

HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.21974 OF 2009

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioners to declare the action of the respondents in not paying compensation to the petitioners in respect of the land of an extent of Acs.5.00 cents in Sy.No.180/A2 of Dhone Village and Mandal, as illegal and arbitrary and consequently direct the respondents to pay compensation to the petitioners forthwith for the land acquired/ resumed from the petitioners.

The case of the petitioners, in brief, is that the father of the petitioners was assigned an extent of Acs.5.00 cents in Sy.No.180/A2 in Dhone Village and Mandal in the year 1960. He had four sons including the petitioner. He died in the year 1983. He was cultivating the said land during his lifetime. The other three brothers of the petitioner were also died. The 2nd petitioner is the son of Pedda Anjappa i.e. one of the brother of the petitioner and the 3rd petitioner is the widow of Sanjanna i.e., another brother of the petitioner. The fourth one i.e. Chinna Anjanappa died issueless. During the course of widening of National Highway No.7, a burial ground, which was situated, abutting the NH.7, in the Dhone Town was acquired by the authorities. The land of the petitioners was abutting that burial ground. Since the burial ground was taken away by the authorities, the villagers started burying the dead bodies in the land of the petitioners, inspite of their protest. The respondents passed resumption orders on the land of the petitioners, on the pretext that the petitioners are not cultivating the land. The

3rd petitioner made a representation on 04.08.2007 and the 1st petitioner made a representation on 07.02.2008 to the 1st respondent for payment of ex-gratia. The 1st respondent inturn asked the 2nd

respondent to examine the matter. After enquiring into the matter, the 2nd respondent recommended for payment of ex-gratia to the petitioners through proceedings, dated 13.10.2008 and 14.09.2009. But, no ex-gratia was paid to the petitioners.

The 2nd respondent filed counter-affidavit stating that the land of the petitioners was resumed for the purpose of providing burial ground to the villagers. Before passing resumption order, a notice was issued calling for the explanation of the assignee, but as the legal heirs of the original assignee are not living in the village, no objections were received from them and since the land was not cultivated by the petitioners, the same was resumed and allotted for a public purpose. It is stated that the petitioners submitted representations for payment of compensation and the same were forwarded to the 1st respondent for consideration.

Heard the learned counsel for the petitioners as well as the learned counsel for the respondents and perused the material available on record.

Admittedly, the father of the 1st petitioner was assigned the land in question and the petitioners are cultivating the same as his legal heirs. In the process of widening of NH-7, the existing burial ground of that village was acquired and the land assigned to the petitioners was resumed and allotted to the burial ground of the village. But, the petitioners were not paid any compensation. The petitioners made representations to the 1st respondent and after examining the matter, the 2nd respondent also recommended for payment of ex-gratia to the petitioners. The said representations are pending with the 2nd respondent. Therefore, this Court is of the view that the 1st respondent be directed to consider the representations made by the petitioners by taking into consideration the recommendations made

by the 2nd respondent.

Accordingly, the writ petition is disposed of directing the 1st respondent – District Collector, Kurnoor, to consider the representations made by the 1st petitioner and also the 3rd petitioner, along with the recommendations made by the 1st respondent – Tahsildar, Dhone Mandal for payment of ex-gratia to the petitioners and pass appropriate orders within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs. The miscellaneous petitions pending, if any, shall stand closed.

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RAJA ELANGO, J

March 18, 2015.

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