

THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT

WRIT PETITION No.4217 of 2016

ORDER:

Vide the present petition, the petitioners seek Mandamus declaring the action of respondents in not paying any compensation/ex-gratia after acquiring the land in Sy No.73/3 to an extent of Ac 7.25 guntas situated at Yapalguda village vide proceedings No.B/352/08 dated 30.11.2010 for formation a new irrigation tank, as illegal, arbitrary and contrary to the principles of natural justice and consequently to direct the respondents to pay compensation/ex-gratia with accrued interest to the petitioners for the land in question.

Learned counsel appearing on behalf of respondents No. 3 to 5 submits that the petitioners are non-tribals and encroachers of the Government land, thus they are not entitled to compensation or any ex-gratia. To this effect, the learned counsel has drawn attention of this court to para 3 of G.O.Ms No.243, dated 27.3.2010, and argued that as per said G.O., the petitioners are not entitled to any compensation or ex-gratia.

For convenience, G.O.Ms No.243 is reproduced as under:

“i) to pay ex-gratia for the land which are in category-A i.e., to DKT Patta holders in terms of G.O.Ms.No.107 Revenue dt.23.12.1993.

ii). As regards the land covered in Category-B i.e., those who have been cultivating the land for a long period without “D” form pattas and whose possession is confirmed

by entries in 10(1) and the Adangal accounts, may be paid ex-gratia which is equivalent to market value without solatium.

iii) As regard the lands in Category D i.e., those who are in possession and enjoyment of the lands and whose names are found only in Adangal, may be paid ex-gratia which is 50% of the market value fro deprivation of livelihood. No solatium would be payable.

iv) As regards Category 'C' i.e., persons who have purchased assigned lands from DKT patta holders, will not be entitled for any ex-gratia as it amounts to violation of the conditions of assignment and contravention of the provisions of A.P.Assigned Lands (POT) Act, 1977."

In the communication letter No.B/352/08, dated 15.7.2011 of Revenue Divisional Officer, Adilabad, addressed to the Collector, Adilabad, it is stated that according to report of Tahsildar, Adilabad, received vide reference No.B/4542/08 dated 17.8.2010 and dated 12.10.2010, an area of Ac 7.25 cents of Government land is under acquisition pertaining to the following non-tribal encroachers of the village. The petitioners' names are indicated at serial Nos.1 and 2 in Sy No.73/3 for an extent of Ac.5.00 cents in the name of first petitioner and Ac.2.00 cents in the name of the second petitioner. The mentioning of duration of occupation of the said lands by the first petitioner is from 1994-95, 2003-04 to till date and second petitioner is from 1980-81 to till date and it is also shown that both the petitioners are cultivating the land. It is further stated that village of Yapalguda, Adilabad Mandal is Agency village and the encroachers (Siwai

Jamadars) are non tribals, as such they have not been issued patta certificates. But these non-tribals (encroachers) are in possession of the subject lands from the time of their forefathers and due to the impugned acquisition, the petitioners have lost their livelihood due to this acquisition.

It is further stated that the Revenue Department vide G.O.No.243, dated 27.3.2010 has issued certain guidelines with regard to payment of ex-gratia amount to various categories of encroachers/ enjoyers of government lands, which are under acquisition for irrigation projects.

Learned counsel for the respondents stated that there is no mention of Agency (V schedule tribal area) villages in the said G.O.Ms.No.243, due to which, further action could not be taken in this case.

Admittedly, GO Ms No.243, dated 27.3.2010, does not say that those who are not falling under Schedule V are not entitled to compensation or ex-gratia. Moreover in the said G.O, it is stated that all the 4 categories of encroachers/ occupiers are entitled to ex-gratia and compensation, but not entitled for solatium.

In view of the above, the case of the petitioners fall under this G.O.Ms No.243 dated 27.3.2010. Therefore, respondent No.3 is directed to pay ex-gratia/compensation in

favour of the petitioners as per their entitlement, within four (04) weeks from the date of receipt of a copy of this order.

I hereby make it clear that if the respondents fail to pay the amount within the time granted by this Court, the petitioners shall be entitled for interest at the rate of 12% p.a. on delayed payment.

With the above direction, this Writ Petition is disposed of. No costs. Pending miscellaneous petitions, if any, shall stand closed.

Date : 27-08-2016
Gvl



JUSTICE SURESH KUMAR KAIT.