

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.7949 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 case of the petitioners that it is only a notice came to be issued merely on account of the proceedings before the Lokayukta initiated by one B.Appalanaidu of Vemali Village, Gajapathinagaram Mandal, Vizianagaram District. Learned counsel for the petitioners submits that the petitioners belong to down trodden section of people and they have availed amounts under "Indiramma Housing Scheme". As the said Appalanaidu being enimical to the petitioners lodged a complaint to the Lokayukta, as the Lokayukta seized up the matter by the District Collector and directed recovery of the money. Further, it is submitted by the learned counsel for the petitioners that there is no enquiry conducted and no opportunity was given to the petitioners to put forward their case that they had not misutilised the amounts taken under the scheme.

On the other hand, learned counsel for the 3rd respondent-A.P. Housing Corporation Ltd., Srikakulam, by drawing specific attention to the affidavit of the petitioners themselves, which reads as under –

"It is respectfully submitted that on enquiry in the office, the petitioners were informed that the amount is sought to be recovered from the petitioners on the ground that the petitioners have earlier availed the benefit under Rural Permanent Housing Scheme and they are not entitled for the benefit under the Indiramma Housing Scheme. It is submitted that at the time the amount which was released under the RPH Scheme was very less and the same was insufficient to complete the house. As the house was not fully constructed and the petitioners were not even informed that they are not eligible for the benefit under the Indiramma Scheme, if they have already availed the benefit under RPH scheme, the petitioners have availed the benefit under Indiramma Scheme and have expended the money for construction of

the houses. It is submitted that it is not the case of the respondents that the petitioners have not utilized the amount and on the other hand, the only ground for issuance of the recovery notice is on the ground of ineligibility. The petitioners are all rustic villagers and they are not aware with regard to the technicalities of the sanction. The petitioners have already repaid the amount taken under the RPH Scheme. Had an opportunity been given, the petitioners would have substantiated that the amount was utilized for the purpose of construction of new houses. Hence, it is respectfully submitted that the action of the respondents is not legal and the same is arbitrary and is in violation of principles of natural justice.”

He further submits that pursuant to the notice by the Lokayukta, 4th respondent was appointed as an Enquiry Officer and enquiry was conducted on 23.10.2009 and 29.10.2009 by following due procedure and the Enquiry Officer has submitted his report on 02.12.2009. It is only thereafter, the notices came to be issued and even in the notices opportunity was given to the petitioners to pay money and time was granted upto 05.01.2012, but the petitioners approached this Court and obtained stay.

Heard the learned counsel for the petitioners and the learned Assistant Government Pleader for Respondent Nos. 1, 4 and 5 and Sri T. Sudhakara Reddy, learned Standing Counsel for the for the respondent Nos.2 and 3.

On reading para 6 of the affidavit indicated that the petitioners themselves admit that they had availed the benefit under two schemes on earlier occasion and also availed benefit under Indiramma Housing Scheme Phase-2. The fair admission made by the petitioners in the Writ Petition and the fact that the enquiry has been conducted on 23.10.2009 and 29.10.2009 negatives the very contention of the learned counsel for the petitioners with regard to there being no notice and no enquiry. There is no reply affidavit filed denying the affidavit filed on behalf of the A.P. Housing Corporation Ltd., In that view of the matter, the writ petition deserves no consideration, especially considering the fact that the petitioners availed amounts without disclosing the fact that in the earlier schemes they were beneficiaries. However, considering the fact, the claim of the petitioners being small agricultural labourers, 2nd

respondent-A.P.State Housing Corporation Ltd., shall consider the granting of instalments of reasonable amounts to enable the petitioners to pay the same. The 2nd respondent shall fix the reasonable amounts payable on monthly basis or on quarterly basis and the said instalment amounts scheme shall be intimated to the petitioners through Registered Post with acknowledgment due and even after the same, if the amount is not paid by the petitioners, the 2nd respondent-Corporation is at liberty to initiate appropriate proceedings as available under law. Pending disposal of the writ petition, if any, amounts have been paid by the petitioners, the same shall be given credit to the petitioners.

Accordingly, the Writ Petition is disposed of. There shall be no order as to costs. Miscellaneous petitions, if any, shall also stand closed.

CHALLA KODANDA RAM, J

Dated:07.04.2015.

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