

(10)



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

The Mamlatdar, Diu Appellant
V/S

Shri Deugi Soma,
Through his GPOA
Shri Vijaya Kuamr Deugi
R/o ner Panchayat Office,
Bhucharwada, Diu Respondent

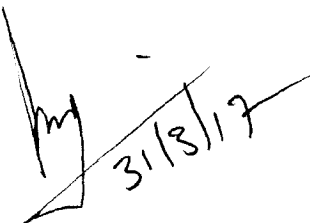
ORDER

1. **WHEREAS**, the office has received a letter No. MAM/LND/MISC/2015-16/4198 dated 29/02/2016 from Mamlatdar, Diu reporting that as per the land record, the land bearing Survey No. 129/24 situated at Palakutti, Nagoa, Zolawadi, Bhucharwada is entered in the name of Shri Deugi Soma as Class-II occupant and he has built 08 nos. tents and 01 hut on the said land. The occupant has obtained permission from the Village Panchayat Zolawadi ;

2. **AND WHEREAS**, the report were called from the Sarpanch, Village Panchayat Zolawadi and Junior Town Planner, Diu to find out as to whether the permission as per rules have been obtained by Shri Deugi Soma or not and the tents erected in the land bearing Survey No. 124/29 confers the zoning plan of Diu District and also in case the violation of Zoning norms who is the Competent Authority to initiate action against the violation ;

3. **AND WHEREAS**, the Junior Town Planner, Diu has reported vide letter No. 20/TECH-MISC10/2015/694 dated 28/03/2016 stating that the land bearing Survey No. 129/24 situated at Palakutti, Nagoa of Village Zolawadi is covered under Agriculture/Open Space and Natural Resources Zone as per Regional Map, wherein no any construction or tent accommodation is allowed and it is contrary to planned development scheme. Shri Deugi Soma has made zoning violation and in this case Village Panchayat is Competent Authority to take action against this activity as per Para 37 of Village Panchayat Notification No. CDB/VPT/486/69, moreover, in Diu District Planning and Development Authority is not established at present ;

4. **AND WHEREAS**, the Sarpanch, Village Panchayat, Zolawadi has submitted letter dated 12/04/2016 stating that as per record available in Zolawadi Panchayat, following permissions for construction of compound wall & erecting tents and other activities in land bearing Survey No. 129/4 situated at Palakutti, Nagoa has been granted by them ;


31/3/17

(A). "Vide Permission No. ZVP/F/2015-2016/04/122 dated 08/05/2015 the Sarpanch, Village Panchayat Zolawadi, Diu has granted permission for construction of kaccha compound wall on the land bearing Survey No. 129/24, 129/25-A, 129/26. 129/27 & 129/28 with following conditions:

- (i) Construction of kaccha compound wall shall be made after leaving setbacks in surrounding area.
- (ii) Construction of compound wall shall be made with kaccha materials with mud plastering.
- (iii) Access should be provided to surrounding lands.

Note: i) If the compound wall is constructed against the conditions mentioned in permission letter, the permission will be cancelled.

ii) If any objection raised by the Government, the permission will be cancelled" ;

(B) "Vide letter No. ZVP/F/2015-2016/956-F.04 dated 17/08/2015 the Sarpanch, Village Panchayat Zolawadi, Diu has granted the permission for erection of 15 tents in land bearing Survey No. 129/24 situated at Palakuti, Nagoa, Zolawadi to Smt. Asmita Devji GPOA of Shri Devji Soma resident of Bucharwada, Diu with the following conditions:

- i) Necessary tax will be collected every year as per the rate fixed by the Panchayat.
- ii) In surrounding area of tents, cleanliness may be carried out by the applicant.
- iii) The permission can be cancelled by the Panchayat at any time.
- iv) If the above conditions are not followed by the owner, the Panchayat may cancel the permission without giving any reason. ;

5. **AND WHEREAS**, the permission given above were cancelled by the Sarpanch, Village Panchayat, Zolawadi, Diu, however Shri Deugi Soma has already constructed the 08 nos. tents and 01 hut on the land bearing Survey No. 129/24 admeasuring 4450 sq.mts. situated at Palakuti, Nagoa, Zolawadi, Diu without obtaining conversion permission violating the provisions of Section 32 of GDDLRC, 1968 ;

6. **AND WHEREAS**, as per the records of Land Section, Collectorate, Diu it has been found that no any conversion permission has been granted to Shri Deugi Soma owner/occupant of the land bearing Survey No. 129/24 area admeasuring 4450 sq.mts. situated at Palakuti, Nagoa, Zolawadi, Diu. Hence, show cause notice No.65-01-2015-ND/(Part)/257, dated 28/04/2016 was issue to Shri Deugi Soma under Section 33 of Goa, Daman & Diu Land Revenue Code, 1968 to show cause within 07 days of receipt of the Notice as to why proceeding under Section 33 of Goa, Daman & Diu Land Revenue Code, 1968 should not be initiate against you.

