

KARNATAKA PUBLIC LANDS CORPORATION, LIMITED,

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KPLC/ADM/CR/196/15-16

Date: 21.07.2015

The Principal Secretary to Govt.,
Revenue Department,
M.S.Building, Bangalore.

Sir,

Sub: Justification for providing certain statutory
and administrative powers to KPLC.

Ref:1 Detail proposal submitted to Govt. on
10.06.2015.

2 Letter of even number dated 04.07.2015
addressed to Govt. in Revenue Department.

The Karnataka Public Lands Corporation, Ltd., is a Company registered under the provisions of Companies Act 1956, fully owned by Govt. of Karnataka, duly registered on 01.12.2008. The main objectives of the Company is better utilization of land belonging to Government of Karnataka. One of the objective ancillary to the attainment of the main objective is to keep the land protected from encroachment by fencing and work out proposal for proper utilization of these lands.

After establishment of the KPLC, a Task Force for Protection of Govt. land was constituted vide G.O. dated 19.09.2009 and the MD, KPLC has been made as Member Secretary to the said Task Force. Consequently, the KPLC focused its attention on recovery of Govt. lands under different type of encroachments including the Govt. lands involved in litigations. Therefore, the KPLC has moved into the arena of removal of encroachments. In the mean time PIL cases have been filed before the Hon'ble High Court with regard to removal of encroachment on Govt. lands all over the State. The KPLC has also been arrayed as one of the respondent in the said PIL cases. The Hon'ble Chief Justice and another Hon'ble Judge in the High Court of Karnataka, in their Order in WP 15500/2013 dated 28/04/2015 relating to the Company have observed as follows:

"1.....

2. Learned AGA submits that all the lands which were recovered by removing the encroachments were protected and sufficient fund is allocated to respondent No.2 the Karnataka Public Lands Corporations Limited. Learned counsel appearing for respondent No.2 expressed

inability of the Corporation in protecting such recovered lands because of the assumed lack of power. In fact, it has to be the primary duty of the Corporation to protect public lands, but the Corporation appears to have carved its own limitations and abdicated its duty by not reporting any particular area which it could claim to have protected outside Bengaluru District. Therefore, question could be raised about the utility and importance of respondent No.2 Corporation and it has to justify its own existence. It is obvious that if the lands which are recovered by removing encroachments cannot be protected from being encroached again, then the whole drive would become meaningless.

3.....”

In the above backdrop, a detailed proposal was forwarded to Govt. to strengthen the KPLC in a meaningful manner both by providing certain statutory powers as well as administrative control over various authorities. Above proposal contains various analytical information as well as need for strengthening the KPLC. Still further justification is being forwarded to substantiate above proposal in a more elaborate manner as discussed in the Board meeting held on 25.06.2015. These justifications needs to be read in consonance with earlier proposal as mentioned at reference(1) & (2) above. Justifications have been divided in two categories.

1. Statutory issues.

- (a) The KPLC needs to be defined as **‘Chief Estate Agency of the State’**, and the MD, KPLC is defined as Revenue Officer superior to other revenue officers defined in the Act in so far as it relates to encroachment of Govt. land & further subsequent action for removal of encroachment, development of encroached land and utilization for public purpose.

The Main aims objectives of the Corporation as per the Memorandum of Association and Articles of Association are as follows:

- a. *To buy, sell or otherwise deal in land, especially the land belonging to Government of Karnataka or any other Statutory Body in the state.*
- b. *To develop land and act as colonizer and to prepare estimates, plans, designs, specifications and do such other things or any act that are related to development of land.*

- c. *To buy and sell, let on lease, hire, or otherwise acquire any property and any rights or privileges, either as a broker or as an agent or as an auctionaire, which the Company thinks necessary or convenient for the purpose of its business in immovable property.*

