

CENTRAL INFORMATION COMMISSION  
Appeal No.CIC/WB/A/2008/00611 dated 12.3.2008  
Right to Information Act 2005 – Section 19

**Appellant** - Mr. D. P. Gupta  
**Respondent** - Public Works Department, GNCT Delhi

**Facts:**

By an application of 10.3.2007, Shri D.P. Gupta of Kotla Mubarakpur, New Delhi applied to the PIO / Executive Engineer MZ-11 seeking the following information:

“Information sought for Plot No. 3 Lane No. 2 Khasra No. 1135/320 (0-17) on Road No. 58 near Intersection Road No. 58 & 64 G.T. Road, Shahdara about the details of valuation of Plot No. 3 in favour of Smt. Sheela Devi along with the information/copies of the papers submitted by Smt. Sheela Devi in support of her ownership.”

To this he received a response on 28.11.07 containing the valuation report of property Gali No. 2, Friends Colony Industrial Area Shahdara Delhi dated 10.12.04 in which the ownership of Plot No. 5-B is mentioned as follows:

Plot No. 5-B	Rs. 4, 15,300.00	Rs.500.00
Mrs. Sheela Devi	First Rs.1, 50,000.00	Rs.331.625

Although the above response is obviously delayed, Shri Gupta did not agitate this issue in his first appeal of 7.12.07, but stated that he had obtained the valuation but not the papers which Mrs. Sheela Devi submitted in support of her ownership. Upon this Project Manager F-11 in his order of 3.1.08 held as follows:

“this office has searched the records handed over by Ex-Engineer PWD M-211 but the records regarding ownership of the plot are not available in the papers handed over by the Executive Engineer M-211. The same may be available with the O/O Executive Engineer M-211, PWD. You are requested to contact Executive Engineer M-211 (GNCTD) Nizamuddin Bridge, Delhi-110091 for the same.”

Appellant Shri Gupta then moved another appeal before the CPIO on 25.1.08 complaining that he had not received the information despite the orders of 3.1.08. He then moved his second appeal before us with the following prayer:

“4. That no claim of any property can be assessed by any government agency without the proof of ownership. In fact Mrs. Sheela Devi must have submitted the papers of

ownership for the assessment. Annexure 'C' and the claim was assessed by the P.W.D. Authorities and valuation report submitted Annexure 'C'.

5. That public Information Officer / Chief Public Information Officer did not inform me even after the expiry of both the letters / appeals Annexure A & B and were unable to inform the details to the appellant”

This appeal was followed by a further request of 22.5.08 seeking out of turn hearing. The appeal was heard on 17.9.08. The following are present:

**Appellant**

Shri D. P. Gupta

**Respondents**

Shri Umesh Mishra, Project Manager F11, PWD

Shri M. K. Sharma, Asstt. Engineer

Shri R. K. Gupta, Executive Engineer (P&A) PIO CZI

Appellant submitted that no property can be acquired unless the ownership rights have been established and, therefore, he sought the ownership papers of Smt. Sheela Devi who he says is not in fact owner or ever in possession of the property in question. Shri Umesh Mishra Project Manager on the other hand submitted that PWD is not responsible for the payment of land acquired. They only seek tentative information on the ownership and after acquisition the money is made over to LAC which is the Land Acquisition Authority who then disburses the money to the actual owners. In this case, therefore, the information should have been with the LAC. Shri Mishra submitted a copy of Ward No. 1/2008-09-North East of Village Jhilmil Tahirpur laying down the proceedings for determining the compensation under the Land Acquisition Act, received from the LAC in which the name of Shri D. P. Gupta and Smt. Shakuntala Gupta is entered at Sr. No. 8 & 9 as follows:

Shri D.P.Gupta r/o H. No. 7-B-824, Sukhdev Nagar, Kotla Mubarakpur, New Delhi-3	1135/320 Plot No.3	Compensation & alternative plot. No justification / proof in support has been given.
Smt. Shakuntala Gupta w/o Shri D.P.Gupta R/o H. No. 7-B-824, Sukhdev Nagar, Kotla Mubarakpur, New Delhi-3	1135/320 Plot No.3	Compensation & alternative plot. No justification / proof in support has been given.

