

HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.37300 of 2012

ORDER:

1. This writ petition is filed by the petitioners under Article 226 of the Constitution of India challenging the order passed by the 2nd respondent in Ref.No.A1/451/2008, dated 17.10.2012 while rejecting the claim of the petitioners for payment of differential ex-gratia by applying SSR rates of 2005-06 for resumption of their structures/dwelling houses on 5.8.2006, even though the petitioners are entitled for the same.

2. The case of the petitioners in brief is as follows:

Their dwelling houses/structures in Sy.Nos.1440 & 1443 of Rajupalem village, Gopavaram Mandal, Y.S.R. Kadapa District, were resumed by the respondents on 5.8.2006 due to submergence under Somasila Project by paying ex-gratia according to SSR rates of 2001 instead of SSR rates payable for 2005 & 2006. Aggrieved by the same, the petitioners filed W.P.No.120 of 2007 seeking directions to the respondents to pay the differential amount of ex-gratia as per SSR rates of 2005-2006 and the said writ petition was disposed of on 27.8.2009 directing the respondents to consider the case of the petitioners. The 2nd respondent after taking considerable time passed orders on 14.2.2012 by issuing LOC for differential amount of ex-gratia as per SSR rates of 2005-06. When the cheques were not issued to the petitioners within the time fixed by the Accounts Officer, the petitioners filed W.P.No.6085 of 2012. This Court passed interim orders to issue cheques on or before 31.3.2012. When the said interim order was not implemented, the petitioners filed C.C. This Court disposed of both the cases viz., writ petition and C.C. directing the respondents herein to pass fresh orders as to the right of the petitioners to be paid ex-gratia, that prevail on the date on which the possession of the

premises is taken over. Thereafter, the 2nd respondent passed the orders impugned herein rejecting the claim of the petitioners for payment of ex- gratia as per SSR rates of 2005-06 viz., the year of resumption of their houses/structures, on the ground that the petitioners are not entitled for SSR rates of 2005-06. Aggrieved by the same, the petitioners filed this writ petition.

3. The 3rd respondent filed a counter stating that ex-gratia was paid as per the request of the petitioners after passing appropriate orders as per the directions of this Court and that the claim made by the petitioners for SSR rates of 2005-06 is not tenable. In pursuance of the directions of this Court in W.P.No.120 of 2007, the then Special Collector, Kadapa passed orders on 1.12.2009 stating that the petitioners are not entitled for any further enhancement of compensation as per SSR rates of 2005-06. The order passed by the 2nd respondent is in accordance with law and it does not warrant any interference.

4. Heard and perused the material available on record.

5. From the material on record, it is evident that on the earlier occasion in W.P.No.6085 of 2012 and C.C.No.503 of 2012, this Court passed the following order on 2.7.2012:

- (i) The orders dated 1.12.2009 and 14.2.2012 shall stand set aside to pave the way for such an exercise;
- (ii) The 2nd respondent shall pass orders afresh, as to the right of the petitioners to be paid ex-gratia, that prevail on the date on which the possession of the premises is taken over; and
- (iii) Respondents Nos.2 and 3 shall complete the exercise within a period of two months from today.

Thereafter, the 2nd respondent passed the impugned order rejecting the claim of the petitioners for ex gratia at SSR rates of 2005-2006.

6. The main grievance of the petitioners is that the respondents filed their counter-affidavit accepting and stating that the possession was taken over in the year 2006, and contrary to their stand in the affidavit filed before this Court, they rejected the claim of the petitioners and passed impugned orders while observing that the petitioners are entitled for compensation as per the SSR rates of 2002-2003.

7. As rightly pointed out by the learned Counsel for the petitioners, the respondents have not passed the order impugned in accordance with the directions of this Court in the earlier writ petition. It is an admitted fact that the possession was taken over in the year 2006. Therefore, the stand taken by the respondents that the petitioners are entitled for compensation as per the SSR rates of 2002-2003 is not sustainable.

8. Considering the facts and circumstances of the case, the Writ Petition is allowed with the following direction:

“The petitioners are entitled for compensation at the SSR rates of 2005-2006. The 2nd respondent is directed to pay the differential amount of ex-gratia at SSR rates prevailing in the year 2005-06, with interest at the rate of 6% per annum from the date of possession taken over in the year 2006, within a period of three months from the date of receipt of a copy of this order.”

No costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

RAJA ELANGO, J

Date: 8th February, 2017
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