

**HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR**

**W.P.No.28497 of 2015**

**ORDER:**

Heard.

It appears that the respondents are proposing to allot the land covered by Sy.No.342-2 situated at Ramdevpalle Village, H/o.Gilakapadu, SPSR Nellore District, for the purpose of laying BG Railway Line from Obulavaripalli of Kuddapah District to Krishnapatnam Port of SPSR Nellore District. The petitioners, who are 41 in number, claimed that their houses are constructed on the said land and all the structures have already been identified by the revenue authorities and ex-gratia is proposed to be given with respect to all such structures. The petitioners relied upon the proceedings of the 3<sup>rd</sup> respondent in Rc.No.B.(LA)4574/2012, dated 30-05-2015, wherein the ex-gratia is ordered to be paid to eleven identified persons on the ground that the lands referred therein are DKT lands, which were resumed for the purpose of laying BG Railway Line from Obulavaripalli of Kuddapah District to Krishnapatnam Port of SPSR Nellore District. Consequently, the ex-gratia payment was determined and directed to be paid to the assignees/legal heirs in Sy.Nos.289, 534-3 etc. The petitioners state that their case is similar to the persons to whom the said ex-gratia payment is determined and ordered to be paid. However, the petitioners state that their houses and structures are not taken into consideration while passing the aforesaid order.

The averments of the petitioners in the affidavit show that they do not claim to be the assignees, but claim that their case is required to be considered on par with the said eleven persons as identified under the impugned order.

Admittedly, the petitioners never filed any representation before the 3<sup>rd</sup> respondent nor have made any claim for structures and straight away approached this court by way of present writ petition.

Learned counsel for the petitioners' states that the petitioners

approached this court by way of present writ petition questioning the aforesaid proceedings of the 3<sup>rd</sup> respondent merely on the ground that their names are not included and that there is a threat of eviction, but no notice of any nature is given to any of the petitioners.

Heard the learned Government Pleader. He submits that the petitioners appear to be encroachers. However, even if they have any claim, they have to approach the 3<sup>rd</sup> respondent for appropriate claim.

I find substance in the contention of the learned Government Pleader, as the petitioners cannot straight away approach this Court particularly when they are seeking similar benefit as is granted to eleven persons under the impugned order. If the petitioners seek to derive any benefit on par with the persons to whom the ex-gratia is directed to be paid as per the impugned order, they must approach the 3<sup>rd</sup> respondent with an appropriate application and proof of existence of their structures with supporting documents. Without approaching the 3<sup>rd</sup> respondent, entertainment of their claim for the first time by this Court is not permissible. That apart, even according to the learned counsel for the petitioners, no notice is given to any of the petitioners and as such, the threat of eviction, as mentioned by the learned counsel for the petitioners cannot be taken note of. However, limited relief alone can be granted to the petitioners, so as to enable them to approach the 3<sup>rd</sup> respondent and make appropriate claim.

The writ petition is, therefore, disposed of permitting the petitioners to approach the 3<sup>rd</sup> respondent and submit their appropriate claim with necessary documents within two weeks from today, so that the 3<sup>rd</sup> respondent would be in a position to examine the same and take appropriate decision in the matter. Respondents 3 to 5 are directed not to take any coercive steps against the petitioners including dispossession for a period of two weeks from today. No costs.

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

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**VILAS V.AFZULPURKAR, J**

Date: 03-09-2015

Note:

Issue C.C. in three days

(B/o)

Prv

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**Prv**

