[2023] 13 S.C.R. 1090 : 2023 INSC 1044

ADDITIONAL TAHSILDAR & ANR.
v.
URMILA G. & ORS.

(Civil Appeal No(S) 7938 of 2023)

NOVEMBER 30, 2023

[VIKRAM NATH AND RAJESH BINDAL, JJ.]

Issue for consideration:

Whether the Lok Ayukta has jurisdiction to issue positive directions for correction of revenue records.

Kerela Lok Ayukta Act, 1999 – s. 12 – Reports of Lok Ayukta – Jurisdiction of Lokayukta – Directions by Upa-Lokayukta for correction of revenue records – Sustainability:

Held: s. 12 provides that in case Lokayukta or Upa Lokayukta is satisfied with any action or inaction of the party which has resulted in injustice or undue hardship to the complainant, it shall by a report in writing, recommend to the competent authority to remedy such injustice or hardship – On facts, the writ Petition was filed by the Additional Tahsildar against an order of the Upa Lokayukta that had directed the correction of revenue records of the property of the complainant – Direction issued by the Upa Lokayukta for correction of the revenue records which was upheld by the High Court, goes totally beyond the jurisdiction of the Lokayukta – Nothing on record to show that the complainant had either availed of any appropriate remedy against the Communication vide which the request for rectification of record was rejected or any other appropriate remedy for correction thereof – Thus, the order passed by the High Court, as well as the Upa Lokayukta not legally sustainable and is set aside. [Para 11-13]

Sudha Devi K. v. District Collector **2017 SCC OnLine Ker 1264;** *District Collector and Another v. Registrar, Kerala Lokayukta, Legislative Complex and others* **AIR 2023 Ker 97 – approved.**

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 7938 of 2023.

From the Judgment and Order dated 10.10.2022 of the High Court of Kerala at Ernakulam in WP (C) No.39299 of 2016.

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The Judgment of the Court was delivered by

RAJESH BINDAL, J.

Leave granted.

2. Despite service, no one had appeared for the respondents.

3. The appellants have challenged the order[1] passed by the High Court[2], whereby the Writ Petition[3] filed against the order[4] passed by Upa Lokayukta[5] in the complaint[6] filed by respondent No. 1 was dismissed.

4. Briefly the facts, as available on record, are that respondent No. 1 filed a complaint with the Lokayukta narrating long history of the revenue record pertaining to the land with a grievance that the revenue record was not being corrected and for a direction be issued to the respondents therein for correction thereof and also to mutate the land in question in the name of legal heirs of late K. Gopalakrishnan Nair viz. (1) G. Urmila, (2) G. Ushakumari and (3) G. Krishnakumar. Upa Lokayukta, vide cryptic order dated 18.10.2016, directed Tehsildar, Varkala to rectify the mistake in the revenue records and also receive tax from the complainant. The order was to be complied with positively within one month and such compliance was to be reported on 16.11.2016. Aggrieved against the order, the appellants filed Writ Petition in the High Court, which was dismissed.

5. Learned counsel for the appellants submitted that the order passed by Upa Lokayukta was totally without jurisdiction while it issued positive directions for correction of revenue records and also to receive tax for which statutory authorities have been prescribed under the 1961 Act[7] and 1964 Rules[8]. Lokayukta is not a supervisory body above the statutory authorities in hierarchy under the aforesaid statutes.

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1 Order dated 10.10.2022.
2 High Court of Kerala at Ernakulam
3 Writ Petition (C) No. 39299 of 2016
4 Order dated 18.10.2016
5 Kerala Upa Lokayukta
6 Complaint No. 866 of 2016
7 The Kerala Survey and Boundaries Act, 1961
8 The Kerala Survey and Boundaries Rules, 1964

The jurisdiction given to Lokayukta was only to address the issue of maladministration, however, without addressing that issue in the order, it travelled beyond its jurisdiction to deal with the matter on merits and issued positive directions for correction of revenue records, hence the orders passed by the High Court as well as Upa Lokayukta deserve to be set aside.

6. A perusal of the paper book shows that despite service, the respondents remained unrepresented on 18.08.2023 and also when the matter was finally heard and order was reserved on 31.10.2023.

7. Section 12 of the 1999 Act deals with the reports of Lokayukta. It provides that in case Lokayukta or Upa Lokayukta is satisfied with any action or inaction of the party which has resulted in injustice or undue hardship to the complainant, it shall by a report in writing, recommend to the competent authority to remedy such injustice or hardship.

