



IN THE COURT OF DEPUTY COLLECTOR, DIU

U.T. ADMINISTRATION OF DAMAN & DIU, COLLECTORATE, DIU.

The Mamlatdar, Diu.

... ..

Appellant

V/S

Smt. Fulaben Karsan Baria,
R/O Bandodkar, Colony,
Ghoghla, Diu.

... ..

Respondent

ORDER

1. **WHEREAS**, on the direction of Dy. Collector, Diu this office has issued letter No.65/03/Illegal-Encr/.2017-LND/3915, dated 25/01/2017 to furnish field report of the encroachment made by the local resident on Sea side of Diu-Una road on government land situated at Bandodkar Colony at Ghoghla, Diu ;

2. **AND WHEREAS**, Mamlatdar, Diu vide his letter no. MAM/Diu/LND/2016-2017/5532 02/02/2017 reported that the following persons have illegally encroached on Government land situated at Bandodkar, Colony at Ghoghla, Diu and as shown at column No.2 in following proforma ;

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
01	25/41	--	Govt.	Shri Fulaben K. Baria	Shed used for liquor selling	70
02	25/42	--	-do-	Shri Ramji Sakar Chauhan	-do-	70
03	25/43	--	-do-	Smt. Viriben Vira Kapadia	Compound wall	70
04	25/44	--	-do-	Shri Devji Gokal Solanki	Compound wall	70
05	25/45	--	-do-	Smt. Divaliben Savai	Compound wall	70
06	25/46	--	-do-	Shri Parbat Bhikha Solanki	Compound wall	70
07	25/47	--	-do-	Smt. Laxmiben Mohan Bariya	Room and Compound wall	70
08	25/48	--	-do-	Hardas Bhim	Toilet and Compound wall	70
09	25/49	--	-do-	Shri Hira Lala Daudno	Kaccha Compound wall	70
10	25/50	--	-do-	Shri Prakash Ramji Solanki	Shed and kaccha Compound wall	70
11	25/51	--	-do-	Smt. Jethibai Hardas	Compound wall	70
12	25/52	--	-do-	Shri Jivraj Raghav	Kaccha Compound wall	70

Y. K. Kulkarni
27/02/2017

13	25/53	--	-do-	Smt. Gulaben Lalji	Compound wall	70
14	25/54	--	-do-	Smt. Kadviben Manji	Room and Compound wall	70
15	25/55	--	-do-	Shri Nanji Nathu. Smt. Taraben Nanji	Compound wall	70
16	25/56	--	-do-	Smt. Laxmiben Lalji	Storage woods Compound wall	70
17	51/32/0	--	-do-	Shri Premji Ranchhod Solanki	Compound wall	70
18	51/32(P)	--	-do-	Shri Karsan Kanji Solanki	Shed room and Compound wall	70

3. **AND WHEREAS**, the detailed layout plan where encroachments were made was obtained from the Enquiry Officer, City Survey, Diu vide letter No.EOCS/DIU/2016-17/Govt.Land.Report/995 dated 02/05/2016 with specific report stating that illegal encroachment on Government land are erected ;

4. **AND WHEREAS**, Smt. Fulaben Karsan Baria r/o Bandodkar, Colony, Ghoghla, Diu the respondent has submitted a written reply dated 10/02/2017 wherein he has alleged that the notice of hearing is ambiguous, not valid under Goa, Daman and Diu Land Revenue Code 1968 and called it illegal and unauthorized; she has accepted that he has constructed a Shed used for liquor selling and landscaped the said Government land, she also stated that :-

"I, the undersigned, **Smt. Fulaben Karsan Baria R/O Bandodkar Colony, Ghoghla, Diu** do herein most humbly and respectfully submit my reply and explanation of your Honour notice dated 06/02/2017 as sunder:

I have received notice on 07/02/2017 and hence my reply cum explanation of said notice is well within time.

With due respect of your Honour, I submit that as per the Law your said notice is ambiguous and not valid within the provisions of Goa, Daman & Diu land Revenue Code, 1968. As per my humble submission and belief it is illegal and unauthorized notice in the eye of law.

Ongoing through the contents of the notice no one can gather sense that for which purpose notice is being issued and there is no allegation in the said notice for which purpose notice is being issued and in it seems and it that ambiguous and invalid notice issued by the authority having no Jurisdiction.

