

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.15243 OF 2017

ORDER:

Heard learned counsel for petitioners and learned Government Pleader for respondents.

This case highlights the repeated attempt of the farmers for the last twenty seven years for compensation on the ground that their lands were taken all of a sudden without following any law.

The petitioners 2 to 132 are the owners of patta lands, whereas petitioners 133 to 172 are the owners of assigned lands situated at Madannagaripalli Revenue Village (including its hamlet), Kaluvoy Mandal, SPSR Nellore District. The first petitioner and petitioners 173 to 252 are the owners of patta lands situated at Chintalapalem Revenue Village (including its hamlet) and petitioners 253 to 305 are the absolute owners of patta lands situated at Seetarampalle Village of the same Mandal.

Originally Chintalapalem Village was in erstwhile Rapur Taluk and Madannagaripalle and Seetarampalle Villages were in erstwhile Atmakur Taluk, now they are presently in Kaluvoy Mandal. The lands were inherited by the petitioners from their forefathers and the revenue records, namely, RSR Extracts, 10(1) Accounts etc., reflected their names. They were granted pattadar pass books and title deeds. The assignees, petitioners 133 to 172, were assigned small extents of lands in Madannagaripalle Village by the then Tahsildar, Atmakur Taluk between the years 1970 to 1982 after satisfying their eligibility as landless poor persons. The assignments were implemented in the revenue records. The assignees belong to Scheduled Caste community. The lands are situated to the South of Kaluvoy tank, which is the source of irrigation for the said lands. Some petitioners dug wells and fixed pumpsets also.

While so, the Executive Engineer, Somasila Project, Division VI, Nellore, issued a Memo dated 04.09.1990 directing the petitioners not to raise any crops in their lands as Telugu Ganga Authorities decided to release water into Kaluvoy tank after its conversion as balancing reservoir. The same was proclaimed in the villages by beat of 'tom tom' on 10.09.1990. The petitioners state that by the date of said proclamation, there was a standing crop of groundnut. Immediately thereafter, the water was released into Kaluvoy tank resulting in inundation of the lands of the petitioners. Thus, all the petitioners have become landless and no compensation has been paid so far. Their representation to the political leaders including Ministers proved futile. At one point of time, it was thought of undertaking an alternative course to avoid inundation of their lands. The Superintending Engineer, Somasila Project Circle, Nellore, submitted a report to the Chief Engineer, Telugu Ganga Project, Srikalahasthi on 09.08.1994 stating that an extent of Acs.592 of land becomes submerged at Full Tank Level (FTL) of the Kaluvoy tank and if an amount of Rs.15,000/- per acre was paid, it would come to an amount of Rs.1.75 crores including solatium and interest payable thereon. The Chief Engineer, in turn, sent a proposal to the Principal Secretary to Government, Irrigation Command Area Development Department on 20.08.1994 stating that there is a provision of approximately Rs.176 lakhs due to the revised estimate of the project of Rs.296 crores to meet compensation claims for the Kaluvoy tank. He sought approval of the State Government for the land acquisition proposals. The State Government issued a Memo dated 11.11.1994 for studying the proposal for providing alternative measures without submergence of the lands. The study revealed that huge expenditure would be involved as it would run into few crores of rupees which is an avoidable expenditure. The Superintending Engineer, Somasila Project, Nellore, in his final report

dated 22.08.1995 submitted to the Chief Engineer, Telugu Ganga Project, Srikalahasti, stated that the alternative proposals would not be workable and instead recommended for paying the compensation to the ryots. He opined that it was necessary to acquire the patta lands in the foreshore of Kaluvoy tank to store water at Full Tank Level. The matter was discussed in the Legislative Assembly also. In those circumstances, the petitioners filed W.P.No.14319 of 1990 challenging the action of the respondents in seeking to release water from Somasila Project into Kaluvoy tank without acquiring the lands and consequently sought injunction from releasing water. The Division Bench of this Court by its order dated 15.04.1997 found that the matter deserves consideration at the hands of the State Government and consequently directed the petitioners to submit a detailed representation in order to enable the Authorities to take appropriate decision within a period of two months from the date of such representation. Accordingly, a detailed representation was submitted to the Government, but no decision was taken by the Government. The discussion in the Legislative Assembly also did not yield any result.

