

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE MS JUSTICE J.UMA DEVI

Writ Appeal No.1654 of 2005

JUDGMENT: (Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in W.P.No.14496 of 2001 dated 07.01.2003 as amended on 18.09.2003. The appellants herein are the respondents in the writ petition. The respondents herein filed the writ petition seeking a writ of mandamus to declare the action of the appellants in not granting land to displaced families under Somasila Project, in terms of G.O.Ms.No.58 dated 19.03.1980, as arbitrary and illegal.

The Learned Single Judge allowed the writ petition and directed the appellants herein to consider the case of members of the respondent-society as expeditiously as possible, and grant lands to them in terms of G.O.Ms.No.324 dated 01.12.1998.

A notification was issued under Section 4(1) of the Land Acquisition Act, 1894 on 24.11.1981 acquiring lands belonging to members of the respondent-society. An award was passed on 12.09.1986. Before the Learned Single Judge the respondent-society contended that, at the time of payment of compensation, the Special Deputy Collector had informed them that *ex gratia* would be paid as per G.O.Ms.No.324 dated 01.12.1998; and all the families were evacuated from the villages immediately, as they were in the foreshore submersion of Somasila Project. The Mandal Revenue Officer appears to have sought a clarification from the District Collector on 30.10.1998 for grant of alternative land. On the ground that other families were granted alternative land, through proceedings dated 18.07.2000 in terms of G.O.Ms.No.324 dated 01.12.1998, the respondent-society invoked the jurisdiction of this Court.

In the order under appeal the Learned Single Judge observed that the lands of members of the respondent-society had been acquired; and neither *ex gratia* nor alternative land was given to them as contemplated under G.O.Ms.No.324 dated 01.12.1998. Consequently, the writ petition was allowed, and the appellants herein were directed to consider the case of the members of the respondent-society in terms of G.O.Ms.No.324 dated 01.12.1998.

The subject lands were under submergence in view of the Somasila Project. G.O.Ms.No.58 dated 19.03.1980 was issued to those displaced families of the Somasila Project who were to be rehabilitated. In terms of G.O.Ms.No.58 the displaced families, who desired assignment of land in lieu of *ex gratia* cash grant for rehabilitation, were required to be granted, free of cost, land equal to the extent acquired from them subject to a maximum of Acs.5.00 of dry land or Acs.2.00 of wet land per family; and only families who were living by cultivation, for at least 3 years prior to their displacement, were eligible for such free grant. The said G.O also stipulated that displaced families, who were assigned land, would not be eligible for *ex gratia* rehabilitation cash grant; and, instead, they would be given *ex gratia* payment of Rs.300/- per family and subsidy for reclamation of land.

As noted hereinabove, the subject lands were acquired pursuant to a notification issued on 24.11.1981, and an award was passed on 12.09.1986. It is not in dispute that the appellants herein had paid, the members of the respondent-society, the benefits under G.O.Ms.No.58 dated 19.03.1980. G.O.Ms.No.324 dated 01.12.1998 was issued several years after the award dated 12.09.1986 was passed. The said G.O has been made specifically applicable for construction of the Telugu Ganga project. The said G.O, whereby certain rehabilitation benefits were extended to those who were displaced under the Telugu Ganga Project, cannot be made applicable to displaced persons under the Somasila Project. Even otherwise, G.O.Ms.No.324 dated 01.12.1998 was not even

issued when the award was passed on 12.09.1986. Further, while the respondent-society had sought compensation in terms of G.O.Ms.No.58 dated 19.03.1980, the Learned Single Judge has granted them relief in terms of G.O.Ms.No.324 dated 01.12.1998, a relief which they did not even seek in the writ petition. Viewed from any angle, the order under appeal is erroneous, and necessitates interference.

The order under appeal is, accordingly, set aside and the Writ Appeal is allowed. Miscellaneous Petitions pending, if any, shall stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

02nd August, 2017
JSU

(J.UMA DEVI, J)



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Date: 02.08.2017

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