

STANDARD OPERATING PROCEDURE (SOP)

To Deal With Land Related Cases

CYBERABAD POLICE

Objectives of Land Dispute SOP

- To give a Standardised frame of reference and set of instructions to police officers while dealing with land dispute cases.
- To reduce the discretion of individual police officers when dealing with such cases which may lead to favouring of a certain party to the conflict.
- To avoid getting a bad name to the police department of getting involved beyond the legal limits in land dispute related cases.

SITUATION - 1

Person executing number of sale deeds in respect of the same property and number of persons seeking protection for the same property

DO's

- LEGAL SUPPORT should be given to the first rightful purchaser
- If the subsequent purchaser is in possession, first party should be advised to approach the concerned court for eviction of subsequent purchaser.
- In case of disturbance of possession, cases should be registered under appropriate provisions of law.
- Any illegal occupants should be evicted through legal process by approaching concerned court.
- Initiating 145 CrPC proceedings through revenue authorities, if the different parties are involved and there is likely hood of breach of peace.
- Initiating 107 CrPC proceedings if different parties are involved in breach of peace and tranquility
- If civil litigations are pending in the courts protection should be given on the specific directions of the concerned court
- Who ever is in factual / physical possession IO should see that possession should not be disturbed

DONT's

- No protection should be given unless the court gives specific directions to implement the orders

“ Legal Support ” means

- Registering cases under appropriate provisions of law against the person who sold the land subsequently by suppressing earlier transaction / facts.
- Issuing notices under Sec 91 CrPC to concerned Govt. departments like revenue, registration, municipality etc., for collecting information pertaining to the facts required for the investigation.
- Analysing the same to find out the rightful owner.
- Investigating the case in all angles
- Arresting the accused
- Filing Charge Sheet

SITUATION - 2

Dispute regarding boundaries of agricultural lands, sites, buildings, flats and non-agricultural lands

DO's

- Party should be advised to go for SURVEY at Mandal level, if not satisfied they should be advised to go for AD (Assistant Director's) Survey. For big holdings/ disputes, parties may be advised to seek state level survey.
- If parties don't agree for the survey they may be advised to approach the court for redressal
- Court commission report and civil court orders will be final proof for deciding the boundaries.
- Protection to be given at the time of survey to the concerned authorities on their written request.

DONT's

- No protection should be given
- No private survey should be entertained
- No protection should be given for private survey

“Survey” Authorities

- Inspector of survey (Office of RDO)
- Assistant Director (S&LRS), Survey
- Regional Director, Survey
- Commissioner of Survey and Settlements (Narayanguda Hyderabad) (State Level)

SITUATION - 3

A person produces General Power of Attorney regarding agricultural, non-agricultural land, building, flat or a site and seeks police protection

DO's

- Genuinity of GPA in respect of the petitioner to be thoroughly verified (un registered GPA, registered GPA, irrevocable GPA, agreement of sale cum GPA, agreement of sale cum GPA with possession)
- Whether the GPA is given by the legally authorized persons or not
- Status of GPA i.e. whether the GPA holder is alive or not, (if the principal of the GPA dies, the said GPA is deemed to be cancelled).
- At the time of transfer of property, the GPA is in existence or not
- In case of cancellation of GPA, whether the GPA is cancelled according to law or not (recently registration authorities made it compulsory that both parties to be present at the time of cancellation of GPA)
- Possession to be verified, the terms and conditions of GPA should be verified

SITUATION - 3

A person produces General Power of Attorney regarding agricultural, non-agricultural land, building, flat or a site and seeks police protection.

DO's

- In case of disturbance of possession, cases should be registered under appropriate provisions of law.
- The Parties may approach civil court for obtaining specific eviction order with police protection against illegal occupants.
- Initiating 145CrPC proceedings through revenue authorities, if the different parties are involved and creating breach of peace.
- Initiating 107 CrPC proceedings if different parties are involved in breach of peace and tranquility.
- Who ever is in factual / physical possession IO should see that the possession should not be disturbed.

