

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

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CASE NO. **WRIT PETITION Nos.36389 and 36391 of 2012**

Between:

Kuraku Venkata Ramanaiah and others
...**Petitioners**

And

The District Collector, Kadapa and others
...**Respondents**

DATE OF JUDGMENT PRONOUNCED: 06.08.2015

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

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| 1. Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be marked to Law Reporters/Journals? | Yes/No |
| 3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

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! Counsel for the petitioners: Mr.S.Satyam Reddy
for Mrs.K.V.Rajashree

Counsel for the respondents: Mr.D.Ramesh,
Special Government Pleader (AP)

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The Court made the following:

COMMON ORDER:

W.P.No.36389 of 2012 is filed by some of the displaced persons, who are ten in number, under Teluguganga project for a *mandamus* to declare the action of the respondents in not granting house site pattas admeasuring 0.50 cents to each of them as per G.O.Ms.No.324, Energy, Forests, Environment, Science & Technology (For.I) Department, dated 01.12.1988, as illegal and arbitrary.

W.P.No.36391 of 2012 is filed by four of the displaced persons under Somasila project for a *mandamus* to declare the action of the respondents in not allotting Acs.2.00 of agriculture land and Ac.0.50 cents of homestead land to each of them as per the Resettlement and Rehabilitation Policy, 2005 contained in G.O.Ms.No.58, Irrigation & Power (Projects Wing) Department, dated 19.03.1980, and G.O.Ms.No.324, dated 01.12.1988, as illegal and arbitrary.

The petitioners in W.P.No.36389 of 2012 pleaded that their lands and houses situated in Chennampally Village, B.Matam Mandal, YSR Kadapa District, were acquired for construction of Teluguganga

project. So also the lands and houses of the petitioners in W.P.No.36391 of 2012 were acquired for construction of Somasila project and awards were passed granting compensation. The petitioners in W.P.No.36389 of 2012 relied upon G.O.Ms.No.324, dated 01.12.1988, in support of their plea that they are entitled to be assigned homestead land, free of cost, to a minimum extent of Ac.0.02 hectares each. The petitioners in W.P.No.36391 of 2012 also relied upon the said G.O. for assignment of homestead land. They have also placed reliance on G.O.Ms.No.58, dated 19.03.1980, for assignment of agriculture land or payment of *ex gratia* cash grant in lieu of such assignment where the suitable agriculture land is not available.

It needs to be noted that G.O.Ms.No.58, dated 19.03.1980, pertains to Somasila project under which the petitioners in W.P.No.36391 of 2012 were displaced and G.O.Ms.No.324, dated 01.12.1988, pertains to Teluguganga project displaced persons, which include the petitioners in W.P.No.36389 of 2012. Therefore, the reliefs claimed by the petitioners in these two writ petitions need to be considered in the light of the respective G.Os.

While no counter-affidavit is filed in W.P.No.36389 of 2012, in W.P.No.36391 of 2012, the Tahsildar, B.Matam Mandal – respondent No.3 therein filed a counter-affidavit, wherein while not disputing the claim of the petitioners that their lands were acquired under Somasila project, he has, however, averred that the petitioners were paid land compensation; that under G.O.Ms.Nos.58, dated 19.03.1980, and G.O.Ms.No.324, dated 01.12.1988, the displaced persons are eligible for grant of assignment of land in lieu of compensation and that as the petitioners were already paid compensation, they are not entitled to the benefits under the said two G.Os.

In order to resolve the aforesaid dispute, the relevant portions of G.O.Ms.Nos.58, dated 19.03.1980, and G.O.Ms.No.324, dated

01.12.1988, need to be noticed.

Insofar as W.P.No.36391 of 2012 is concerned, it is relevant to extract the following portion of G.O.Ms.No.58, dated 19.03.1980, which reads as under:

“No new forest areas should be dereserved for rehabilitation and no new rehabilitation centers should be set up under any project hereafter. The displaced families of the Somasila Project shall be paid Ex-gratia cash grants in lieu of rehabilitation of families at the following rates:

- (a) Displaced families whose lands only are affected are to be granted 50% of the amount as has been decided by the Land Acquisition Officer towards compensation of the acquired lands irrespective of the any modification later on by way of enhancement of compensation by civil Courts subject to a maximum of Rs.1000/-.
- (b) Displaced families whose houses are acquired are to be given 50% of the amount as has been decided the Land Acquisition Officer towards compensation of the acquired house property irrespective of any modification later on by way of enhancement of the compensation by the civil courts subject to a maximum of Rs.1000/-.
- (c) Displaced families whose houses are acquired are to be given 50% of amount as has been decided by the Land Acquisition Officer towards compensation of the acquired land and house property irrespective of any modification later on by way of enhancement of compensation by the civil courts subject to a maximum of Rs.5000/-.

As some of the displaced families may like to rehabilitate themselves on their own in groups where government land may be available for assignment such families should be assigned land in lieu of Ex-gratia cash grant for rehabilitation. Such displaced families under the project should be given preference in the assignment of Government land in the command area of the project in supersession of all the existing orders regarding preference to be given to different categories in the assignment of land. This provision will apply even regarding preference to be shown to all petitioners as under Somasila Project the displaced families belong to

Kadapa District where as the command area in Nellore District.

The displaced families who desire assignment of land in lieu of Ex-gratia cash grant for rehabilitation shall be granted free of cost land equal to the extent acquired from them subject to a maximum of 5 acres of dry land or 2 ½ acres of wet land per family. Only families who are living by cultivation for atleast 3 years prior to their displacement shall be eligible for such free grant. No further land will be assigned to the displaced families who are assigned land will not be eligible for Ex-gratia rehabilitation cash granted. Instead, they will be given an exgratia payment of Rs.300/- per family and subsidy for reclamation of land at Rs.100/- per family No facilities of any type will also be provided at such placed by the Government.”

