on the strength of said report, you have issued above referred notice and hence it may please be supplied to the Applicant at the earliest possible. Applicant further reserves his right to file additional clarification after receipt of said report/letter dated: 12/07/2016 of the Mamlatdar, Diu.

b. Applicant submits that since Portuguese Regime his family is using, occupying and possessing property bearing Survey No.319/1, situated at Ambawadi, Bhucharwada, Diu and Applicant as well as his brothers are jointly enjoying the same as the occupants/owners.

c. Applicant submits that he has not encroached upon any government land including Survey No.320/1 as stated/alleged in Report dated: 12/07/2016 of the Mamlatdar, Diu.

Shri Nanji Bhgwan
26/6/2017

- d. Applicant submits that The Mamlatdar, Diu as well as his staff have never visited the place and never took measurement and hence their so called report is totally false and fabricated and without any physical site inspection.
- e. Applicant submits that before submission of his report dated: 12/07/2016, the Mamlatdar, Diu; has not intimated us and we have not been provided any opportunity of being heard in the matter and to submit the documentary proof in support of our claim. So the report of Mamlatdar, Diu; is against principal of natural justice.
- f. Applicant submits that he as well as his family members have not encroached upon any government land including Survey No.320/1 (part) and hence they are not liable for eviction under Section 40 of the Goa, Daman & Diu Land Revenue Code, 1968 and rules made thereunder
- g. Applicant also submits that as per Section 40 of Land Revenue Code, 1968 of Goa, Daman and Diu; the power is vested with the Collector and not with the Dy. Collector, so your above referred notice itself is without any legal sanctity and illegal Taking into consideration above referred explanation, Applicant prays to drop all the proceedings, for initiating action under Section 40 of Goa, Daman & Diu, Land Revenue Code, 1968; against the applicant”;
- 5. AND WHEREAS**, as per direction given by Dy. Collector, Diu during the court proceeding, a joint inspection was carried out by the Mamlatdar, Diu, with survey team, along with the respondent concerned to ascertain the encroachment on 24/09/2016 at 11.00 hours;
- 6. AND WHEREAS**, Shri H. B. Modasia, advocate of the respondent, who was also present at the time of the demarcation exercise, has accepted that his client has made construction on government land on 28/09/2016 in the open court;
- 7. AND WHEREAS**, the report of the joint inspection carried out as mentioned above from the Mamlatdar vide No. MAM/LND/2016-17/4940 dated 15/11/2016 confirming the above is indeed illegal and an encroachment on government land was received by this court;
- 8. AND WHEREAS**, in the interest of justice, a fresh notice No. 03/2016/3891 dated 24/01/2017 was issued to the encroacher along with a copy of the report of the Mamlatdar, Diu;
- 9. AND WHEREAS**, hearing in the Court of Dy. Collector, Diu was fixed on 21/09/2016 at 15:00 hours, on 28/09/2016 at 15:00 hours, on 29/12/2016 at 15:00 hours, on 24/01/2017 at 15:00 hours, on 07/02/2017 at 15:00 hours, and on 16/02/2017 at 15:00 hours ;

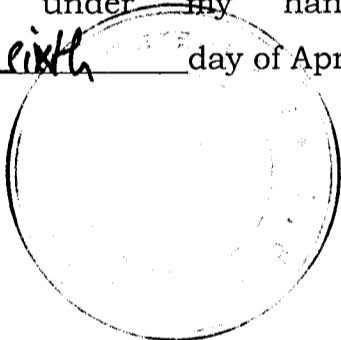
J. Sharma
26/11/2017

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10. **AND WHEREAS**, the respondent personally was present on 16/02/2017, and agreed that he, i.e. **Shri Nanji Bhagwan R/o Patelwadi, Bhucharwada, Diu** had encroached on government lands and he agreed to remove the encroachment by 16/03/2017;

11. **NOW THEREFORE**, keeping the above facts, submissions and reasons in view, I, **Dr. Apurva Sharma, DANICS, Deputy Collector, Diu** in exercise of the powers conferred to me under section 40 of Goa, Daman and Diu, Land Revenue Code, 1968 do hereby order the eviction of the respondent & removal of the encroachment from Government Land bearing PTS No.320/1(p), situated at **Patelwadi, 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, if the respondent fails to remove the encroachment as per the assurance given in the court by the respondent.

12. Given under my hand & seal of this Court on twenty sixth day of April, 2017.



Sharma
26/4/2017
(DR. APURVA SHARMA), DANICS
DY. COLLECTOR, DIU

To:-

1. The Mamlatdar, Diu for necessary action.
2. **Shri Nanji Bhgwan R/o Patelwadi, Bhucharwada, Diu** for compliance.
3. NIC, Diu to upload it on the official website.
4. Guard File.

Copy to:

The Collector, Diu for information, please.

Sharma
26/4/2017
(DR. APURVA SHARMA), DANICS
DY. COLLECTOR, DIU