



Jammu and Kashmir State Information Commission

(Constituted under the Right to Information Act, 2009)

Wazarat Road, near DC Office Jammu, 0191-2520947, 2520937

Old Assembly Complex, Srinagar, 0194-2506660, 2506661

www.jksic.nic.in

File No. SIC/K/SA/06/2018

Decision No. SIC/K/SA/06/2018/**11**

Final Order:

Appellant : Smt. Ramma Raina,
R/o 67-A/Sector-7, Trikuta Nagar, Jammu.
Respondent : **FAA:** *Deputy Commissioner Srinagar.*
PIO: *Assistant Commissioner(Rev), Srinagar.*
Date of Registration : 02-01-2018.
Date of decision : **23-04-2018.**
Decision : Appeal disposed of.

Brief Facts:

The present appeal has arisen out of RTI application filed by Smt. Ramma Raina on 19.01.2017 seeking the following information from ADC Srinagar:-

1. Name, with parentage and address of persons who have encroached upon our land (i.e. the land belonging to the applicant and co-sharers
2. Name and address of the Chief/Managing functionary of social/religious organization which has encroached on the land in question.

3. Name and address of Government/Para-Government organization that has encroached upon my and my co-sharer's land at the above mentioned site in village Zoonimar without following the due process of law for acquiring the land for public use.
4. What steps have been taken by the office of Deputy Commissioner, Srinagar under Section-5 of J&K Migrant Immovable Property (Preservation & Restraint Distress Sales) Act of 1997 for retrieving the said land. Copies of the official documents/correspondence pertaining the above noted subject may kindly be issued against payment as per prescribed mode/rate.

The PIO O/o D.C. Srinagar transferred the RTI application of the applicant to the PIO/Tehsildar Eidgah Srinagar 16.09.2017 in terms Section 6(3) of the J&K RTI Act with a direction to the PIO to provide the requisite information to the applicant within the stipulated period under the RTI Act. As no response was received by the applicant from the PIO, she filed First Appeal with FAA/D.C Srinagar on 14.10.2017 requesting for a direction to the PIO to provide the information to the applicant. The PIO O/o D.C Srinagar transferred the First Appeal under communication dated 31.01.2017 to SDM (East) Srinagar with the request to dispose of the same in

terms of Section-16 of the RTI Act. Aggrieved by the non-disposal of the First Appeal by the FAA, the appellant filed the 2nd appeal before the State Information Commission (SIC) on 26.12.2017, which was duly admitted by the SIC on 02.01.2018.

Proceedings before the Commission/Decision:

The appeal came up for hearing before the SIC on 27.03.2018. Mr. Masarat Hashim ACR Srinagar and Syed Qwam-ud-Din, PIO/Tehsildar, Eidgah Srinagar were present. The appellant Smt. Raman Raina was heard through voice call.

The PIO submitted that the land owned by the appellant and her co-sharers falls in two Tehsils viz Tehsil Eidgah and Tehsil North Srinagar. By way of a general power of attorney, the owners of the land had given the power of attorney in favour of one Sh. Gh. Qadir Mir for the land measuring 50 Kanals, out of which 29 Kanals fall in the jurisdiction of Tehsil Eidgah village Zoonimar and 21 kanas in Tehsil North Srinagar. The entire land of 50 Kanals was subsequently alienated in favour of different persons by the attorney holder after seeking necessary permission and approval from Divisional Commissioner, Kashmir in pursuance of **J&K Migrants Immovable Property (Preservation, Protection and Restraint on Distress Sales) Act, 1997**. The PIO further submitted that after seeking the report from Patwari concerned, he

has provided the information to the applicant through Registered Post on 30.10.2017. However, the PIO submitted a copy of the postal receipt which indicates that the said communication of 30.10.2017 has actually been dispatched to the appellant on 12.01.2018.

The applicant submitted through voice call that she is not concerned with the land measuring 50 Kanals for which Mr. Ghulam Qadir Mir has admittedly been appointed as an attorney holder and the same has been alienated after following proper procedure. However, she is concerned with the land in excess of 50 Kanals measuring 7 Kanals 3 marlas which falls in village Zoonimar and has been encroached upon by various individuals/organizations. The appellant further stated that she has not received any information with respect to this portion of land and that the information she has received from the PIO is illegible and not clear.