Mr.D.Ramesh, learned Special Government Pleader (AP), submitted that under sub-para (a) of G.O.Ms.No.58, dated 19.03.1980, the displaced families which received 50% of the compensation fixed by the land acquisition officer alone are eligible for the benefit of assignment of agriculture land.

I am afraid, this submission is based on incorrect reading and understanding of the said G.O. The afore-extracted sub-para (a) of the said G.O. clearly envisaged payment of compensation in lieu of assignment of land at 50% of the compensation fixed by the Land Acquisition Officer subject to the maximum of Rs.1,000/-. This G.O. thus makes it abundantly clear that all the displaced families under Somasila project are entitled to be paid *ex gratia* cash grant in lieu of rehabilitation of families towards loss of agriculture land as well as house property. Therefore, the submission of the learned Government Pleader that only those families which received 50% of the compensation are eligible for the benefits under G.O.Ms.No.58, dated 19.03.1980, has no merit. Indeed, if this submission is accepted, it leads to denial of 50% compensation for the properties acquired under the projects for the sake of claiming assignment of agriculture land and house sites or cash grants in lieu thereof. Such interpretation will not

only be irrational but also highly iniquitous. Under the two G.Os. referred to above, the benefits which are provided thereunder are in addition to the compensation which the displaced families are entitled to receive under the provisions of the Land Acquisition Act, 1894. Similarly, every displaced family under the projects is entitled to assignment of homestead land to a minimum extent of 0.02 hectares, free of cost.

As could be seen from the extracted part of G.O.Ms.No.58, dated 19.03.1980, it contains a direction that no new forest area should be dereserved for rehabilitation and that the displaced families shall be paid *ex gratia* cash grants in lieu of rehabilitation of families as per the prescribed rates. However, in sub paragraph below i.e., clause (c) thereof, it is envisaged that wherever the displaced families may like to rehabilitate themselves on their own in groups where government land may be available for assignment, such families should be assigned land in lieu of *ex gratia* cash grant for rehabilitation and such displaced families under the project should be given preference in the assignment of government land in the command area of the project in supersession of all the existing orders regarding preference to be given to different categories in the assignment of land. It is also provided that the displaced families who desire assignment of land in lieu of *ex gratia* cash grant for rehabilitation shall be granted free of cost land equal to the extent acquired from them subject to a maximum of Acs.5.00 of dry land or 2 ½ acres of wet land per family.

Thus, the purport of this G.O. is to the effect that wherever assignment of land cannot be made otherwise than by dereserving the forest area for the purpose of rehabilitation, cash grant in lieu thereof shall be granted to the displaced persons. However, where land is available for such assignment, the displaced persons are entitled for assignment of such land as per the guidelines contained in G.O.Ms.No.58, dated 19.03.1980. Similarly, for assignment of house

sites, 50% of the amount fixed by the Land Acquisition Officer towards compensation to the displaced families due to loss of their houses subject to a maximum of Rs.5,000/- shall be paid.

On the above analysis, in W.P.No.36391 of 2012, respondent No.1 is directed to consider the claims of the petitioners for assignment of agriculture land, if the same is available and if such land is not available, they shall pay *ex gratia* cash grant as envisaged under G.O.Ms.No.58, dated 19.03.1980. They shall complete this exercise within a period of three months from the date of receipt of a copy of this order.

Coming to W.P.No.36389 of 2012, it is not disputed that G.O.Ms.No.324, dated 01.12.1988, is applicable to the petitioners therein.

In G.O.Ms.No.324, dated 01.12.1988, it is, *inter alia*, stated as under:

“9. The rehabilitation Master Plan for the project must be prepared covering the following aspects:

- a) Homestead land must be provided free to all the affected families. This will include the oustees who do not have land but are dependent on the related activities such as fisheries, minor forest produce, labour etc. The size of each homestead land should, in the minimum be 0.02 hectares.
- b) Land for land will be provided to all families losing land, but not left with 5 acres or more after the loss. The extent of land to be given will be the extent lost subject to a maximum of 5 acres. The price should not exceed the price paid to the affected persons as compensation for their lands or the market price, whichever is less.
- c) For landless but affected people adequate ex-gratia amount will be given which should be kept in fixed deposit to ensure regular income to them.”

The learned Special Government Pleader (AP), submitted that the aforesaid G.O. envisaged rehabilitation master plan for the project and unless such master plan is prepared, no relief provided in the said G.O. could be granted to the petitioners. He is, however, unable to state whether any such rehabilitation master plan has been prepared.

In my opinion, when the Government has issued an order as a welfare measure to safeguard interests of the displaced families under a particular project, the respondents are bound to implement the same. In the absence of a counter-affidavit, this Court is unable to render any specific findings as to whether the project has been implemented or not. If the petitioners are displaced under Teluguganga project as claimed by them, they are entitled to all the benefits that are envisaged in G.O.Ms.No.324, dated 01,12,1988.

Therefore, respondent No.1 is directed to consider the claim of the petitioners for grant of house site pattas as per G.O.Ms.No.324, dated 01.12.1988, take a decision and communicate the same to the petitioners within two months from the date of receipt of a copy of this order.

These Writ Petitions are accordingly allowed to the extent indicated above.

As a sequel to allowing the Writ Petition, W.P.M.P.No.46223 of 2012 in W.P.No.36389 of 2012 and W.P.M.P.No.46025 of 2012 in W.P.No.36391 of 2012 shall stand disposed of.

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C.V.NAGARJUNA REDDY, J

06th August, 2015
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