

GOA INFORMATION COMMISSION

Ground Floor, "Shrama Shakti Bhavan", Patto Plaza, Panaji.

Appeal No. 92/2007-08/DSLRL

Shri. Manuel Da Costa,
H. No. 1560, Argicol,
Curtorim, Salcete - Goa.

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Appellant.

V/s.

1. Public Information Officer,
The Superintendent of Surveys & Land Records,
Directorate of Settlement & Land Records,
Panaji - Goa.
2. First Appellate Authority,
The Director of Settlement & Land Records,
Directorate of Settlement & Land Records,
Panaji - Goa.

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Respondents.

CORAM:

Shri A. Venkataratnam
State Chief Information Commissioner
&
Shri G. G. Kambli
State Information Commissioner

(Per A. Venkataratnam)

Dated: 10/01/2008.

Appellant in person.

Respondent No. 1 for himself and also represented Respondent No. 2.

ORDER

This is a matter in which one survey number belonging to the Appellant was sub-divided by the Department of Settlement and Land Records into two sub-divisions without the knowledge or concurrence of the Appellant. The facts are that the Appellant is an occupant in possession of Survey No. 10/0, Village Patiem, Taluka Sanguem. The name of the field is "Chirea Band", measuring an area of 92000 sq. mts. The record of rights in Form I & XIV of the said survey number is in the name of the Appellant and a copy is submitted by the Appellant. The Appellant came to know that the Department of Settlement and Land Records, has sub-divided his property, suo motto, and made into two sub-divisions namely, 10/1 and 10/2. The sub-division is neither ordered by the Collector under Land Revenue Code nor the record of rights reflects this position. In fact, on a query by the Appellant, the Mamlatdar of Sanguem Taluka

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who keeps the promulgated records of the Patiem village has confirmed there are no two sub-divisions for the Survey No. 10/0. The Appellant, thereafter, approached the Public Information Officer of the Land Records Department under the Right to Information Act, 2005 (for short the RTI Act) on 18th January, 2007 requesting to give him a copy of the survey plan of the promulgated property survey No. 10/0. An Inspector of Survey and Land Records, who is not the Public Information Officer, has sent a letter to him on 15th March, 2007 saying that there are two sub-divisions of this survey No. 10/0 and plans of both the survey numbers would be given to him at the respective sub-divisions. The Appellant obtained the plan of both the sub-divisions which is placed at Exhibit II attached to the reply by the Public Information Officer. On a pointed reference about how this is sub-divided and under whose authority, without giving notice to him, the same Inspector, Sada B. Naik informed him on 3/04/2007 that an inquiry is under process to verify as to how the two sub-divisions were formed and outcome of the inquiry will be informed to him as soon as the inquiry completed. This is placed at Exhibit III of the reply by the Public Information Officer. The Appellant approached the Director of Settlement and Land Records, who is the Respondent No. 2 by way of first appeal on 10/8/2007. A hearing was fixed on 10/9/2007. No order has been passed by the first Appellate Authority. The present second appeal was filed by the Appellant on 5/11/2007.

2. Notices were issued to the parties and they appeared in person. The replies were filed by both the Respondents. In his reply, the Public Information Officer submitted that the ownership of 10/2 is under inquiry before the Additional Collector, South Goa. He has not stated how the property was sub-divided in first place without an order from competent authority. This reply is filed by the Superintendent of Surveys and Land Records who is the Public Information Officer. All along the correspondence was being made by the Inspector of Land Survey as stated earlier, who is not the Public Information Officer. The reply filed by the Director is still more vague. He stated that the hearing before him is not yet complete and he has requested the Commission to direct the Appellant to appear before the "First Appellate Authority for hearing and resolving the problem".

3. We need not mention here that the Public Information Officer cannot delegate his responsibility of dealing with the RTI applications. Similarly, the

first Appellate Authority cannot indefinitely keep the appeals pending with him. Both the authorities are duty bound to give the information or refuse it with reasons within the statutory time period of one month. We have also held that the absence of the Appellant before first Appellate Authority, will not result in either dismissal of the appeal or keeping the matter pending, indefinitely. Even in such circumstances, a decision has to be given by the first Appellate Authority within one month or the extended period of 45 days. In this case, the Department itself has committed this mistake of sub-dividing the property allotting two sub-division numbers without holding any formal inquiry and without giving any opportunity to the occupant or without any order of the Collector or any other competent court. It is, therefore, necessary to admit this mistake and inform the Appellant the correct position and the action proposed by the Department to rectify the situation. It is not enough to say that the matter is under inquiry before the Additional Collector, South Goa.

4. If necessary a special survey has to be made and proper application have to be moved by the public authority before the Collector or other competent revenue authority to rectify the situation. We give this direction under section 4(1)(d) of the RTI Act to take appropriate action within one month from the date of the pronouncement of this order under intimation to the affected person, namely Appellant. With this, appeal is allowed in terms of the above direction.

Pronounced in the open court on this 10th day of January, 2008.

Sd/-
(A. Venkataratnam)
State Chief Information Commissioner, GOA.

Sd/-
(G. G. Kampli)
State Information Commissioner, GOA.

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