7. **AND WHEREAS**, Smt. Ashmita Deugi GPOA has submitted reply dated 17/05/2016 on behalf of Shri Deugi Soma being a General Power of Attorney stating that her family is active in politics and political rivals have wrongfully raised this matter with malafide intention to harass Shri Deugi Soma nad others and family members. She also stated that on the report of Junior Town Planner, Diu, show cause notice was issued but copy of the said report was not supplied

to them and she has requested to supply the copy of report of Junior Town Planner, Diu so that they can file detailed reply/reason in response to the notice as they reserve right to file additional clarification upon receipt of the said report as per his personal knowledge and belief, Town & Country Planning Zone for Diu District has already lapsed, by efflux of time and therefore the report of Junior Town Planner, Diu is not legal and his act of giving said report is without jurisdiction and hence it shall be rejected a void-ab-initio. Applicant has purchased this land from Mr. Lalji vira Bariya since long after due process of law. He has not made any sort of pukka construction onto or upon the said land and for cultivation purpose, there was kaccha hut standing thereon, since long time. He has obtained necessary permission from the Village Panchayat, Zolawadi, Diu vide permission No. ZVP/F./2015- 2016/956-F.04 dated 17/08/2015 and put/fixed 08 tents in said land. The said tents are pure of temporary nature and can be removed and can be shifted/moved from one place to other place and it is not covered under the definition of Construction as defined in Land Revenue Code, 1968. The said land is agricultural land only and it is under cultivation only and applicant and his family members are personally cultivating said land. He has not made any pukka construction and merely put/fixed tents upon very small/negligible area of said land and during monsoon; he removes the tents and cultivates entire land. He further submits that cultivation is the main source of income of his family, but due to scarcity of water, he is able to cultivate the land in monsoon season only and income/profit derived from cultivation is very small, so with the help of tents business, he is trying to earn some money/profit for survival of his family and for which he is holding legal and valid permission of local body. She stated that there is no need to obtain conversion permission of said land as it is purely of temporary nature and can be shifted/moved. The said land is under his personal cultivation only and the question of initiating proceeding under Section 33 of Goa, Daman & Diu Land Revenue Code, 1968 does not arise at all and requested to drop the matter against him; he further stated that recently from the month of December, 2015 to February, 2016, the Administration of Daman and Diu had organized Diu Festival (Asia's longest Beach Festival) at Nagoa Beach and this festival was inaugurated by the auspicious hand of Hon'ble President of India. This entire festival was celebrated in tents put/fixed on land adjacent to Nagoa Sea Shore, for which no conversion permission was obtained. He stated that rules and regulations are applicable to all i.e. to general public and to the administration also. Taking into consideration of the facts of celebration of Diu Festival at Nagoa Beach in tents, applicant is also entitled to use his agriculture land for putting/fixing tents. He requested not to initiate so called proceeding under Section 33 of Land Revenue Code, 1968. He has submitted the copy of ownership documents alongwith permission of village Panchayat etc. for reference. Applicant has prayed that as per the explanation narrated, the alleged proceedings for initiating action under Section 33 of Goa, Daman & Diu Land Revenue Code, 1968 against him may be dropped ;

8. AND WHEREAS, this office has sent a copy of report of Junior Town Planner, Diu dated 28/03/2016 for filing additional clarification to Smt. Ashmita Deugi GPOA of Shri Deugi Soma, resident of Panchayat Chowk, Bhucharwada, Diu vide letter dated 30/05/2016 through Speed Post and she has received the Same. Meantime, this office has received an Order No. ZVP/F.04/2016- 17/300 dated 01/06/2016 from the Sarpanch, Zolawadi Village Panchayat, Diu revoking the permission dated 17/8/2015 issued to Shri Deugi Soma for installation of Tourist Tents in the land bearing Survey No. 129/4 situated at Palakuti, Nagoa, Zolawadi, Bhucharwada, Diu ;

9. **AND WHEREAS**, the Respondent was heard personally in the Court of Collector, Diu on 06/09/2016 at 15:00 hours, on 29/09/2016 at 15:00 hours, on 07/10/2016 at 15:00 hours, on 10/11/2016 at 15:00 hours, on 21/01/2017 at 15:00 hours, and on 06/01/2017 at 15:00 hours It is pertinent to note that the Shri Vijay Kumar Deugi POAH of Respondent has vide letter dated 01.03.2017 accepted the fact that he had constructed the 08 nos. tents and 01 hut on the land bearing Survey No. 129/24 admeasuring 4450 sq.mts. situated at Palakuti, Nagoa, Diu without obtaining N.A permissions ;

10. **AND WHEREAS**, Respondent through his legal heirs & GPOA has submitted letter dated 23.02.2017 and 01.03.2017 respectively stating that they will remove the unauthorized tented accommodated huts by 10.05.2017;

11. **NOW THEREFORE**, in light of the above narrated facts submissions and reasons **I. P. S. Jani, Collector, Diu** in exercise of the powers conferred to me under Section 33 of Goa, Daman and Diu, Land Revenue Code, 1968 do hereby order that Shri Deugi Soma shall remove constructed 08 nos. tents and 01 hut from the land bearing Survey No. 129/24 admeasuring 4450 sq.mts. situated at Palakuti, Nagoa, Zolawadi, Diu and restore the Land at its original status, by **10th May, 2017**.

12. If the Respondent fails to remove the 8 nos. and tents and 01 hut by **10th May 2017**, the Mamlatdar, Diu shall remove the said tents and hut immediately and the cost of such removal shall be recovered from Respondent.

13. Given under my hand & seal of this Court on 31st day of March, 2017.



(P. S. JANI)
COLLECTOR, DIU

To:-

1. The Mamlatdar, Diu for necessary action.
2. **Shri Deugi Soma**, Through his GPOA Shri Vijay Kumar Deugi r/o near Panchayat Office, Bhucharwada, Diu for compliance.
3. NIC, Diu to upload it on the official website.
4. Guard File.

(P. S. JANI)
COLLECTOR, DIU