

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.7950 OF 2012

ORDER:

Petitioners filed this Writ Petition challenging the recovery notice issued by the 5th respondent-Tahsildar, Gajapathinagaram Mandal, Vizianagaram District, in Rc.No.187/2010, dated 24.12.2011.

It is the contention of the petitioners that the very proceedings were initiated at the instance of one B.Appalanaidu of Vemali Village, Gajapathinagaram Mandal, and on account of the notice issued by the Lokayukta to the District Collector and in that process, the impugned notice came to be issued without there being any enquiry and without there being any notices to the petitioners.

On the other hand, Sri T. Sudhakar Reddy, learned Standing Counsel for the A.P. State Housing Corporation Ltd., submits that an enquiry was conducted on 23.10.2009 and 29.10.2009 by the 3rd respondent and he submitted his report to the 4th respondent on 02.12.2009. However, the learned counsel for the petitioners points out that in the present case the recovery notice do not specify the nature of misrepresentation which is said to have been made by the petitioners. In that view of the matter, learned counsel for the petitioners submits that an enquiry may be directed to be conducted and they would abide by the enquiry report submitted by the enquiry officer.

Having considered the rival submissions and having perused the counter affidavit, I am inclined to accept the contention of the learned counsel for the petitioners that as the notice by itself does not state as to what kind of misrepresentation or misleading statements have been made by the petitioners in availing the amounts under the "Indiramma Housing Scheme". Though in the counter affidavit it has been stated that the amounts were sanctioned for construction of new houses under the "Indiramma Housing Scheme" the petitioners have drawn the amounts and utilised the same for repairing the old

houses, however, in the absence of any material with respect to the nature of the utilisation of the amounts sanctioned and in the absence of a specific finding with regard to the same, I deem it appropriate to give an opportunity to the petitioners to make a representation to the 2nd respondent setting out the details of the amounts availed by them and the purpose for which it has been availed. In that event, the 2nd respondent shall consider the same and intimate the respective petitioners of their decision. It is needless to mention that the consideration of the representation of the petitioners shall be an objective one and taking into consideration of the factual data as available with them and also the material as may be submitted by the petitioners. In the event, the petitioners are found to be ineligible for the amounts which have been drawn by them, the 2nd respondent shall also consider granting of suitable instalments to enable the petitioners to pay the same within a reasonable time.

With the above observations, Writ Petition is disposed of by setting aside the recovery notice dated 24.12.2011. There shall be no order as to costs. Miscellaneous petitions pending, if any, shall also stand closed.

CHALLA KODANDA RAM, J

Dated:07.04.2015.

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