To address the above requirement of the KPLC, the Company should be in a situation to handle Govt. lands effectively. That means wherever the KPLC is in need of acquiring Govt. land, creating ownership on Govt. land and subsequently developing it for various Govt/Public/commercial purposes, it needs to have authority as well as legal backing to hold on govt land, create further encumbrance and deal with it subsequently as agency of State Govt. In the present situation Section 79B of the Karnataka Land Reforms Act, 1961 does not allow any company to hold agricultural land and each and every case needs to be referred under Section 109 of the Karnatka Land Reforms Act to be exempted from various provisions including 79B of the Karnataka Land Reforms Act, 1961. Since the company has to deal with govt. land on regular basis that being the main ojective as per Memorandum of Association, it would not be possible to refer huge number of cases on a continuous basis to be referred to Govt. to get exemption under Section 109 of the Karnataka Land Reforms Act. It may cause huge delay and ultimately defeat the purpose for which the Company is formed. By declaring the KPLC as “**Chief Estate Agency of the State**”, all Govt. land would vest with the Company and the Company can identify all/any suitable land for development or disposing by means of sale, lese, rent or any other means of transaction.

Similarly by defining the MD, KPLC as Revenue Officer superior to other Revenue Officers(including Regional Commissioner), it would facilitate various processes involved with the Govt. land encroachment, removal of encroachment, development of encroached land and subsequent utilization of Govt. land for public purpose as detailed above. Action taken/proposed to be taken by the MD, KPLC would be binding on all Revenue Officers including Regional Commissioners.

- (b) **Section 69** of the Act refers to disposal of lands or other property belonging to the State Government, under **Section 67** empowering the State Government, Regnl.Commrns, DCs, ACs, and Tahsildars to dispose of the land or property

belonging to the Government. The KPLC also needs to be inserted in the said Section.

Above amendment will empower the KPLC to dispose of and utilize Govt. land for the purposes of industrial/commercial or any other public utilization.

- (c) **Section 39** of the KLR Act empowers the Deputy Commissioner to evict any person wrongfully in possession of land and sub section (iii) of the said Section empowers the Deputy Commissioner to hold summary inquiry into the facts of the case and to take necessary steps. Relevant provision is extracted here under:

39. Manner of evicting any person wrongfully in possession of land.—Whenever it is provided by this Act or any other law for the time being in force that the Deputy Commissioner may or shall evict any person wrongfully in possession of land or where any order to deliver possession of land has been passed against any person under this Act, such eviction shall

be made or such order shall be executed, as the case may be, in the following manner, namely:—

(i) by serving a notice on the person or persons in possession requiring them within such time as may appear reasonable after receipt of the said notice to vacate the land, and

(ii) if such notice is not obeyed, by removing or deputing a subordinate officer to remove any person who may refuse to vacate the same, and

(iii) if the officer removing any such person is resisted or obstructed by any person, the Deputy Commissioner or the Revenue Officer, as the case may be, shall hold a summary inquiry into the facts of the case and, if satisfied that the resistance or obstruction was without any just cause and that such resistance and obstruction still continues, may, without prejudice to any proceedings to which such person may be liable under any law for the time being in force for the punishment of such resistance or obstruction, take or cause to be taken, such steps and use or cause to be used, such force as may, in the opinion of such officer, be reasonably necessary for securing compliance with the order.

Therefore, in order to empower the KPLC also in this regard, it is necessary to amend **Section 39** to the effect that “**MD, KPLC, Deputy Commissioner may or shall evict any person wrongfully in possession of land.....**” And in sub section (iii) of the said Section as “.....**the MD, KPLC, Deputy Commissioner or the Revenue Officer as the case may be, shall hold a summary inquiry into the facts of the case and**”.

Similarly, the Tahsildars are exercising the delegated powers of Deputy Commissioner under **Section 94(3)** of the KLR Act for

removing the encroachments. Relevant provision(Sec.94(3) is extracted hereunder:

(3) Notwithstanding anything contained in the ²[Karnataka]² Public Premises (Eviction of Unauthorised Occupants) Act, 1961 (¹[Karnataka]¹ Act 3 of 1962), the person unauthorisedly occupying any such land shall also be summarily evicted by the Deputy Commissioner and any crop including trees, raised in the land shall be liable to forfeiture, and any building or other construction erected thereon shall also, if not removed by him after such written notice as the Deputy Commissioner may deem reasonable, be liable to forfeiture or to summary removal.

