

**HON'BLE SRI JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO**

WRIT APPEAL No. 288 OF 2007

JUDGMENT: (per the Hon'ble Sri Justice Dilip B. Bhosale)

This writ appeal is directed against the order dated 28-02-2007 passed in Writ Petition No.6968 of 1999 filed by the appellants seeking direction to the respondents to pay compensation for the lands in the foreshore of Kaluvoyu Tank under full tank level from 01-09-1990 and declaration that the lands were submerged due to release of water from Somasila Project into Kaluvoyu Tank rendering it a balancing reservoir. The appellants also prayed for declaration that the respondents were not entitled to release water into Kaluvoyu Tank till such time the lands belonging to them situate in foreshore are acquired and adequate compensation is paid therefor. The writ petition filed by the appellants was however disposed of with the following directions:

“a) The Government cannot be compelled to acquire any water spread area, at the Full Tank Level of the tank.

b) The petitioners shall be entitled to cultivate the land, in respect of which pattas were granted to them, as and when such land surfaces.

c) The Government shall consider the feasibility of extending the benefits derived from fishing and other activities of the tank to the petitioners, proportionately, in accordance with law, for the period during which they are disabled from cultivating the lands.”

Learned counsel for the appellants, at the outset, invited our attention to the report dated 04-01-2014 and the observations dated 22-09-2006 of the Special Team constituted to resolve the issue of Kaluvoyu Tank. The Special Team, it appears, after tracing out the records, submitted its report based on the observations dated 22-09-

2006 appended to the report. The report and the observations, placed before us, were not available when the writ petition was filed and decided. The appellants state that they came across the report dated 04-01-2014 and the observations dated 22-09-2006 very recently and in view thereof, they filed WAMP No.548 of 2015 to bring the report and the observations on record, along with some other documents. The observations clearly reveal that the learned Additional Advocate General vide his letter dated 30-12-2002, addressed to the Secretary to Government, Irrigation and CAD (PW/TGP) Department, Andhra Pradesh, Hyderabad had suggested constitution of a Special Team consisting of senior officials of the Irrigation and Revenue Departments, to trace out the old records including pattas granted in favour of the appellants/petitioners so as to verify whether pattas were conditional or not. Accordingly, the Government vide G.O.Rt.No.59, dated 21-01-2003 had constituted Special Team. It appears that the Special Team submitted its report based on their observations dated 22-09-2006.

Learned counsel for the appellants submits that the report and the observations of the Special Team were not placed before the learned single Judge when the writ petition was decided. He submits that on the basis of the report and the observations of the Special Team and the other relevant documents, it would be possible for the appellants/petitioners to establish their entitlement for compensation as prayed for in the writ petition. He, therefore, on instructions from the instructing client, who is present in the Court, prays for withdrawal of the writ petition and consequently, writ appeal with liberty to the appellants/petitioners to make a joint representation on behalf of the appellants and legal representatives of the appellants who died during pendency of this appeal for seeking compensation for the subject lands and for other appropriate relief. He submits that the appellants shall make exhaustive representation and will annex all the necessary documents including the report and the observations of the Special

Team. He submits that the appellants may also be allowed to place such other material which would help them to prove their case and the claim.

Learned Special Government Pleader submits that he has no objection for allowing the appellants to withdraw the writ petition and the writ appeal and to make a representation as prayed for. He further submits that if they make such a representation, it may be observed that it should be considered strictly on merits in accordance with law.

In the circumstances, we are satisfied that the following order shall meet the ends of justice:

“1) Writ Petition No.6968 of 1999 is disposed of as withdrawn and as a consequence thereof, writ appeal also stands disposed of. In view thereof, the order passed in the writ petition renders ineffective.

2) It is open to the appellants/petitioners to make a representation, as aforementioned, to the appropriate authority and place all relevant material along with the representation on record, within six weeks from today.

3) If the representation, as aforementioned, is made by the appellants/petitioners, the concerned authority shall consider and deal with the same on merits in accordance with law, as expeditiously as possible and preferably within a period of eight months from the date of receipt of the representation. All contentions of the parties based on the subsequent events, namely, the report dated 04-01-2014 and the observations of the Special Team dated 22-09-2006 are kept open. It is needless to mention that the concerned authority shall decide the representation strictly on merits in accordance with law. It is made clear that we have not examined the claim of the petitioners/appellants on merits or the report and the observations.”

Miscellaneous petitions, if any, also stand disposed of. There shall be no order as to costs.

DILIP B. BHOSALE, J

A. RAMALINGESWARA RAO, J

09-04-2015
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