HON'BLE SRI JUSTICE SURESH KUMAR KAIT

WRIT PETITION No.41177 of 2014

ORDER:

Vide the present petition, petitioners seek a direction to respondents for payment of ex-gratia/compensation for the lands resumed under Telugu Ganga Project for the purpose of Right Bank Canal and preservation of 'Kalivi Kodi'.

Petitioners state that the Revenue Divisional Officer-cum-Land Acquisition Officer, Rajampet, YSR Kadapa District (respondent No.3) by proceedings dated 27.12.2006 directed the Tahsildar, Atloor Mandal, YSR Kadapa District (respondent No.4) to inspect the subject lands and submit report. Pursuant thereto, respondent No.4, along with Revenue Inspector, Mandal Surveyors and Panchayat Secretary, inspected the subject lands and sent proposals to respondent No.3 vide Ref D.Dis/247.B/2006 dated 02.01.2007 for issuance of title deeds to the petitioners. Respondent No.3 issued notification dated 12.03.2008 notifying DKT lands for acquisition and called for objections. Respondent No.4, by letter dated 16.04.2008, submitted for inclusion of the names of the petitioners and others for payment of compensation. Compensation was paid to the persons whose names were reflected in the notification dated 12.03.2008. Nine petitioners were not paid compensation though their names were included in the notification since pattadar passbooks and title deeds were not issued in their favour. In the meeting conducted on 15.12.2007 in the office of the Principal Chief Conservator of Forest at Hyderabad, it was decided that all assignees should be paid compensation. Thereupon, respondent No.4 by separate notices, dated 04.10.2010, directed the petitioners to appear for enquiry on 08.10.2010 along with original D-Form pattas.

However, some of the petitioners filed W.P.No.24645 of 2009 questioning the action of respondents for non-issuance of pattadar passbooks and title deeds. By order dated 19.11.2009, this Court disposed of the Writ Petition directing the competent authority to consider the cases of petitioners relating to issue of pattadar passbooks and title deeds for payment of compensation. Petitioners also filed different Writ Petitions as mentioned in the writ affidavit that till date, respondents have not paid compensation/ex gratia in favour of the petitioners.

In his counter, respondent No.3 would state that to comply with the orders of this Court, notices were issued to the writ petitioners and others vide notice dated 27.03.2012 directing them to appear for personal enquiry on 02.08.2010. Instead of attending for enquiry on 02.08.2010, the petitioners sent representation dated 03.08.2010 pleading that they could not attend for hearing due to ill-health and requested for issuance of pattadar pass books and title deeds to get compensation under Kalivi kodi.

The 4th respondent, vide his report dated 04.08.2010, noted that the DKT Register for Fasli 1394 wherein assignment granted to the petitioners ended with Sl.No.47/94, whereas the DKT Nos. mentioned by the petitioners were of Sl.Nos.504, 506, 507 and 336/94. As such, the names of the petitioners either with surnames or father/husband's names did not tally with reference to DKT pattas. The report of respondent No.4 clearly evidenced that the petitioners managed to get fabricated DKT pattas after knowing similar/semi-similar names appeared in the schedule lands acquired for Kalivi Kodi project.

Taking into consideration all these aspects, respondent No.3, through proceedings dated 12.08.2010, passed orders observing that the petitioners are not entitled for grant of pattadar pass books and title deeds. The petitioners arrayed at Sl.Nos.1 to 6 in this Writ Petition were the petitioners in W.P.No.30815 of 2011. They filed W.P.No.30815 of 2011 seeking payment of ex gratia/compensation. By order dated 29.12.2011, this Court disposed of the Writ Petition directing the Revenue Divisional Officer, Rajampet, to hold a detailed enquiry. He shall give notices to the petitioners whose names appear in the revenue records such as adangal, etc. After giving those persons an opportunity of being heard, he shall complete the enquiry, take appropriate decision and communicate the same to the petitioners, and other persons interested, within a period of three months from the date of receipt of a copy of this order. Immediately after the decision is taken, ex gratia shall be paid to the deserving claimants.

