

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition Nos. 40971 and 41207 of 2016

Common Order:

These two Writ Petitions are being disposed of by this common order after hearing the learned counsel for the petitioners and learned counsel for the respondents.

In these cases, notice before admission was ordered on 25.11.2016 and 28.11.2016 respectively and none appeared for the respondents on 01.02.2017. However, on 02.02.2017, two weeks time was granted for getting instructions with a condition that if no instructions were received the cases would be disposed of on merits. Again on 28.02.2017, while granting one week time, cases were posted for orders and the cases are listed today under the caption 'for orders'. Again time is sought by the learned counsel for the respondents and it is declined in view of the clear evidence for disposal of the matters.

The case of the petitioners is that they have applied for allotment of flats under Rajiv Swagruha Scheme pursuant to the notification made on 14.03.2007 in the local newspapers. They have applied for the flats in Arambha Rajiv Swagruha situated at Chandanagar, Hyderabad along with an amount of Rs.15,000/- towards EMD. The Government formed the third respondent Corporation vide G.O.Ms.No.18, Housing (HB.I) Department, dated 06.07.2007. The third respondent acquired the land in Survey Nos.65 and 66 of Serilingampally village to an extent of Ac.13.20 gts., from the Hyderabad Urban Development Authority and in Survey Nos.323/2, 326/2, 327/2 and 328/2 of Chandanagar village to develop the project known as "Arambha Township" under Rajiv Swagruha Programme. The applications were scrutinised by the third respondent and it was

proposed to collect an amount of Rs.10.30 lakhs for double bed room flat having an extent of 685.50 sq. feet. They have paid the tentative cost as well as additional amount of Rs.1,90,000/-. It appears that the third respondent sold the flats allotted to the petitioners to third parties and cancelled the allotment made in favour of the petitioners. It was also stated that there are no flats available for delivery to the petitioners, but the amount paid by the petitioners is pending with them. The Government issued G.O.Ms.No.11, Housing (HB.I) Department, dated 22.06.2013, directing that the amount deposited by the registered applicants/allottees have to be refunded fully with interest, if the petitioners are not interested to migrate to other projects. Since the petitioners were not interested to migrate to other projects, proceedings were issued by the third respondent on 30.09.2014 directing the General Manager (Finance) to release the LOC in favour of the General Manager (Projects), Chandanagar and he was directed to take action for disbursement of the amount to the allottees concerned through account payee cheque after thorough verification of the identity. The amount to be refunded along with interest was also indicated in the said proceedings. The petitioners submitted several representations and when they were not considered, the present Writ Petitions were filed seeking implementation of the proceedings dated 30.09.2014.

Learned counsel for the petitioners filed additional documents, wherein a communication was issued to the petitioners on 19.12.2016 stating that, though the proceedings dated 30.09.2014 were issued, due to paucity of funds the amount could not be paid and the amount would be paid on improvement of the financial position of the Corporation.

Till today, no counter affidavit is filed by the respondents. But, a reading of the proceedings No.1938/EM/APRSCL/CNGR/RI/2013, dated 30.09.2014, makes it clear that the petitioners are entitled for refund of the amount along with 12% interest and the amount that has to be paid to the petitioners as on the date of issuance of proceedings was calculated. Since the third respondent did not pay the amount till today, the interest amount has to be recalculated on the principal amount of Rs.10.30 lakhs paid by the petitioners.

In view of the proceedings dated 30.09.2014, these Writ Petitions are allowed directing the respondents 3 and 4 to refund the amount of Rs.10.30 Lakhs each along with interest at 12% p.a., from the date of deposit of the amount to the petitioners within a period of three (3) months from the date of receipt of a copy of this order. There shall be no order as to costs.

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

A. RAMALINGESWARA RAO, J

Date: 07.03.2017
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