This Section empowers the Tahsildar for summary eviction or forfeiture. If any Tahsildar fails to discharge his duties in matter of eviction, alternate arrangements needs to be made apart from initiating disciplinary action against such officers. Therefore, it would be better if **Section 94(3)** is suitably amended to the effect that “.....the person unauthorisedly occupying any such land shall also be summarily evicted by **MD, KPLC, Deputy Commissioner** {now delegated to Tahsildar}.

Empowering KPLC under **Section 39 and 94(3)** of the Karnataka Land Revenue Act, 1964 will really strengthen the Govt. land encroachment removal mechanism as it will sensitize other revenue officers to realize their responsibilities for not only encroachment removal but also faster disposal of genuine complaints regarding Govt. land encroachment.

KPLC to function as Land Bank.

As per MOA, the KPLC is responsible to utilize Govt. land freed from encroachment for all kind of Govt/public purposes. It needs to be mentioned here that such arrangement can be made functional only after creation of a Land Bank and encroachment freed land can be pooled into Land bank and thereafter can be utilized for Govt/Public purposes. To do this, exemption needs to be provided to the KPLC as enumerated under Section 109 of the Karnataka Land Reforms Act, 1961 or provision of Section 81 of the Karnataka Land Reforms Act, 1961 can be extended to KPLC as it has been done in the case of various other public sector organizations, since each and every proposal cannot be forwarded to Govt. to be considered under Section 109 of the Karnataka Land Reforms Act, 1961. It would be more appropriate, if KPLC can be listed under Section 81 of the Karnataka Land Reforms Act and can be allowed to deal with Govt. land as envisaged in Memorandum of Association of the Company. This provision will

really strengthen the hands of KPLC to discharge its functions as enumerated in its Memorandum of Association.

Without above provision also, the KPLC can handle govt. land and can play instrumental role in getting land shifted from land owner department to land utilizing department. But by this way the Company cannot discharge the function as per main objectives of Memorandum of Association which speaks about “*to buy, sell or otherwise deal in land, especially the land belonging to Government of Karnataka or any other Statutory Body in the state, to develop land and act as colonizer and to prepare estimates, plans, designs, specifications and do such other things or any act that are related to development of land, to do such other thing or any act that are related to development of land*”.

As detailed above, ownership over Govt. land needs to be created at least for certain lands which are good and can be developed and utilized for public purposes. Without that various other stake holders cannot come into picture and do their part of duty from the angle of development of land for various public purposes.

From the above explanation it is quite clear that the KPLC needs to be included under Section 81 of the Land Reforms Act, 1961, so that it can start handling Govt. land for the purposes as envisaged in its Memorandum of Association.

2. Administrative issues

As explained in the detail proposal submitted as per reference(1) above, the KPLC has state-wide jurisdiction and it needs to monitor/supervise/intensify recovery of Govt. lands under different type of encroachments and it requires Police Wing for maintaining law and order at the time of removal of encroachment all over the state. Therefore, the Govt. has been requested to consider following points and issue necessary orders.

- (a). Requirement of certain administrative control over Revenue Officers as already proposed vide letter dated 01.06.2015 and 10.06.2015.
- (b). Establishment of STF(Police) Wing in KPLC with jurisdiction of entire State. (as already proposed vide detailed proposal submitted on 10.06.2015)

- (c). Merger of Enforcement Cell in Bangalore Urban district along with extension of jurisdiction to entire State.(as already proposed vide detailed proposal submitted on 10.06.2015)

These issues are administrative in nature and a detail proposal and justification has already been submitted as per reference (1) above and these points do not require any further elaboration.

Once again the detail proposal being forwarded along with suitable detailed justification/reasons with a request to consider the same.

Yours sincerely,
Sd/-
Managing Director,
Karnataka Public Lands Corporation, Ltd.

Copy submitted for kind information to the Private Secretary to Hon'ble Minister for Revenue, Government of Karnataka, Vidhana Soudha, Bangalore. He is requested to bring the above matter to the notice of Hon'ble Minister for revenue.

Sd/-
General Manager,
Karnataka Public Lands Corporation, Ltd.