

THE HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

AND

THE HON' BLE SRI JUSTICE N. BALAYOGI

WRIT PETITION NO. 34987 of 2017

ORDER :

Heard both sides.

2. The present writ petition came to be filed seeking issuance of writ of mandamus, declaring the action of Hon'ble Upa-Lokayukta for the State of Andhra Pradesh and Telangana at Hyderabad – first respondent, in investigating the belated complaint dated 31.05.2017, of the third respondent, in respect of the agricultural land admeasuring Acs.5.07 cents, 4.34 cents and 4.60 cents in Survey Nos.204/ 4, 204/ 5 and 135/ 2 respectively of the second petitioner, situated at Katiperi Village and Gram Panchayat, Chowdepalli Mandal, Chittoor District, A.P., without issuing any notice, as illegal and arbitrary.

3. The second petitioner herein claims to be an Ex-Serviceman, having served with utmost satisfaction in the society. It is stated that he, along with third respondent, belong to the same village of Katiperi, Chowdepalli Mandal, Chittoor District, A.P. and that the third respondent developed ill-will against the family of the petitioners. As per the averments in the affidavit, the third respondent and some of his officers brought into existence a registered sale deed dated 14.08.2015, executed in favour of one Y.Gangi Reddy and another sale deed dated 19.03.2016, executed in favour of the third respondent, in respect of land admeasuring

Acs.6.58 cents in Survey No.163/6 of Katiperi Village and Grama Panchayat, based on an unauthorized possession certificate, issued by the Village Revenue Officer at Katiperi Village. It is stated that a criminal case is also registered against the third respondent for the offences punishable under Sections 420, 409, 120B IPC. While things stood thus, the third respondent lodged a report before the first respondent, which came to be numbered as Complaint No.1725 of 2017. Consequently, the second respondent was directed to submit his report by 28.08.2017, in respect of the above said lands. Pursuant thereto, the second respondent issued a notice dated 07.09.2017, to the petitioners and the unofficial respondent for attending the enquiry. On 04.08.2017, the petitioners and the unofficial respondent claims to have appeared before the second respondent, on which date, he recorded the statements and submitted his report to the first respondent. The present writ petition came to be filed questioning the very filing of the complaint, on the ground that the same is beyond the period of limitation, as contemplated under Section 8 (2) of the Lokayukta and Upalokayukta Act.

4. Learned counsel for the petitioner would submit that a reading of the complaint would disclose that the land related transactions were of the year 2005 and in view of Section 8(2) of the Act, the first respondent could not have taken cognizance of the Complaint, beyond a period of six (06) years, from the date on which action complained against is alleged to have taken place.

5. On the other hand, learned Standing Counsel for Lok Ayukta, would submit that the present writ petition is premature. Since the case is still at the stage of preliminary enquiry, nothing survives for adjudication in this writ petition, at this point of time.

6. In order to appreciate the rival contentions, it is to be seen that under Section 8(2) of the Act, Hon'ble Lokayukta or Upa Lokayukta, shall not investigate any complaint involving an allegation, if the complaint is made after the expiry of six years from the date on which the action complained against is alleged to have taken place or after the expiry of a period of one year from the date on which the action complained against becomes known to the complainant, whichever is later. Section 10(1) of the Act postulates that the Hon'ble Lokayukta or Upa Lokayukta, after making such preliminary verification as he deems fit, can propose to conduct any investigation under the Act. As seen from the record, the complaint given by the respondent was forwarded for enquiry and the report is submitted before the Lokayukta, but no action is contemplated so far, basing on the said report. It is placed on record that the case is still at the stage of preliminary verification and only on being satisfied, the Hon'ble Lok Ayukta can proceed with the investigation as per Section 10 of the Act. At this stage, it would be appropriate to refer to Rules 5 (6) and 5(7) also, which reads as under:

“5. Preliminary verification: (1) After the registration of the compliant, the Lokayukta or Upa-Lokayukta, as the case may be, shall inform the complainant in Form V and may make such preliminary verification as he deems fit in regard to the allegation in the complaint and the action complained of on the basis of the information furnished through the complaint and the affidavits,

documents and copies thereof, if any, enclosed to the complaint and also on his own motion before he proposes to conduct any investigation.

(5) The remarks, information or report referred to in Sub-Rule (4) shall after its receipt in the Institution be examined by the legal Section attached to the Institution and after such examination they shall submit their report along with the remarks, information and report referred to in Sub-Rule (4) of the Lokayukta or Upa-Lokayukta as the case may be.

(6) After consideration of the remarks, information and/ or reports referred to in Sub-Rules (4) and (5) and after hearing the complainant if and when available and necessary and also the officers of the Section, the Lokayukta or Upa Lokayukta, as the case may be, shall decide whether or not there are any sufficient grounds for ordering investigation, and if he finds that there are no sufficient grounds for conducting investigation, he shall pass an order rejecting the complaint:

Provided that if the Lokayukta or Upa Lokayukta, as the case may be, is of the opinion after a consideration of the material referred to in sub-rules (4) and (5), that the injustice complained of or the grievance alleged can be remedied or redressed at the departmental level, he may close the complaint and send the relevant records to the concerned departmental authority with suitable directions and for appropriate action.

(7) If after such consideration of the reports, etc., mentioned above the Lok Ayukta or Upa- Lok Ayukta, as the case may be, is satisfied that there is a *prima facie* case for conducting an investigation into the allegations in the complaint, he may pass an order to that effect and direct the concerned officers of the Institution to take necessary steps in that behalf.”

7. Since the case has not reached the stage of consideration of reports, etc., we feel that the present writ petition, which is filed questioning the jurisdiction of the Lok Ayukta, in view of Section 8(2) of the Act, is premature.

8. Hence, we see no reason to interfere with the proceedings before the Hon'ble Lokayukta and as such the writ petition is liable to be dismissed. However, it is always open to the petitioner to implead himself, if he is not impleaded so far, before the Hon'ble Lok Ayukta and raise objections on all aspects in which event, the same shall be dealt with, in accordance with law.

9. Accordingly, the writ petition is disposed of. There shall be no order as to costs.

10. Consequently, miscellaneous petitions, if any pending, shall stand closed.



JUSTICE C. PRAVEEN KUMAR

JUSTICE N. BALAYOGI

26.12.2017
vhb