

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.23304 OF 2014

ORDER:

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The case of the petitioners is that they are originally residents of Sarvarajupet village in Veerapunayunipalle Mandal, Y.S.R. District and they are having two houses with six cents each and they were acquired for the purpose of Sarvaraja Sagar Project in the year 2008. As a measure of rehabilitation and resettlement, the petitioners were given two house sites each on 08-09-2010 i.e.H3 and H7 with 5 cents each at Sarvarajupet Colony, Veerapunayunipalle Village and Mandal, Y.S.R. District to the 1st petitioner and M22 and G11 with 5 cents each at Sarvarajupet Colony, Veerapunayunipalle Village and Mandal.

The

1st petitioner constructed house and he is residing in plot H3 and in other house site he made construction up to half of the roof level in H7 Sarvarajupet Colony, Veerapunyaunipalle Village and Mandal. While so, the 3rd respondent passed the order No.C/156/2014,

dated 27-06-2014 cancelling the house site allotment bearing No.H7 and G11 Sarvarajupet Colony, Veerapunayunipalle Village and Mandal without issuing notice and without conducting any enquiry only on the directions of the 2nd respondent. As such, pattas were cancelled only to allot the same to the 4th and 5th respondents. It is stated the 4th respondent is residing in United States of America and 5th respondent is working as Software Engineer and residing at Bengaluru. Aggrieved by the action of the respondents in cancelling the house site pattas granted to the

petitioners, the present writ petition is filed.

Counter is filed by the 3rd respondent admitting that the petitioners were allotted plot H3 and M21 and due to oversight plots bearing No.H7 and G11 respectively were allotted, in addition to the above plots granted to them. Hence, the Special Deputy Collector, L.A. Unit, GNSS, Kadapa vide his reference B/60/2006, dated 06-12-2011 has addressed Tahasildar, V.N.Palli to cancel the house sites plot Nos H7 and G11 granted to the above persons, since as per R& R policy, they are eligible for one plot i.e. 0.05 cents and not more than that and the Special Deputy Collector, GNSS Unit-II vide his proceedings Ref.B.60/2006, dated 17-05-2012 allotted the plot Nos G11 and H7 to the displaced families i.e. the respondents 4 and 5 and they are granted possession certificates on 23-07-2012. In view of the same, the allotment made in respect of plots H7 and G11 to the petitioners was cancelled vide proceedings Ref.No.C/156/2014, dated 27-06-2014.

As per Rehabilitation and Resettlement Policy chapter 6.2(b), in case, if any Project Displaced Family (PDF) holds village site of more than 0.05 cents, such holder shall be allotted village house site of an extent of 0.05 cents of land in rural areas or 75 square meters of land in Urban areas in the Resettlement Zone and also be paid exgratia for the site in excess of 0.05 cents (for example if a family holds village site of 0.20 cents in Project affected zone and have two major sons, residing with such person in case, they take three house sites of 0.05 cents each in Resettlement zone, they will get exgratia for the balance of 0.05 cents ($0.20 \text{ cents} - 3 \times 0.05 \text{ cents} = 0.05 \text{ cents}$)).

It is submitted that the mistake was rectified by canceling the said plots and duly retaining two plots H7 and G11 already

granted to them and subsequently granted to the other two displaced families who are eligible for the same in pursuance of the rules in vogue and sought for dismissal of writ petition.

Heard learned counsel for the petitioners, who states that assignments granted in favour of the petitioners were cancelled without any basis.

On the other hand, learned Assistant Government Pleader for Revenue submits though the petitioners are displaced persons, they are entitled for only one house site admeasuring 0.05 cents as per Rehabilitation and Resettlement policy and the argument is adopted by the learned counsel for the 2nd, 4th and 5th respondent and in the counter it is stated that as per Rehabilitation and Resettlement Policy chapter 6.2(b), in case, if any Project Displaced Family (PDF) holds village site of more than 0.05 cents, such holder shall be allotted village house site of an extent of 0.05 cents of land in rural areas or 75 square meters of land in Urban areas in the Resettlement Zone and also be paid exgratia for the site in excess of 0.05 cents (for example if a family holds village site of 0.20 cents in Project affected zone and have two major sons, residing with such person in case, they take three house sites of 0.05 cents each in Resettlement zone, they will get exgratia for the balance of 0.05 cents ($0.20 \text{ cents} - 3 \times 0.05 \text{ cents} = 0.05 \text{ cents}$)).

Counter is also filed by the 2nd respondent reiterating the same fact.

In this case, there is no reply affidavit filed by the petitioners. Even as per the policy, the petitioners are entitled for only one house site patta admeasuring 0.05 cents and even the petitioner was holding any excess of 0.05 cents, they are entitled for payment of exgratia. In this case, the petitioners were allotted

house site plot Nos.H3 and M21 and due to mistake they were granted house plots bearing No.H7 and G11 respectively in addition to the above plots already granted to them. The said fact is not disputed by the learned counsel for the petitioners. It is also stated in the counter affidavit that the 4th and 5th respondents were given possession certificates in respect of plots H7 and G11 respectively. When the petitioners are entitled for one plot admeasuring 0.05 cents each and the petitioners were already granted plots to that extent, the petitioners cannot retain another plot each for the same purpose, which admittedly, they are not entitled.

In view of above facts and circumstances, if impugned order is set aside, no useful purpose would be served by setting aside the impugned order, which leads to reviving of another illegal order allotting two plots each to the petitioners which they are not entitled. This Court will not interfere into the same and if it interferes, it amounts to restoration of another illegal order allotting two plots each to the petitioners.

The Apex Court in **MAHARAJA CHINTAMANI SARAN NATH**

SAHDEO v. STATE OF BIHAR AND ORS^[1] held as under:

“For what has been stated above we hold that the order of the learned Member of Board of Revenue directing the action to be taken for refund of the excess compensation was valid and proper though he had no jurisdiction to pass the order. In the event it is set aside it would amount to reviving an invalid order of payment of excess compensation to the appellant”.

In view of the same, the writ petition is dismissed. Miscellaneous Petitions, if any, pending in this writ petition shall stand closed.

A.RAJASHEKER REDDY,J

25-04-2016
nvl

[\[1\]](#) 1999 (8) SCC P.16