

HON'BLE SRI JUSTICE S.V. BHATT

W.P.No.23309 OF 2007

ORDER:

The petitioner assails the notice dated 16.10.2007 issued by the 2nd respondent.

The matter arises under the A.P. Revenue Recovery Act, 1864. The petitioner is wife of one Jaya Krishna. The petitioner's husband was working as Accountant in E-Seva Centre, Rajendranagar, Gudivada. In between 2004 to 2006, it is alleged that petitioner's husband misappropriated/has not properly accounted for a sum of Rs.68,46,835/-. On coming to know the alleged act of embezzlement, it appears the respondents have initiated criminal action by filing a complaint in F.I.R.No.173 of 2007 dated 09.08.2007 in I-Town Police Station, Gudivada against the husband of petitioner.

At the time of hearing, it is submitted that the calender case is at the stage of issuance of summons and for the best reasons known to respondents, it is surprising to notice that the matter is not proceed with, which required promptness and sincerity.

Be that as it may, the 2nd respondent through the impugned notice called upon the petitioner and her husband to pay the embezzled amount of Rs.68,46,835/-within 7 days and a reference to the property covered by sale deed dated 30.06.2005 is also made in the notice. At least I am unable to find out what consequence is suggested through the impugned notice vis-à-vis the property covered by sale deed dated 30.06.2005. The petitioner filed the present writ petition assailing the said notice

inter alia on the ground that the property covered by registered sale deed dated 30.06.2005 is the self-acquired property of petitioner and the 2nd respondent is not competent to initiate any action under Section 25 of the Act for realization of the alleged misappropriated

amount and if the 2nd respondent is allowed to proceed pursuant to the impugned notice, the petitioner's valuable rights under Article 300-A of the Constitution of India would be seriously affected.

This Court through order dated 05.11.2007 granted interim stay of the impugned notice.

Respondents filed W.V.M.P.No.47 of 2008. By way of reply, it is stated that the embezzlement by the husband of petitioner attracts the offences covered by Section 409 read with Section 420 IPC. The respondents have already filed F.I.R.No.173 of 2007. So far as the impugned notice is concerned, it is stated that the amount due and payable by the petitioner is revenue recovery and as a first step, the impugned notice is issued. The misappropriation was by the husband of petitioner and the reason for issuing the impugned notice to the petitioner is referred to the surety bond stated to have been executed by her for proper discharge of the obligations her husband incurs or incurred in this behalf. The petitioner, however, contends that the respondents have forcefully taken signatures and the originals of the registered sale deed dated 30.06.2005 and she never intended to act as surety of her husband. On this self-serving statement, this Court cannot enquire into the scope and ambit of surety offered by the petitioner and into the legality of impugned notice.

Whether the property purchased by the petitioner is during the currency of misappropriation by her husband or not etc., are primarily matters for enquiry and appropriate orders by the 2nd respondent. The notice which on the face of it appears innocuous still writ petition is filed and entire proceedings are stalled.

I do not see any illegality or irregularity in the impugned notice. If the petitioner so intends, she is given two weeks time from today to offer her explanation, if any, against the notice dated 16.10.2007 and it

is for the 2nd respondent to consider and pass appropriate final orders in this behalf.

The writ petition is, accordingly, dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

S.V. BHATT, J

29th April, 2014

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