

No. C. Land. III - 20-54
 Himalaya
 28.5.66
 28.5.66

Read: 1) The Applications dated
 21 Oct. 64, 28 Aug. 65 and
 21 Oct. 65 for...
 2) This office...
 10.11.54 dated 2-5-66

ORDER.

The land measuring 3) 5 by
 out of S. No. 130 of Bangalore
 or one ~~Shikharathanda~~ tract
 hereby leased to Smt. S. Shama
 holder of the lands in S. No. 97
 and 10 1/2 of Bangalore for a period
 of ~~seven~~ years from the date
 of ~~possession~~ of the lands, in
 anticipation of the following conditions
 subject to the following conditions
 1) That the lessee shall pay
 Annual Rent that shall
 be fixed by the Government
 2) That the land shall

In view of the genuine religious
 involved in the matter, the land
 in question is leased to the applicant
 but they are anticipation of
 Govt. sanction. The terms and
 conditions are self explanatory.
 Govt. orders solicited.

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No. 1792, LNA.(I) 5309.
Office of the Commissioner, Bombay Dn.,
Old Secretariat Bldg., 1st Floor,
Bombay-32.

30 JUN 1966

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Subject:- Lands, Bombay Suburban District.
Erangal S.No. 130
Grant of- to Shri J.P.L. Shenoy.

MEMORANDUM:

With reference to his letter No. C/LND.III-CR.54, dated 27-5-66, the Additional Collector, Bombay suburban District is requested to:-

- (i) Clarify how he has reported that S.Nos. 9/2, 10/1 and 10/2 of Erangal are owned by Shrimati Shenoy when they are not standing in her name in the Record of Rights.
- (ii) Submit extracts of Record of Rights showing that the adjoining lands are held by Mt. Shenoy.
- (iii) Show in the sketch the land measuring 20 gunthas from S.No. 130 leased out to Shri Arora.
- (iv) take steps to revoke the assignment of land as cur-charan if it is not used for the purpose-
- (v) ascertain whether the Director of Tourism and the Bombay Municipal Corporation have any objection for the disposal of the land which is reported to be reserved for holiday camps.
- (vi) Supply one more copy of his order No. C/LND.III.CR.54, dated 28-5-66 leasing out the land.
- (vii) state specific reasons for which the land has been leased out in anticipation of Government sanction.

It is seen that none of the applications of Shri Shenoy addressed to the Additional Collector have been stamped with Court fee stamps. The Additional Collector is, therefore requested to recover deficit Court fee stamps and affix them to the applications.

3. The case papers are returned herewith.

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an application
Y. Kishorechand
this S.No.
no. has been
them for*

Fig 1.

COLLECTOR BOMBAY
SUBURBAN DISTRICT
TO
DATE 20 JUN 1966

M. D. D. D.
For Commissioner, Bombay Dn., Bombay. 15/6/66

The Additional Collector,
Bombay Suburban District,
BOMBAY.

Bombay. 28/5-66.

Read:-1) The applications dated 21 Oct. 64,
2 Aug. 65 and 21st. Oct. 65, from
Shri T.P.L. Shenoy.

2) This office report No. C/LND. III. CR. 54
dated 27-5-66.

ORDER

The land measuring 37 sq.yds. out of S.No.130 of Erangal is hereby leased to Smt. L. Shenoy, the holder of the lands in S.No.9/2, 10/1 and 10/2 of Erangal, for a ~~term~~ period of seven years from the date of taking over of the possession, in anticipation of Government sanction, subject to the following conditions:-

- i) that the lessee shall pay the annual rent that shall be fixed by Government in due course.
- ii) that the land shall be kept open to sky;
- iii) that the lessee shall surrender the land back to Government, if sanction thereto sought for from Government is not accorded and that if it is required by Govt. at any time, without claiming any compensation.
- iv) that the lessee shall not mortgage, sell, transfer, assign and shall surrender to Government free from any ~~encumbrances~~ encumbrances, if at any time the Government directs the lessee to do so; and
- v) that the lessee shall execute an agreement before the Collector in the form that shall be approved by the Collector, as and when she is called upon to do.