8. From the facts, available on record, and a perusal of the complaint which was filed by respondent No. 1 before Lokayukta, it is evident that the grievance raised was regarding correction of the error in the revenue records of the property in Survey No. 584 (re-surveyed in Sy No. BL-102/03) and also to mutate the same in the name of legal heirs of K. Gopalakrishnan Nair viz. (1) G. Urmila, (2) G. Ushakumari and (3) G. Krishnakumar. It was pleaded that inaction on the part of the respondents in the complaint in rectifying the mistake amounted to maladministration which should be investigated by Lokayukta. The complaint was filed in June 2016. Long history pertaining to the land was given while pointing out the errors in the revenue records. The complaint also mentioned that the request of respondent No.1 for rectification of the defect in the revenue records was declined by the Additional Tehsildar vide order dated 19.04.2016. However, nothing was mentioned if any further action was taken by respondent No. 1 to challenge the aforesaid communication. The relevant claim in the aforesaid complaint filed before the Lokayukta is extracted below:

"1. Direction may be given to the Respondents to rectify the error in the Revenue records in respect of the property in Survey No.584 of Varkala owned and possessed by late K. Gopalakrishnan Nair by correcting it as 3.35 Ares instead of 2.24 Ares.

2. Direction may be given to the 4th Respondent to mutate the above mentioned property in Sy. No.584 (Re-surveyed in Sy. No.BL-102/03)

in the name of the legal heirs of late K. Gopalakrishnan Nair viz. (1) G. Urmila, (2) G. Ushakumari and (3) G. Krishnakumar."

9. Insofar as the jurisdiction of Lokayukta is concerned a Division Bench of the High Court in **Sudha Devi K.** v. **District Collector**[9] had opined that in terms of Section 12(1) of the 1999 Act[10], Lok Ayukta was not competent to issue positive direction. He can only submit a report with the concerned authority with its recommendations. They only have recommendatory jurisdiction. A Lokayukta or Upa Lokayukta is not appellate or supervisory authority over other competent forums created under different statutes, as each of those statues provide its own remedial steps such as appeal, revision etc. The parties need to follow that procedure. The 1999 Act is not meant to override those procedures. The aforesaid judgment of the Division Bench of the High Court was referred to in the case in hand, however, the same was ignored.

10. In a subsequent judgment in **District Collector and Another** v. **Registrar, Kerala Lokayukta, Legislative Complex and others**[11], the Division Bench of the High Court reiterated the law laid down in **Sudha Devi K.** case (supra). It was opined that the complainants therein had not availed the statutory remedies regarding rectification of the mistakes in the revenue record. When a relevant statute provides for hierarchy of remedies, those should have been resorted to. The action of the Lokayukta was found to be without jurisdiction.

11. In our view, in the aforesaid two Judgments of the High Court, the provisions of the 1999 Act were rightly interpreted. However, in the case in hand, the direction issued by the Upa Lokayukta for correction of the revenue records was upheld, which goes totally beyond the jurisdiction of the Lokayukta. The direction given by Upa Lokayukta in its summary order is extracted below:

"3. In the circumstances, I direct Smt. Saajitha Beegum Tahsildar, Varkala who is holding full additional charge of the Additional Tahsildar to rectify the mistake in re-survey records and direct the Village Officer concerned, to receive tax from the complainant for the balance 1.11 Ares of property as well which corresponds to 5.18 cents for the

9 2017 SCC OnLine Ker 1264
10 The Lok Ayukta Act, 1999
11 AIR 2023 Ker 97

period from 2010 to 16 giving credit to Rs.83/- that is already paid under Ext.P5 for a portion of the property by the complainant and also to effect necessary corrections in the revenue records showing the said total extent of 8.274 cents corresponding to 3.35 Ares of property comprised in old Sy. No. 584 showing the title thereof as being with the complainant's predecessor in re-Sy. No. 3 of Block No. 102 rectifying the mistake brought in by the revenue authorities. This shall be done positively in one month. Comply and report on 16.11.2016."

12. There is nothing on record to show that the respondent no.1 had either availed of any appropriate remedy against the Communication dated 19.04.2016 vide which the request for rectification of record was rejected or any other appropriate remedy for correction thereof.

13. For the reasons, mentioned above, in our view the order passed by the High Court as well as the Upa Lokayukta cannot be legally sustained. The same are accordingly set aside. Respondent no.1, if so advised, may avail of any appropriate remedy under the relevant statute for correction of the revenue records.

14. The appeal is accordingly allowed. There shall be no order as to costs.

Headnotes prepared by: Nidhi Jain

Result of the case :
Appeal allowed.