

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 12258 OF 2012

ORDER:

This Writ Petition is filed seeking the following relief:

“ to issue a writ, order or direction in the nature of Mandamus under Article 226 of the Constitution of India declaring the action of the 1st respondent in not taking any action including criminal action against the party respondent in pursuance of 1) Lr. No. B3/7338/2008, dated 18.09.2008 issued by the Secretary, Hyderabad Urban Development Authority, Hyderabad; 2) Lr.No. D/4427/2007 dated 17.11.2007 issued by the Special Grade Deputy Collector & Revenue Divisional Officer, Chevella Division, R.R. District; 3) Report Rc.No. 27/EC/2008, dated 18.06.2008 issued by the Tahsildar, Enforcement Cell, Hyderabad and Lr.No. G2/2559/17, dated 03.08.2007 issued by the Deputy Commissioner, G.H.M.C., Malkajgiri Circle, Hyderabad as arbitrary, illegal and unconstitutional violating Article 14 and 21 of the Constitution of India.....”

The sum and substance of the pleadings set out in this Writ Petition is that the 10th respondent, who is the President of Muthyal Rao Cooperative Housing Society Limited with Registered No. TB-864, has committed certain irregularities in conducting the affairs of the Society, in particular allotment of plots to various persons, who are not the members of the Society. The same is evident from the report of the Tahsildar, Enforcement Cell, HUDA dated 18.06.2008 submitted to the Vice-Chairman, HUDA, the 4th respondent herein. The same is also reiterated by the Special Grade Deputy Collector-cum-Revenue Divisional Officer in their report dated 17.11.2007 submitted to the Collector, Ranga Reddy District. In those circumstances, the petitioners pray for a

direction to initiate criminal proceedings against the 10th respondent.

A detailed counter-affidavit has been filed by the Collector, Medchal, Malkajgiri Division. Along with the counter, the report of the enquiry conducted under Section 51 of the A.P. Cooperative Societies Act, 1964 (for short, 'the Act'), dated 08.07.2002 and the report of the inspection conducted under Section 52 of the Act, dated 10.12.2008 are enclosed.

Heard learned counsel for the petitioners.

Learned Government Pleader for Cooperation submits that as a matter of fact, based on the complaints received by the competent authority, enquiry was conducted in accordance with the provisions of the Act and the corrective measures, which are required to be taken, were already taken. At any rate, the learned Government Pleader also would point out that the Society has not been made as a party respondent and further, it is the internal matter between the members of the Society and the government or the Collector is not required to interfere therewith, as it is for the members of the Society to raise the dispute in their respective managing committee meeting / general body meeting and also further seek intervention of the authorities under the Act by bringing specific material to their notice. In those circumstances, the learned Government Pleader prays for dismissal of the Writ Petition.

Having considered the respective submissions, this Court notes that when an inquiry was made on various allegations with respect to the affairs of the Society, and in the process, the Inquiry

Officer found that though initially a lay out was approved with certain number of plots, a revised lay out was prepared to cater to the demands of more members and in fact, such revised lay out was also received approval from the authorities of HUDA. In the inquiry report, it was found that the 10th respondent had arranged for survey and made plots and allotted the same to the members irrespective of caste and creed by charging nominal plot cost; for 'C' plots Rs.15,000/-, for 'A' and 'B' plots Rs. 25,000/- and for regularization of 'A' type plots Rs.10,000/-, 'B' type Rs.7,500/-, 'C' type Rs.5,000/- and 'D' type free and collected the amount and brought the same to the books of accounts and also arranged audit of accounts of the Society up to 1998-99. The Enquiry Officer in his report dated 08.07.2002 had opined that

“.....knowingly or unknowingly the Ex-President deviated the Bye Law provisions and Section 4(2) directions of the RCS in allotment of plot to the members and failed to control the management committee and failed to record the details of expenditure particulars invested in developmental activities and failed to record the works through technical authorities. There is a need to arrange for technical inspection from the Engineering wing of CC & RCS AP Hyderabad for issue of work valuation certificate. Further, it is to report that the amount mentioned in the inquiry report has to be recovered from the President and Treasurer. As per Bye Law they are responsible persons for retention of cash balances even though the Ex-President himself accepted in his deposition for remittance. The amounts should be recovered from them by way of such charge.

In respect of criminal action against the Ex-President, it is noted that the Divisional Cooperative Officer, Hyderabad East has initiated criminal action against Ex-President Sri R. Anjaiah for the forged signatures of Ex-Elected Director. Hence, the further criminal action against the Ex-President is

not required for his lapses taken place into the affairs of the Society during his period of the President of the Society.”

Likewise, yet another inspection was conducted by the Assistant Registrar-cum-Sub-Divisional Cooperative Officer, Medchal under Section 52 of the Act and submitted the report dated 10.12.2008 to the Joint Registrar / District Cooperative Officer, Ranga Reddy District. During the said inspection, as many as 15 allegations were inquired into and the Assistant Registrar had categorically found that though various serious allegations were made, they are basically procedural in nature and for failure to fulfill certain conditions laid down with respect to the approval of revised lay out. The Assistant Registrar also had opined that there is no criminality in conducting the affairs of the Society and further there was also no material before him to come to a conclusion that there is any fraud. In those circumstances, the Assistant Registrar did not find it necessary to initiate any criminal proceedings against the office bearers of the Society.

The above-narrated facts disclose that the respondent authorities, under the Act, had taken necessary action in relation to the allegations, which have been noticed by them either on account of the complaints received or on account of the information obtained by them. In those circumstances, the relief claimed by the petitioner in the Writ Petition virtually stands granted as it is not the case of the petitioner that this Court is required to inquire into or take action in relation to the allegations made by them.

In those circumstances, the Writ Petition is closed as no further orders are required to be passed. No costs.

Consequently, the miscellaneous Applications, if any shall stand closed.

CHALLA KODANDA RAM, J

19th June 2017

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