Sd/-

Collector, B.S.D.

To :

Smt. L. Shenoy,
Bhaktawar, Narayan Dabholkar Road,
Bombay-26.

She is requested to takeover possession of the land from the Mamlatdar Borivali, on her giving consent to abide by the above terms and conditions.

No. Appeal Task/WAA/3582.

M/s Glaxo Laboratories (India) Ltd.,
Dr. Annie Besant Road, Bombay-400025.

.. Applicant.

Vs.

.. Opponent.

State.

: O R D E R :

This is a revision application arising out of the order passed by the Additional Collector of B.S.D. on 31.7.1978 and communicated to the applicant vide letter No.C/Task-I-A-LNI-III-CR.137 dated 31.7.1978, as per which the applicant Company has been asked to vacate the Government land from S.No.130 of Village Erangul, Taluka Borivli, B.S.D., Bombay.

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2. The applicant Company's Predecessor in title Smt. Shency was given on temporary lease a piece of Government land from S.No.130 of Village Erangul for the period ending on 31.7.1973. Her request for extension of the lease on permanent basis was refused by the Government of Maharashtra in the Revenue Department under their letter No.LNA-2673/143264-A-I dated 9.10.1973. The Government had directed for taking action to resume the possession of the Government land by ~~the~~ summary eviction of the occupier u/s.53 of the M.L.R.Code as the initial lease period had already expired. The renewal of the lease ^{was} already refused and the present occupation is unauthorised and wrongful. The applicant Company's request to allow them to continue on the land could not be considered by the lower Court and hence, the Company was asked to vacate the land.

3. The grounds of the revision are contained in the application made by the above Company on 5.6.1979. It is urged by the applicant ~~is~~ that the only access which the applicant has to their property is through the land from S.No.130. It is pointed out that the land in question, measuring 375 sq.yds. is a small strip of land and is of no use to Government or to any others except the applicant Company whose only ~~xxxxx~~ access from the public road to their property ~~is~~ is through this strip of land. The applicant has approached the Government and are also in correspondence with the Tourism Department in this regard. It is pointed out that the procedure followed by the Additional Collector is illegal, void and ~~not~~ in accordance with the provisions of law.

4. I heard the applicant's Representatives in the matter and I have also seen the spot and the note prepared by me after inspecting the spot is on record. I find that the question that the Additional Collector has not followed the procedure laid down under Section 53 of the M.L.R. Code does not arise. The only consideration in this case is that the land in question measuring 375 sq.yds. is a small strip of land and the applicant Company has got access from the public road to their property through this strip of land. The applicant's ~~xxxxx~~ case can be favourably considered under the provisions of Rule 37 of Disposal of Small Strips of Land of Rules regarding Disposal of Government Lands under the M.L.R.C. It is necessary to consult Tourism Department in the matter. It is also to be ~~is~~ examined whether this small strip of land could be disposed of as a separate site or not.

5. There is thus case for consideration of the applicant Company's request as pointed out above and it is necessary for the Additional Collector of B.S.D. to make enquiry and decide the matter by referring it to Government in the Revenue & Forests Department. It is also necessary for the Additional Collector to see how the applicant Company got the n.a. permission and what was the access shown for reaching the cottages constructed by the applicant Company. I, therefore, allow this revision application and set aside the order passed by the Additional Collector of B.S.D. which is communicated to the applicant Company vide letter dated 31.7.1978, and the matter is remanded to the lower Court for fresh enquiry and decision according to provisions of law, after taking into consideration the observations made above. It will be necessary for the Additional Collector, B.S.D. to take an undertaking from the applicant Company that they will vacate the land- small strip of land ^{out of} ~~through~~ S.No. 130 of Village Arungal as and when required by Government; and subject to this undertaking the stay order issued by me on 5.6.1979 is continued.

Bombay. ...

20th February, 1980.

Y.A.

(Y.A. Sathave)
Additional Commissioner,
Bombay Division, Bombay.

Copy with case papers in four files, forwarded to the Additional Collector, B.S.D. for information and necessary action. *Prithvi*
To Addl Comm B.S.D.