DONT's

- No protection should be given unless the court orders to give police aid to implement the orders

“General Power of Attorney (GPA)” means

- Power given to an agent to do the acts mentioned in the GPA on behalf of the principal
- The acts done by the agent prior to the cancellation of GPA are legal
- The GPA comes to an end on the death of the principal or agent
- The GPA is not inheritable

SPA – Special Power of Attorney

- Power given to an agent to do particular acts mentioned in the SPA on behalf of the principal

Irrevocable GPA

- There is no legal concept of irrevocable GPA. All GPAs can be revoked by the principal during his life time .
- The acts done by the agent prior to the cancellation of GPA are legal

Registered GPA

- Section 17 of Registration Act does not envisage the compulsory registration of GPA hence an Unregistered or Registered GPA stand on same footing
- All GPAs are chargeable with stamp duty
- GPAs executed abroad should be impounded (regularised by paying deficit stamp duty and penalty)

Multiple Principals and agents

- The death of one principal will not affect the GPA if the principals share of the property is properly and distinctly described & available and in all other cases the GPA comes to an end

Agreement of Sale Cum GPA

- Parties execute AGPA in order to save stamp duty and as a means for investment

AGPA with Possession

- Delivering the possession of property to the agent to do the acts specified in the AGPA
- The agent's name will be reflected in the possession column no 13 of the pahani
- This AGPA becomes irrevocable in the event of the agent doing some acts expending some amount on the development of land covered by AGPA

SITUATION - 4

Incase a person having GPA and registration on one side and another having revenue records

DO's

1. Genuinity of GPA in respect of the person claiming to be thoroughly verified.
2. Revenue record has to be verified
 - a) How the right is acquired (inheritance, by purchasing, by gift, allotment by government, evacuee property, lease property (private, endowment, Govt, wakf, etc.), protected tenancy (38 A, D & E) .
 - b) KASRA PAHANI /PAHANI / ADANGAL, ROR proceedings, pattedar pass books, survey record , podi (division of survey numbers), teeipan according to grama naksha,
3. The parties should be advised to get the land surveyed by mandal / AD Survey, if required .
4. Records at registration office should be verified and genuinity of registration shall be verified.

DONT's

No protection should be given unless court directs

- The “Pahani” for the year 1954 – 55 is called “Kasra Pahani” which means in the absence of any document of title, the kasra pahani will be treated as basic document which can form a link document / flow of title
- Adverse possession means a continuous possession of 12 years and above in respect of private property and 30 years and above in respect of Govt. Property.
 - To the knowledge of the owner
 - should be open and continuous
 - It can be conferred by civil court
- ROR means Record of Rights. The Pattedar rights will be created in this record.

SITUATION - 5

A person produces agreement of sale in respect of agricultural land, non- agricultural land, site or building, flat and requests for protection

DO's

- The agreement of sale holder should be advised to file a specific performance suit in the court to get the property registered
- Possession should be verified

DONT's

- No protection should be given since the situation is purely civil in nature

- If the owner executes second agreement of sale in favor of third party without cancelling the earlier agreement of sale, it amounts to cheating

SITUATION - 6

A person enters into agreement of sale for the sale of the property knowingly that it does not belong to him and receives advance money

DO's

- Collect receipts, agreements
- Verify title
- Case should be registered under appropriate provisions of law including cheating

DONT's

- No protection should be given

SITUATION - 7

Cases where the person produces proof of having given advance money towards purchase of agricultural land, non-agricultural land, building, or site / flat

DO's

- The party should be advised to approach the concerned civil court and to file specific performance suit to get the property registered .

DONT's

- No protection should be given

SITUATION - 8

A person seeks protection on the ground of a specific injunction order from the court in respect of agricultural land, non-agricultural land, building, flat or site

DO's

- When there is no specific direction from court, the police should not interfere.

DONT's

- No protection should be given

SITUATION - 9

A person produces specific court orders for protection of agricultural land, non-agricultural land, building, flat or site

DO's

- Police should act according to the specific directions from the court
- Police should give protection after addressing the revenue authorities concerned for clarification of the boundaries of the subjected land, if required

DONT's

SITUATION - 10

A person produces Registered AGPA with possession and approaches P.S with regard to possession

DO's

- The party should be advised to approach the concerned civil Court for redressal

DONT's

- No protection should be given, as the loss of the possession is within the purview of civil courts

SITUATION - 11

When Record of Rights (ROR) in respect of agricultural land are produced by both the disputing parties

DO's

- The parties should be advised to approach revenue authorities for clarification
- If not satisfied, they may be advised to approach the concerned court

DONT's

- No protection should be given

- If the ROR order is passed by MRO, the aggrieved party may approach by way of appeal to the RDO
- The aggrieved party, if any with the order of the RDO they may file revision before the Joint Collector
- The appeal against the orders of the Jt. Collector lies with High Court

SITUATION - 12

Illegal occupation of Govt / Non Govt. building, flat or site agricultural land, non-agricultural land, launi patta, assigned land, poramboku, grama kantam etc.,

DO's

- On receipt of a complaint from the person/authority having title to the agricultural land according to the Revenue Records or the ownership and possession according to the certified survey report, pahani extract of the local revenue authority, a case should be registered under appropriate provisions of law and should be investigated.
- After completion of investigation, if the fact of illegal occupation is made out such person should be arrested and file the charge sheet against him.
- The complainant should be advised to approach the court of law to evict the accused from the property in dispute

