

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.3993 of 2013

ORDER:

The Revenue Recovery Proceedings issued by the Tahasildar-respondent No.5 in Form-I 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 a demand notice in Form-I by the Tahasildar 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 by respondents 1, 3 and 4 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-R.5 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 2013, no counter affidavit has been filed by respondent No.5, who issued the notice, 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 notice issued by the Tahasildar-respondent No.5, which is a printed proforma, under the Revenue Recovery Act as to what extent each petitioner has availed the amount, details of deviation by each petitioner and in what is the exact amount that is required to be repaid by each petitioner and all these particulars are lacking in the impugned notice. Further, there is no enquiry conducted pursuant to the direction of the District Collector with respect to determination of the fact that there was excess payments/inappropriate payments 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 the 5th respondent 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.

CHALLA KODANDA RAM, J

20th April, 2016
sur