A copy of these proceedings was also provided to appellant Shri Gupta. Appellant submitted that if the documents were not held by the respondents, they should have directed him to the concerned party. Project Manager Shri Umesh Mishra submitted that in fact they had so advised appellant in the endorsement to their letter of 23.11.07, which reads as follows:

“Please note information relating to land are not made available in this office. For this purpose you may contact Area Tehsildar/ S.D.M.”

Upon this we passed the following interim decision:

“The plea of respondents that they had suitably advised appellant regarding access to ownership records of Ms. Sheela Devi is untenable. Under sec. 6(3) (1), if part of the information sought was in the possession of some other authority, the application should have been forwarded to that authority. Simply advising appellant Shri Gupta as to where he may seek the information is not acceptable, since the PWD was the public authority taking possession of the property. Nevertheless in order to facilitate access to the information sought by Shri Gupta, **the hearing is adjourned to 13.10.2008 at 1.00 p.m.** Summons may be issued to Shri A. K. Kaushal, Land Acquisition Collector (North East) / Addl. District Magistrate (North East), D.C. Office Complex, Nand Nagari, Delhi, who will together with respondents, appear before us with the records of the ownership of the plot in question so as to ensure that the information sought by appellant Shri Gupta is provided to him. On that date Executive Engineer F11 also will show cause why he should not be held liable for penalty from 10.11.07 when the information became due to 28.11.07 when it was actually sent to the applicant Shri D.P.Gupta @ Rs. 250/- a day amounting to Rs. 4500/-. In the alternative he may do this in writing by 1.10.08.”

In response to this interim order the following appeared before us on 13-10-08:

**Appellant**

Shri D. P. Gupta.

**Respondents**

Shri A.K. Kaushal, ADM/LAC.

Shri S. C. Jain, UDC/LAC.

Shri Umesh Mishra, PM/F11/PWD.

Shri Mukesh Sharma, AE/F-1132.

Shri R. K. Gupta, EE (P&A)/PIO.

In the meantime, we also received written submissions on 10-10-08 from Shri A.K. Kaushal, ADM/LAC, NE in which he has submitted as follows:

“As regards action of the part of Land Acquisition Collector (North East) is concerned, it is submitted that the land is acquired on the basis of Khasra Nos. and not on the basis of property nos. the award of the said property bearing No. 1/2008-09 has been announced on 22.07.08. In the award, the names of the claimants are shown and the name of Shri D. P. Gupta appears in the list of claimants. The amount of the said award has not been received so far and the possession of the land has also not been taken so far. The payment of compensation is only considered after taking the possession of the land and the records of ownership are seen at the time of making payments. If in any case, there is more than one claimant than the amount of compensation is deposited in the Hon’ble ADJ Court u/s 30 & 31 of the Land Acquisition Act, 1894 and these cases are decided in the Court.”

During the hearing Shri Kaushal further clarified that in his records there is a distinction between `Khasra”, which relates to landed property and “property number”, which relates to built up property, because as in this case this is an urbanised village property. He, however, submitted that the original ownership records have not so far been determined by his Department which has simply gone by the report received from the PWD with regard to ownership. The authentic ownership record is held by the Dy. Director (Nazul) DDA who is part of the Land Management Department of DDA to whom his department has addressed several letters seeking clarification of the present status. However, the ownership question will only come up once the issue of compensation arises, which is still not the case.

From the hearings held so far, therefore, we could only come to the conclusion that it is the original land record on the basis of which it can be determined how the name of a particular owner, that has been entered in the ownership of the relevant Khasra number, was actually introduced. For this purpose we decided to hold a further hearing in this matter on 29<sup>th</sup> October, 2008 at 11.00 a.m. when the Director (LM) and Dy. Director (Nazul) of the DDA were summoned to be present together with the relevant documents.