The Government of Andhra Pradesh issued G.O.Ms.No.243 dated 27.03.2010. The said G.O. reads as under:

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Land Acquisition – Payment of ex-gratia to various categories of encroachers/enjoyers of the Government lands required for Irrigation Projects – Orders – issued.

REVENUE (LAND ACQUISITION) DEPARTMENT

G.O.Ms.No.243 Dated:27.03.2010

Read the following:

1. G.O.Ms.No.639, Revenue (Assn.IV) Dept., dt.20.09.2001.
2. Minutes of the meeting held on 25.09.2009.
3. From the Spl. CS&CCLA AP, Hyd. Ref.No.SRP3/920/2009 Dt.20.01.2010.

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In the G.O. first read above, certain guidelines were issued for a specific Irrigation Projects in Kurnool District for payment of ex gratia to the following categories of enjoyers/encroachers of Government lands:

i) to pay ex-gratia for the lands which are in category-A i.e. to DKT Patta holders in terms of G.O.Ms.No.1307, Revenue, dt.23.12.1993.

ii) As regards the lands covered in Category B i.e. those who have been cultivating the land for a long period without "D" form pattas and whose possession is confirmed by entries in 10(1) and the Adangal accounts, may be paid ex-gratia which is equivalent to market value without solatium.

iii) As regards the lands in Category D i.e. those who are in possession and enjoyment of the lands and whose names are found only in Adangal, may be paid ex-gratia which is 50% of the market value for deprivation of livelihood. No solatium would be payable.

iv) As regards Category 'C' i.e. persons who have purchased assigned lands from DKT patta holders, will not be entitled for any ex-gratia as it amounts to violation of the conditions of assignment and contravention of the provisions of A.P.Assigned Lands (POA) Act, 1977.

2. During the meeting held on 25.09.2009 under the Chairmanship of Chief Secretary to Government regarding payment of ex-gratia to various categories of encroachers/enjoyers on the Government /Endowment lands required for Irrigation Projects, it was decided that "instead of examining the proposal on a case by case basis, which takes considerable amount of time, for paying compensation to enjoyers/encroachers of Government lands for different Projects, Revenue Department shall make G.O.Ms.No.639, Revenue (Assn.IV) Department, dt.20.09.2001 applicable to Irrigation Projects in the State wherever Government Lands are to be acquired.

3. In the reference 2nd read above, the Spl. Chief Secretary & Chief Commissioner of Land Administration, Hyderabad has submitted the draft proposals on the lines of G.O.Ms.No.639, Revenue (Assn.IV) Department, dt.20.09.2001.

4. Government after careful examination of the matter, hereby order as follows:

i) To pay ex-gratia for the lands which are in category-A i.e. to DKT Patta holders in terms of G.O.Ms.No.1307, Revenue dt.23.12.1993.

ii) As regards the lands covered in Category B i.e. un-objectionable land under the enjoyment of eligible encroachers for a long period without "D" form pattas and whose possession is confirmed by entries in 10(1) and the Adangal accounts, they may be paid ex-gratia which is equivalent to market value without solatium.

iii) As far as the lands in Category 'C' i.e. unobjectionable land under enjoyment of the eligible encroachers and whose names are recorded only in the Adangal they may be paid ex-gratia, which is 50% of the market value for deprivation of livelihood. No solatium would be payable; and

iv) Persons who have purchased assigned lands from DKT patta holders, will not be entitled to any ex-gratia, as it amounts to violation of the conditions of assignment and contravention of the provisions of A.P.Assigned lands (POT) Act, 1977.

5. The payment of ex-gratia/compensation for the eligible encroachers covered under items (ii) and (iii) above may be made after the personal inspection of the Joint Collector of the concerned District.