In those circumstances, the petitioners filed W.P.No.6968 of 1999 seeking a declaration that the petitioners are entitled for compensation for the lands affected by inundation. In the said writ petition, the District Collector, Nellore, submitted a report on 23.05.2000 addressed to the Secretary to Government recommending for grant of compensation and stating that the change of balancing reservoir would not be feasible. The then District Collector relied on a report of the Mandal Revenue Officer dated 15.02.2000 with regard to the extent of land, that was affected. In view of the said writ petition, on the advice of the learned Additional Advocate General, the Government constituted a Special Committee vide G.O.Rt.No.59, dated 21.01.2003, consisting of the District Collector, Nellore, as Chairman; the Special Collector, L.A., Srisailem Project; the

Chief Engineer, NSRSP; the Superintendent Engineer, SSRSP and Special Deputy Collector, L.A., NSRSP as Members. The Committee submitted its report on 22.09.2006 stating that an extent of Acs.919.69 cents is tank poramboke. Acs.40.34 cents as other poramboke, Acs.368.96 cents as ryotwari patta lands, Acs.48.58 cents of inam lands were converted as ryotwari pattas by the competent Authorities under Inams Abolition Act and an extent of Acs.55.42 cents is assigned land, which were submerged in the backwaters of Kaluvoy tank. It is also stated that the possession and enjoyment of the ryots was recorded in the revenue records. The District Collector submitted a detailed report on 07.10.2006 to the Government in terms of the findings of the Special Committee with regard to title of the petitioners. Ultimately, W.P.No.6968 of 1999 was disposed of by order dated 28.02.2007 directing that the petitioners would be entitled to cultivate the lands as and when the land surfaces and the Government shall consider the feasibility of extending the benefit derived for fishing and other activities of the tanks to the petitioners for the period, during which they are disabled from cultivating the land, while observing that the Government cannot be compelled to acquire any water spread area.

Now it is stated by the petitioners that the said order was passed in the absence of proper record placed before this Court and in view of the same, the petitioners or their predecessors filed W.A.No.288 of 2007 and when the Writ Appeal was pending, the petitioners submitted a representation to the then Hon'ble Chief Minister, through the local Minister for Finance and Planning. In view of the said representation, a report was called from the Superintending Engineer, Somasila Project Circle, Nellore, by the District Collector, Nellore. He submitted a report on 04.01.2014 to the District Collector suggesting payment of compensation for the loss of cultivation and also for the lands. The Writ Appeal was

ultimately disposed of on 09.04.2015 giving liberty to the petitioners to submit a representation along with relevant material within six weeks from the date of the said order and the concerned Authorities were directed to deal with the same within a period of eight months from the date of such representation. In terms of the said order, the petitioners submitted a detailed representation along with relevant documents in four paper books before the first respondent on 16.05.2015. The Government directed the District Collector to hold enquiry and file a report on the representation submitted by the petitioners. Notices were issued to the petitioners for conducting hearing and the petitioners attended the same. The petitioners also submitted their written arguments. The respondents 4 to 6 undertook survey and filed a map indicating the area of the tank and submerged lands. Thereafter, no action was taken either by the first respondent or the second respondent. In view of the same, the petitioners filed C.C.No.1671 of 2016 and when the contempt case was listed on 21.10.2016, the learned Advocate General took time of three months for compliance. Pending the contempt case, the first respondent addressed a letter on 08.02.2017 to the counsel for the petitioners stating that a report was called for from the Chief Engineer, NTR TGP, Tirupati, to take up detailed investigation for alternative alignment of South Feeder canal without interfering with the Kaluvoy tank and to detach the Kaluvoy tank from South Feeder Canal system and regarding payment of crop compensation, the District Collector was requested to submit a detailed report in consultation with the Agriculture Department. It is the case of the petitioners that the said exercise was undertaken atleast on three occasions by the Irrigation Authorities in consultation with the technical experts and they came to the conclusion that the cost of alternative alignment would be much more costlier than the payment of compensation

for the lands and crops of the petitioners. Challenging the communication dated 08.02.2017, the present writ petition is filed.

The fifth respondent filed a counter affidavit stating that the present writ petition is not maintainable since the petitioners filed W.P.No.6968 of 1999. It is stated that the tank was built during 17th Century by the Sree Krishna Devaraya Dynasty and the FTL of the tank remains unchanged while converting the tank into a balancing reservoir and hence, the acquisition of lands under FTL Contour in an existing irrigation tank does not arise. It is further stated that there is no direction to acquire/pay compensation for the lands of the petitioners in the order of the Division Bench dated 09.04.2015. However, in view of the directions of the Division Bench, they are taking suitable actions to safeguard the interests of the petitioners. The Land Acquisition Act 30 of 2013 is not applicable to the case of the petitioners as the tank was built long back during 17th Century. The lands of the petitioners are situated within FTL Contour (+79.150 Mts) of Kaluvoy tank and the averment that they used to raise crops during monsoon season is also denied. It is stated that the petitioners and their forefathers used to raise crops in the lands during summer season as and when the lands are surfaced. The records, on which reliance was placed by the petitioners, were generated after 1906, whereas the tank was built up during 17th Century. The notice dated 04.09.1990 of the then Executive Engineer, Somasila Project Division VI, Nellore, directed them not to raise any crops indicates that the petitioners were well aware of the fact that the tank is being converted into a balancing reservoir. The tank was never kept under FTL condition through out the year since 1990. The petitioners never lost their livelihood since 1990 because of conversion of the tank into a balancing reservoir. The then Superintending Engineer submitted proposal for alternative alignment from South Feeder Canal between Km.6.84 to Km.11.400 up to outfall