During the hearing Shri Umesh Mishra, Project Manager, PWD submitted that the Executive Engineer to whom the show cause notice has gone is in no way concerned with the acquisition of this property, since it comes formally under

his management as Project Manager. He is prepared to respond to the show cause notice but pleaded that he received this through his headquarter only on the date of hearing and is, therefore, requested for further time. Shri Umesh Mishra may, therefore, send us written response by 22<sup>nd</sup> October, 2008 explaining why he should not be held liable or in the alternative he may appear before us on the next date of hearing i.e. 29<sup>th</sup> October, 2008 at 11.00 a.m.

The hearing was further adjourned to 5<sup>th</sup> November, 2008 at 11.00 a.m. Accordingly the following appeared before us on 5-11-08:

**Appellant**

Shri D. P. Gupta.

**Respondents**

Shri G.C. Suman, DD (Lands)  
Shri Chandrama Sah, DD/ LM (Policy Cell)  
Shri B.S. Jain, Kanungo  
Shri Kulbeer Singh, Patwari  
Shri Umesh Mishra, PM/F11/PWD  
Shri Kailash Narayan, EE F-113

Dy. Director (Lands) and PIO, DDA made a written submission dated 3-11-08 as follows:

“It’s to inform you that as per revenue record i.e. Jamabandi for the year 1967-68 the land of Kh. No. 1135/320 of Mauza Jhilmil Tahir Pur stands notified under section 6 of land acquisition act vide No. F. 7 (13) 2L&B/LA dated 5.10.2006 but there is not entry regarding award.

In DDA acquisition proceedings are being dealt with new leases branch. Therefore, the notice of hearing is being forwarded to PIO/ Dy. Dir. New lease. I with the request to appear before CIC along with the complete details/ record available with him.

The undersigned is seeking assistance of Shri R. C. Saxena ASO (Land) DDA & Shri B. S. Jain Kanungo, T. N. Section under section 5 (4) of RTI Act 2005. They will also appear before CIC on the date and time mentioned in the notice received from Hon’ble CIC.”

Shri B.S. Jain, present in the hearing, then submitted copies of the Jamabandi in which entry of Khasra No. 1135/320 of 1967-68 is in the name of Inder Narain son of Lakshmi Narain with the words `Maqbuza Malik” (occupied by owner). Shri Jain submitted that there has been no transfer of property since.

One transfer application has been received but is pending and yet to be decided upon. A copy of the Jamabandi comprised of two pages was handed over to appellant Shri D.P. Gupta.

We have also received a written statement from Project Manager Shri Umesh Mishra clearly explaining the delays en route in the processing of RTI application and concluding as follows:

“The Project Manager, F-11/PIO has been very prompt in sending the reply to the appellant, on 28<sup>th</sup> November, 2007, within 48 hrs of the receipt of the letter on 28<sup>th</sup> November 2007, as explained above. The reply has been made available to the appellant within forty eight hours of the receipt of the request, which is within provision of clause 7 (1) of the RTI Act 2005

Thus the provisions of the clause 20 (1) of the RTI Act, 2005 are not attracted in the above matter.”

### **DECISION NOTICE**

At the outset let us express our displeasure at the manner of maintenance of land records by the custodians in DDA. It has taken considerable time for appellant Shri Gupta to obtain what is a simple piece of information regarding ownership of an identified piece of land. The LM Dep't of DDA particularly should ensure that it is in full compliance with Sec 4 (1) of the RTI Act. It may therefore commence by computerising all land records for property held by it in compliance with Sec 4(1), and then upload this in a form easily accessible through its computers with which it is already well endowed as mandated u/s 4 (1) (b) sub-sections (vi) and (xiv). For the time being the requirement of appellant Shri Gupta has been met. With the information obtained he may now seek to establish his ownership through the normal legal channels. **The appeal therefore rests**

On the question of penalty however, we are unable to identify any specific officer that can be held responsible for the delay. **No penalty will therefore lie.** The Project Manager Shri Mishra however is enjoined upon to review the system of processing RTI applications in his organisation and

make such changes as to ensure that such delays in response are avoided in his department in the future.

Announced in the hearing. Notice of this decision be given free of cost to the parties.

(Wajahat Habibullah)  
Chief Information Commissioner  
5-11-2008

Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges prescribed under the Act to the CPIO of this Commission.

(Pankaj K.P. Shreyaskar)  
Joint Registrar  
5-11-2008