DONT's

- No protection should be given

SITUATION - 13

When a person complaints at the police Station that a person having leased non-agricultural land, building, flat or site has not renewed lease deed and is not vacating the premises

DO's

- The Complainant to be advised to approach the concerned court

DONT's

- No protection should be given unless specific directions from the court

SITUATION - 14

When a person approaches with a sale deed which is duly executed, no mutation has taken place in respect of agricultural land and no entries are made in the pahani in respect of agricultural land, non-agricultural land, building, flat or site

DO's

- He should be advised to get the property mutated (entry of rights of purchaser in the revenue records) in his name by approaching revenue authorities
- Protection to be given to the purchaser in the absence of any court cases

DONT's

SITUATION - 15

When court issues Status-Quo order in respect of agricultural land, building, flat or site

DO's

- For open plots both parties should be advised not to change the physical features of the property (if any ambiguity is there, the opinion of GP for revenue may be obtained)
- Steps to be taken to initiate Sec 145 CrPC proceedings if law and order situation arises

DONT's

- No protection should be given

SITUATION - 16

A person seeks protection on the basis of the Record of Rights or pahani in respect of the land which has been acquired by the Government or a Government Agency like APIIC,APHB etc.,

DO's

- No protection should be given to such party in respect of the land acquired by the Government or the Government Agency. The applicant should be advised to approach the court to prove his contentions and get appropriate orders.

DONT's

- No protection should be given

SITUATION - 17

Dispute with regard to the Inam lands (as per APTA Inam Abolition Act 1955)

DO's

- The Genuinity of ORC (occupancy right certificate) to be verified with the RDO Cum Inam Tribunal.
- Whether concerned entries are made in the local revenue office
- Whether pattedar passbooks issued to the concerned or not
- Protection may be given to the ORC holder

DONT's

- If person is in possession of the land without any ORC certificate, he may be advised to approach RDO/Inam Tribunal.

SITUATION - 18

Creating fake / impersonated documents and going for possession

DO's

- Register case under appropriate provision of law
- The IO should collect required documents
- Genuinity of the documents should be verified with the concerned authorities
- The IO should make efforts to Identify rightful owner and cheater / imposter
- Obtain expert opinion

DONT's

SITUATION - 19

Dispute with regard to the Tenancy lands, (U/S 38 A,D and E of the AP (T.A.) Tenancy & Agricultural lands Act.1950

DO's

- The Genuinity of the tenancy certificate (38 A, D & E) to be verified with the RDO cum Tenancy Tribunal.
- Cases to be verified at the level of RDO and Jt. Collector with regard to the tenancy certificates.
- Restoration of possession to the tenant vests with the Tahsildar.
- Sanction of Succession to the tenant vest with the Tahsildar if the Legal Representatives (LRs) are in possession
- Where the LR's of tenant are not in possession they may have to obtain succession certificate from civil court
- In the absence of any civil litigation protection may be given to the protected tenant certificate holder

DONT's

- No protection should be given

SITUATION - 20

Dispute when one person produces sale deed executed by a court based on ex parte decree and another by a private party

DO's

- Should verify the genuinity of documents related to both parties.
- Verify with the original owner .
- On verification of documents the parties may be advised to approach civil court for redressal, since police has no role to decide the owner ship / title .
- Factual / physical possession of the party should not be disturbed.

DONT's

- No protection should be given

SITUATION - 21

Disputes involving mortgage of documents

1. When a person creates / fabricates a document and mortgages the same and obtains loan from the bank.
2. When a person mortgages the property with a bank by suppressing the earlier mortgage by obtaining a certified / fake document
3. When the property is not in existence is mortgaged with the bank and obtains loan

DO's

- Register cases against the persons who obtain loan in the above circumstances.
- Investigate the role of the errant officials who cooperated in creating fake documents and getting loans
- Collect the documents and obtain expert opinion

DONT's

GENERAL

- History sheets to be opened against the habitual land related offenders under the sub head of land grabber (Sec 110CrPC and S.O No600 A.P Police Manuel .
- A separate file should be maintained at police station level in all major land disputes.
- While conducting enquiry I/O should summon all the connected parties at once and conduct open enquiry before them to avoid allegations
- I/Os are instructed to bring to the notice of concerned superior officers when ever land related cases reported with out any delay.

PENAL PROVISIONS FOR REGISTERING CASES

- Section 447,427,506, 120(b) IPC.
- Sec 147,148 IPC.
- Sec 420, 468 , 471, 419, 201 IPC.
- Sec 4 and 5 of AP Land Grabbing Act.
- 145,107 CrPC etc .,

THANK YOU