

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.34804 of 2011

ORDER:

Petitioners pray for Mandamus declaring notice dated 02.11.2011 giving quietus to one year lease alleged to have been granted in their favour, by 01.01.2012 as illegal, arbitrary and unconstitutional.

2. The admitted circumstances of the case are that the petitioners were owners of agricultural land covered by different survey numbers in Borrapalem and Vallampatla villages, T. Narsapuram Mandal, West Godavari District. The lands of the petitioners were acquired by respondents as part of establishment of Yerrakalva Irrigation Project. The Government issued Memo.No.4244/Irr.II.I/80-9 dated 10.08.1981 providing for consideration of the cases of erstwhile land owners for grant of ek saal lease of lands free from submersion. A few of the petitioners were granted lease and the lease period expired by 31.12.2011. The respondents issued impugned notice dated 02.11.2011. Hence, the writ petition.

3. Respondents filed counter affidavit and the operative portion of the counter affidavit refers to changed circumstances and the reasons for issuing the impugned notice informing the petitioners to vacate from land in their occupation. The circumstances relevant for disposal of the writ petition are a few and are not in dispute.

4. Having regard to the fact that even on the showing of petitioners themselves the lease was for one year and the leased land is part of submersible land, the inchoate claim of petitioners, if any, should always yield to the larger and dynamic interest of ayacutdars of the subject irrigation project. Therefore, *prima facie*, this Court does not find any illegality or irregularity in the impugned notice. But the other circumstance, which is

required to be referred by this Court,
is that the Government issued memo dated 10.08.1981 providing for grant of
lease in the event of the land not getting submerged,
the authority can consider granting lease to the erstwhile owners of acquired
lands. The intention of the memo is to provide employment and also utilize
available land for cultivation.

5. Learned counsel for petitioners requests the Court to permit the
petitioners to represent for consideration of their cases in accordance with
the applicable government orders and the competent authority, on being
satisfied that a case for grant of lease is made out, can pass appropriate
orders.

6. Hence, petitioners are given liberty to represent within four (4) weeks
from today and the second respondent is directed to consider and dispose of
the representation within four (4) weeks thereafter.

It is made clear that this Court is not expressing any view on the right of the
petitioners or the circumstances under which any decision by the second
respondent can be taken. It is for the competent authority to examine all
relevant and surrounding circumstances and a decision in the interest of
ayacutdars vis-à-vis individuals is taken.

With the above observation, the writ petition is disposed of.

As a sequel, the miscellaneous applications, if any pending, shall stand
closed. There shall be no order as to costs.

S. V. BHATT, J

June 2, 2016
DSK