Shamma
27/02/2017

We have constructed our residential house in the year 1983 and that time here was no protection well elected by the local authority or government and during the high tide time the waves of sea are touches to our property and hence in order to our property and persons we have made landscaping to protect our property and temporary Room kaccha compound wall covered with leaves and persons of the protection of the persons and property.

It seems that your honor's has issued show cause notice under section 37 of the Goa, Daman & Diu Land Revenue Code 1968 for the removal of construction in terms of section 40 of the said code. I am law abiding person and for making construction of landscaping to protect our property and make kaccha compound wall covered with leaves and open urinals in order to protect to property and person.

Looking to my above explanation I urge and request your Honour to regularization of landscaping to protect our property and covered with leaves and encroachment under section 38 of the Goa, Daman & Diu land Revenue Code. 1968 and I am ready to pay penalty of encroached land in terms of Land Revenue Code.

I therefore most humbly and respectfully pray your honour to consider my explanation and request for regularization and sympathically in the interest of justice and obliged me.

For which of kindness, I shall ever pray”.

5. **AND WHEREAS**, the above stated reply is found baseless, null, & void and unacceptable since the reply is not as the provision of the section 40 of Goa Daman Diu Land Revenue Code under which the notice is issued; Further the enclosed report of the Mamlatdar, Diu is amply clear as it specifies the encroachment made and area thereof; Moreover, the very fact that the respondent has requested for regularization of the encroachment under section 38 of Goa, Daman and Diu Land Revenue Code 1968, shows that the respondent is aware and under stands that the proceedings are for eviction and removal of encroachment from Government land; and finally, the request under section 38 of Goa, Daman and Diu Land Revenue Code 1968 cannot be entertained since the powers under Section 38 are exercised by Collector, Diu and have not been delegated to Deputy Collector, Diu.

Y. Sharma
27/02/2017

6. **AND WHEREAS**, the respondent was given personal hearing in the Court of Dy. Collector, Diu on 10/02/2017 at 16:00 hours ;

7. **AND WHEREAS**, in the respondent verbal undertaking dated 10/02/2017, **Smt. Fulaben Karsan Baria r/o Bandodkar, Colony, Ghoghla, Diu** has accepted that they have encroached on Government Land in the presence of the independent witness Dr. Anil Kaushik, Assistant Director, Official Language and also stated that he shall remove the encroachment as an when other people remove the encroachment and he does not want to file/submit any further reply ;

8. **AND WHEREAS**, operative part of the order directing the respondents to remove the encroachment by **14/02/2017** was passed on 10/02/2017 in the open court ;

9. **AND WHEREAS**, an application dated 14/02/2017 addressed to Collector, Diu signed by the respondent at **Serial No. 01 Smt. Fulaben Karsan Baria and 17 others** was filed by stating in the said notice as under:

"The time given is very short and unreasonable. We should be given time for 15 (fifteen) days to enable us to seek legal advice as well as to prepared our case and consult well-wishers and expert persons in this regard.

Even in the Law and Rules minimum time is prescribe and time prescribed is about one month.

Hence, by this representation we submit to your Honour to consider our representation and to instruct the Deputy Collector, sahib, Diu to give us a reasonable time of 15 (fifteen) days to make our submission to the Deputy Collector Saheb, Diu in the interest of justice & oblige."

10. **AND WHEREAS**, it is pertinent to note that (i) the respondent was given ample opportunity on the date of hearing on 10/02/2017 in the presence of an independent witness, namely Dr. Anil Kaushik, Addition Director, (Official Language), where in the resident accepted the fact that he had encroached on government lands, and (ii) the above mentioned application was moved only after the final order was pronounced in the open court and the proceedings were closed and thus, in view of the above, it is clear that the above mentioned application has been moved only to delay and frustrate the ends of justice when the respondent has already accepted that he has encroached on government land;

J. Sharma
28/02/2017

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 encroachment from Government Land bearing PTS No.25/41, situated at Bandodkar, Colony at Ghoghla, 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 by 14/02/2017**.

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



Sharma
27/02/2017
(DR. APURVA SHARMA), DANICS
DY. COLLECTOR, DIU

To:-

1. The Mamlatdar, Diu for necessary action.
2. **Smt. Fulaben Karsan Baria r/o Bandodkar, Colony at Ghoghla, 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
27/02/2017
(DR. APURVA SHARMA), DANICS
DY. COLLECTOR, DIU