6. The Spl.Chief Secretary and Chief Commissioner of Land Administration, Hyderabad and all District Collectors shall take necessary action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

RAJESHWAR TIWARI
SECRETARY TO GOVERNMENT

On a perusal of the aforesaid G.O., it is clear that the Government decided payment of ex-gratia, in respect of lands under Category 'C' i.e. unobjectionable lands under the enjoyment of the eligible encroachers and whose names are recorded only in the Adangal, which would be 50% of the market value. However, it was made clear that no solatium would be paid to such category.

Sri P.Veera Reddy, learned Senior Counsel appearing for the petitioners, submits that petitioners are not in possession of DKT pattas for the lands resumed, therefore, they approached the authorities concerned. However, the authorities concerned have not issued pattas in their favour. Even, G.O.Ms.No.243 dated 27.03.2010 stipulates that encroachers are entitled for payment of ex gratia.

During the course of arguments, Sri P.Veera Reddy, learned Senior Counsel appearing for the petitioners, produced a letter dated 23.07.2016 issued by respondent No.4 to respondent No.3, wherein it is stated that the case of petitioners comes under G.O.Ms.No.259/2016-Revenue (Assn.I) Department dated 21.06.2016 because the assigned lands were taken possession during 2008 for public purpose i.e. project or alienation to Government Department, but so far no compensation was paid though they are eligible for compensation and other benefits. It is more than 8 years since the matter has been pending for payment of compensation.

It is further stated in the said letter that, the DKT patta holders, whose lands were utilised for public purpose though advance possession was taken without payment of compensation, are praying for immediate relief in view of G.O.Ms.No.259/2016 dated 21.06.2016.

It is pertinent to mention that, vide communication dated 23.07.2016, respondent No.4 mentioned the names of 42 persons i.e. petitioners herein and submitted that his predecessors (the then Tahsildars, Atloor) on 16.04.2008, 20.10.2008, 06.05.2013 and 25.09.2014 recommended for compensation as per norms. A joint inspection was conducted on 18.03.2005 by a team of officers. Those officers, including Special Collector, G.N.S.S., Kadapa, through report Ref.D-184/2014 dated 08.02.2015, recommended to the Principal Secretary to Government, I & CAD Department to pay compensation to the DKT patta holders because they are eligible. Respondent No.4, accordingly, requested respondent No.3 that early steps be taken as DKT lands were already taken possession for public purpose and utilised in the year 2008 itself.

It is not in dispute that the matter is pending for more than 8 years. It is also not in dispute that possession was taken and petitioners were dispossessed. However, till date, ex gratia/compensation was not paid to the petitioners. As stated in the counter affidavit, since the petitioners did not produce DKT pattas, they are not entitled for compensation.

Be that as it may, vide G.O.Ms.No.243 dated 27.03.2010, the Government categorised encroachers under category 'C'. It is not disputed that the petitioners do not have DKT pattas.

Accordingly, the respondents shall consider the petitioners as encroachers whose names are recorded only in adangal and pay compensation/ex gratia accordingly. I hereby make it clear that, if the names of the petitioners are not recorded either in DKT pattas or in adangals, they are not entitled to compensation/ex gratia in terms of G.O.Ms.No.243 dated 27.03.2010.

In view of above facts, the respondents are directed to pay compensation/ex gratia to eligible persons within a period of four weeks from the date of receipt of a copy of this order. If any of the petitioners do not fall in either of the categories as mentioned in G.O.Ms.No.243 dated 27.03.2010 and their claims are rejected, same shall be communicated within one week from the date of rejection. Needless to mention that, if any of the petitioners are aggrieved with the decision of the respondents, they may approach appropriate forum available under law.

With the above direction, the Writ Petition stands disposed of.

Miscellaneous Petition pending, if any, shall also stand disposed of. However, in the circumstances, without costs.

SURESH KUMAR KAIT, J

Dt:07.09.2016
Note:CC one week
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