regulator at a cost of Rs.697 lakhs and finally the proposals were submitted to the Government by the then Chief Engineer. The Government is looking for best suitable alternatives to avoid the lands from inundation. The Government has approved for detouring the South Feeder Canal above FTL in tank foreshore area. Suitable action is being taken in accordance with the provisions of the Land Acquisition Act pursuant to the directions of this Court in W.P.No.14319 of 1990. Even though the tank was not used as a balancing reservoir, the tank receives rain runoff water during monsoon period upto FTL (+79.150 Mts) and the lands of the petitioners will be under inundation during this period upto March. As and when the water is depleted from the tank, the petitioners used to cultivate the lands. Thus, the petitioners were raising crops during summer season only. The submission of the report of the Superintending Engineer to the District Collector, Nellore, on 04.01.2014 is admitted. However, it is stated that the District Collector held several meetings with the petitioners and inspected the site before submitting the report. The maximum depth of water in Kaluvoy tank is only 10 feet and the actual area of submergence with reservoir FTL is Acs.849.98. The two sluices on the Eastern and Western side were constructed during the year 1985 and they were constructed to operate the reservoir upto FTL of 79.150 Mts. The present FTL after conversion as a balancing reservoir is also the same. The possession of the pattas by the petitioner to the tank foreshore area below FTL of an existing tank does not create any right over the lands. The Irrigation Department has a right to curb the activities in the foreshore area.

As could be seen from the records filed along with the writ petition, the present writ petition appears to have been filed second time for the same relief after disposal of W.P.No.6968 of 1999 on 28.02.2007, taking advantage of the material filed in the proceedings in support of the case of

the respondents. In view of the disposal of the said writ petition, it is necessary to extract the relevant observations made by this Court in the said writ petition before proceeding the matter.

Before undertaking discussion on the dispute between the parties, one aspect needs to be clarified. If the conversion of the tank into a balancing reservoir has resulted in submergence of any additional area, the effected persons are entitled to insist that their lands cannot be subjected to submergence, without acquisition and unless they are paid compensation. In the affidavit filed in support of the writ petition, the petitioners have stated that the pattas granted in their favour were, as regards the foreshore area of the tank. This expression is capable of being taken to mean, the land that touches the shore. By its very nature, the shore of a water body keeps on changing, depending on the water level. It is quite possible that the land adjoining the tank, when it is to its brim, can also be treated as foreshore, though it is not part of the tank.

The basic purpose of constructing and maintaining irrigation tanks is, to collect and preserve the rain water received from the catchment area and to supply the same to the ayacut, for cultivation. It is but natural that the tanks which are purely rain fed, are not always full. The Government has been permitting cultivation of the tank bed land by ryots, particularly hailing from weaker sections of the society, as and when the water receded. To regulate the cultivation of such lands, pattas of over different extents were also granted, lest uncertainty prevails. The permission so granted, called by whatever name, is always subservient to the maintenance of the tank. The right to cultivate such lands, by the persons granted pattas, is subject to the land not being covered by water. Such a beneficiary cannot insist that the land must not be covered by water. Irrespective of the length of the period, for which the patta is held, the character of the tenement and the relationship of the pattedar, vis-à-vis the tank, remains unchanged.

The main relief claimed by the petitioners is that the tank cannot be converted as balancing reservoir, unless their lands are acquired. It is no doubt true that on account of the filling of the tank with the water of the project, the water level is almost constantly maintained, and the land in respect of which pattas were granted, is submerged for most of the year, and thereby, the

petitioners suffer some detriment. However, when it comes to the question of insisting that a particular piece of land must be acquired, it presupposes the ownership thereof, having been vested in the persons so insisting, and the agency, which intends to use the land not being possessed by any rights. Such a situation does not obtain in the instant case. As observed earlier, the water spread area of a tank always vests in the Government, and mere permission accorded to the ryots, to cultivate the foreshore area, does not confer any ownership, or other related rights, except the right to cultivate, whenever the lands surface. When the Government continued to be the owner of the land, the question of compelling it to acquire its own land, does not arise.

This Court ultimately disposed of the writ petition with the following directions.

- a) The Government cannot be compelled to acquire any water spread area, at the Full Tank Level of the tank.
- b) The petitioners shall be entitled to cultivate the land, in respect of which pattas were granted to them, as and when such land surfaces.
- c) The Government shall consider the feasibility of extending the benefits derived from fishing and other activities of the tank to the petitioners, proportionately, in accordance with law, for the period during which they are disabled from cultivating the lands.

