

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 26655 of 2017

Order:

Heard learned counsel for the petitioner and learned Government Pleader for the respondents.

The petitioner is a Mutually Aided Cooperative Society, having 960 members. It is involved in the activity of acquiring the land, developing it and allotting the same to its members for the purpose of house construction. It entered into a Memorandum of Understanding with M/s. Suraj Constructions on 10.03.2012 to develop the land owned by the Society at Lagisettipalem, Sabbavaram Mandal, Visakhapatnam in an extent of Ac.25.00 into 397 plots and allotment of the same to the members of the Society. Only 173 members applied for the plots and paid the amounts. In view of the less number of applications, the lay out was altered, the sizes of the plots were changed and the rate collected and accordingly another Memorandum of Understanding was executed on 29.06.2016 between the petitioner and the developer amending the original Memorandum of Understanding. About 140 plots were allotted and the same were registered also. It appears that one member namely D. Rama Rao lodged a complaint with the third respondent alleging certain irregularities in the allotment of plots. The third respondent in turn appointed the Senior Inspector of Cooperative Department as an Enquiry Officer and he gave a notice on 05.09.2016 asking the petitioner to submit the records. The petitioner replied on 20.09.2016 stating that the contents of the complaint are false, hence there is no need to conduct an enquiry. When the Enquiry Officer gave another letter asking the

petitioner to return certain amounts to some of the complainants, the petitioner replied on 29.10.2016 stating that there is no truth in the complaint. Now, the third respondent issued a notice on 01.07.2017 stating that she was appointed as an Enquiry Officer by the second respondent in his letter dated 09.06.2017 to conduct enquiry under Section 29(2) of the Andhra Pradesh Mutually Aided Co-operative Societies Act, 1995. Challenging the order of the second respondent appointing the third respondent as an Enquiry Officer, the present Writ Petition is filed.

Learned counsel for the petitioner submits that an enquiry can be ordered only when there is violation of the provisions of the statute and since the third respondent already appointed an Enquiry Officer she is prejudiced against the petitioner.

So far as the enquiry under Section 29 of the Act is concerned, the terms of the enquiry proposed in the order dated 09.06.2017 would attract the provisions of the Act and, hence, this Court is of the opinion that the submission of the learned counsel for the petitioner that no enquiry can be ordered in the facts and circumstances of the case is not proper. Since there is an allegation of prejudice against the third respondent, who is now appointed as an Enquiry Officer by the second respondent, the second respondent is directed to appoint another Enquiry Officer in the place of the third respondent. Since the second respondent felt it necessary to conduct an enquiry, the enquiry can be conducted, but by another Enquiry Officer other than the third respondent. Accordingly, the matter is remanded to the second respondent for passing fresh orders by setting aside the order dated 09.06.2017.

The Writ Petition is, accordingly, disposed of. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions pending in this Writ Petition, if any, shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 09.08.2017
Nsr