After hearing the parties, and perusing the records made available to the Commission, it was found that an application was filed by Sh. Gh. Qadir Mir, the attorney holder of the land belonging to the appellant and her co-sharers with District Magistrate, Srinagar on 13.10.2016. The District Magistrate, Srinagar vide order dated 05.07.2017 directed both the Tehsildars of Tehsil Eidgah Srinagar and Tehsil North Srinagar to constitute a team under their

joint personal supervision and demarcate the 50 Kanals of land for which the petitioner has been authorized as attorney holder. The District Magistrate further directed that the excess land occupied through the attorney holder shall be evicted and restored and kept under the safe custody of Tehsildar concerned on behalf of District Magistrate. In response to a question asked by the Commission about the follow up of the directions given by the District Magistrate Srinagar, the PIO submitted that the team constituted for the purpose has submitted its report to the District Magistrate and the 50 Kanals of land for which Mr. Gh. Qadir had been appointed as attorney holder has been demarcated. The excess land has also been identified which falls in Saderbal area of Tehsil North Srinagar and the same has been kept under safe custody of the Tehsildar concerned.

As the reply furnished by the PIO to the appellant did not answer the specific queries raised by the appellant, the hearing was adjourned with a direction to Tehsildar Eid-gah and Tehsildar North, Srinagar to furnish the information about the follow up action in pursuance to order of District Magistrate, Srinagar dated 05-07-2017. The specific information as to the quantum of the land which has been found in excess of the 50 kanals and its restoration and safe custody on behalf of District Magistrate as needs to be clarified by the PIO. The PIOs were also directed to

provide a copy of the report, if any, in this regard for perusal of the Commission.

The appeal again came up for hearing before the SIC on 23-04-2018. The appellant was not present. The SDM, Srinagar, Tehsildar North and Tehsildar Eid-gah, Srinagar were present in the Srinagar office of the Commission and were heard through voice call. The SDM, Srinagar informed the SIC that a piece of land measuring 6 kanals is available on the ground. The said piece of land is vacant and its possession has been taken over by the Revenue Authorities in terms of J&K Migrant Immoveable Property (Preservation, Protection and Restrained on Distress Sales) Act, 1997. With regard to remaining land measuring 1 kanal and 3 marlas, the SDM submitted that the same might have been encroached upon and the concerned Revenue Officers are in the process of removing the encroachment, if any, and restoration of the same in terms of the afore said Migrants Immovable Property Act. The SDM, Srinagar sought 15 days time for the said purpose so that the information is provided to the appellant in respect of the entire piece of land measuring 7 kanal 3 marlas.

With the aforesaid assurance of the SDM, Srinagar, the appeal is disposed of. The SDM Srinagar as well as Tehsildar, North and Tehsildar Eid-gah, Srinagar are directed to identify and demarcate the entire piece of land measuring 7 kanal 3 marlas, which is in excess of 50 kanals of land for which Mr. Ghulam Qadir Mir was appointed as an Attorney Holder, and thereafter, remove the encroachment if any, on the said piece of land so that the same is preserved and protected in terms of **J&K Migrant Immoveable Property (Preservation, Protection and Restrained on Distress Sales) Act, 1997**. This process shall be completed within

a period of 15 days from the date of receipt of this order and thereafter information of the same shall be provided to the appellant within a further period of 15 days. The appellant shall have the liberty of filing a complaint before the SIC under section 15 of the J&K RTI Act, 2009, in case the SDM, Srinagar and Tehsildars of North and Eid-gah Tehsils failed to identify, demarcate and take possession of the land in question and also to provide information about the same to the appellant within the period specified above.

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(Mohammad Ashraf Mir),
State Information Commissioner,
J&K State Information Commission.
/imi/

No. SIC/K/SA/06/2018

Dated: / /2018.

Copy to the:

- 1 First Appellate Authority (FAA) Sub-Divisional Magistrate (E) for information.
- 2 Public Information Officer (PIO), Assistant Commissioner (Rev), Srinagar for information.
- 3 Public Information Officer (PIO), Tehsildar, Eidgah, Srinagar for information.
- 4 Public Information Officer (PIO), Tehsildar North, Srinagar for information.
- 5 PS to SIC for information of HSIC.
- 6 Sh. Ramma Raina, R/o 67-A Sector-7, Trikuta Nagar, Jammu.
- 7 Guard file.

(Sheikh Fayaz Ahamd)
Registrar,
J&K State Information Commission.