

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.18146 of 2014

ORDER:

The Revenue Recovery Proceedings dated 18.01.2014 issued by the Deputy Executive Engineer seeking to recover certain amounts is challenged before this Court.

As per the averments in the writ petition, petitioners were all eligible to be granted financial assistance under Indiramma Housing Scheme and accordingly certain amounts were disbursed to the petitioners. Petitioners were issued an urgent notice by the Deputy Executive Engineer without there being any enquiry and any notice as to how and in what manner petitioners are liable to pay those amounts. On enquiry, petitioners came to know that pursuant to the orders of Lokayukta on a complaint made by third parties that certain amounts were disbursed to ineligible persons and certain amounts were misappropriated in relation to Dattirajeru Mandal, Vizianagaram District, the demands were raised on the petitioners.

It is the specific contention of the learned counsel for the petitioners that no determination was made as required under the provisions of the A.P. Revenue Recovery Act.

A counter affidavit has been filed in connected W.P.No.3993 of 2013 by respondents stating that with respect of Gutchimi and Bhojarajapuram Villages of Dattirajeru Mandal, 286 rural houses were registered under Indiramma Housing Scheme Phase-II during the year 2007-08. Out of 286 houses, on verification it was found that in 53 cases there were deviations/irregularities and in that context on account of the orders passed by the Lokayuktha, the District Collector, Vizianagaram, vide proceedings dated 18.06.2012, directed the disciplinary action to be taken against the officers responsible for

irregular payments with a further direction to the Tahasildar, Dathirajeru Mandal, to take necessary action to recover the amount of Rs.8,96,460/-. In those circumstances, the Tahasildar had issued demand notice in Form-I to 53 beneficiaries of Gutchimi Village. Out of 53 notices issued, 41 notices have been served and the other beneficiaries are yet to be served.

It may be noted that though the writ petition is of the year 2014, no counter affidavit has been filed by respondent No.5-Tahasildar and the learned Government Pleader seeks some more time to file counter. However, this Court is not inclined to adjourn the matter any further as normal time available to respondents for filing counter is only six months in terms of Writ Proceeding Rules of this High Court.

As can be seen from the counter affidavit filed on behalf of respondents 1, 3 and 4, it is clear that the petitioners in the writ petition fall under the category of in-eligible persons who are alleged to have availed the amounts in deviation of the procedures. However, it is not discernable from the impugned notice, which is a printed proforma, under the Revenue Recovery Act as to details of deviation by each petitioner. Further, there is no enquiry conducted pursuant to the direction of the District Collector with respect to determination of the fact that excess payments/inappropriate payments were made in relation to 53 individuals. In other words, liability is sought to be fastened on petitioners without there being any notice and enquiry. In those circumstances, the Revenue Recovery proceedings initiated against the petitioners cannot be sustained. Accordingly, the same are set aside giving liberty to respondents to issue notice to the petitioners specifying the details of alleged misappropriation/excess payment/payments made in deviation and cause enquiry after considering the explanations that may be submitted by the respective individuals. It is needless to mention that adequate opportunity shall be given to the petitioners in the process of conducting enquiry.

Subject to above observations, the writ petition is disposed of.
There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this writ petition shall
also stand closed.

20th April, 2016
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CHALLA KODANDA RAM, J