In fact, the said writ petition was a second attempt. After disposal of W.P.No.14319 of 1990, on 15.04.1997 by a Division Bench of this Court, which gave liberty to the petitioner to submit a representation before the concerned authorities and they were directed to take a decision within two months from the date of their representation. After disposal of W.P.No.6968 of 1999 as aforesaid, the petitioners filed W.A.No.288 of 2007 and a Division Bench of this Court, to which I am a Member, disposed of the writ petition with the following directions.

In the circumstances, we are satisfied that the following order shall meet the ends of justice:

1) Writ Petition No.6968 of 1999 is disposed of as withdrawn and as a consequence thereof, writ appeal also stands disposed of. In view thereof, the order passed in the writ petition renders ineffective.

2) It is open to the appellants/petitioners to make a representation, as aforementioned, to the appropriate authority and place all relevant material along with the representation on record, within six weeks from today.

3) If the representation, as aforementioned, is made by the appellants/petitioners, the concerned authority shall consider and deal with the same on merits in accordance with law, as expeditiously as possible and preferably within a period of eight months from the date of receipt of the representation.

All contentions of the parties based on the subsequent events, namely, the report dated 04-01-2014 and the observations of the Special Team dated 22-09-2006 are kept open. It is needless to mention that the concerned authority shall decide the representation strictly on merits in accordance with law. It is made clear that we have not examined the claim of the petitioners/appellants on merits or the report and the observations.

Now it is alleged that though a representation was made and when the same was not properly considered, C.C.No.1671 of 2016 was filed and the same is pending before the Division Bench. When the said contempt case is pending, the present writ petition is filed challenging the action of the respondents in dispossessing the petitioners from the land of an extent of Acs.487.58 cents of patta lands, Acs.55.42 cents of assigned lands along with standing crops in 63 irrigation wells situated in Madannagaripalle, Chintalapalem and Kavuvoy Revenue Villages in Kaluvoy Mandal, SPSR Nellore District, which became submerged consequent upon the conversion of the Kaluvoy tank into a balancing reservoir without taking any proceedings under the Land Acquisition Act, 1894, and paying compensation.

Before considering the relief to be granted in the present writ petition, it is necessary to review the facts in the present case based on

the documents available. As per the letter dated 04.01.2014 of the Superintending Engineer addressed the Collector, Nellore, the Kaluvoy tank was an old tank constructed centuries back by the Emperor Sri Krishna Devarayulu during 17th Century. It was under the control of Irrigation Circle, Nellore and as per the tank memoirs, the Hydraulic particulars of this tank are as follows.

FLT	:	+79.150 M
Catchment area	:	39.27 Sq. Miles
Capacity at FTL	:	217.14 Mcft
No.of sluices	:	2 Nos
Sill of sluice-I	:	+72.430 M
Sill of Sluice-II	:	+72.580
Water spread area at FTL	:	26.13 Msft
Area of submergence under FTL:		1432.89 acres
a) Rythuvaripattas		
(settlement patta)	:	368.96 acres
b) Inam pattas	:	48.58 acres
c) Assignment waste	:	55.42 acres
d) Tank poramboke	:	919.48 acres
e) Govt poramboke	:	40.34 acres
Total	:	1432.78 acres
Ayacut developed	:	2424 acres

It appears that from the year 1990 onwards, while construction of Somasila Reservoir across River Pennar near Somasila Village, ananthasagaram Mandal and its canals was completed, the Kaluvoy tank came in the alignment of South Feeder Canal of Somasila Project between Km.8.020 and Km 11.400. In view of the same, the Kaluvoy tank was converted as a balancing reservoir and was taken under the control of Somasila Project Authorities as an integral part of Somasila Project

Canals System. The South Feeder Canal waters in-falls into this reservoir at Km.8.020 and outfalls into the canals again at Km.11.400. The total length of South Feeder Canal is 72.15 Kms and the contemplated ayacut under the canal is Acs.41,000. Even though it was converted as a balancing reservoir, the original FTL of +79.150 Mts or the capacity 217.14 Mcft was unaltered, but the canal was put into operation since 1990.

In view of the need for filing the counter affidavit in W.P.No.6968 of 1999, the then Additional Advocate General, by its letter dated 30.12.2002 suggested to the Secretary to Government, I & CAD Department, to constitute a Special Team in order to verify whether the pattas granted are conditional or not. Accordingly, the Government issued G.O.Rt.No.59, I & CAD Department, dated 21.01.2003 constituting a Special Team with the District Collector, Nellore, as Chairman, and Chief Engineer, NSRSP; Superintending Engineer; Special Collector, LA, SSP and Special Deputy Collector (LA), NSRSP as Members. The Committee submitted its report to the Government by the District Collector, Nellore on 07.10.2006. After considering the same, the learned single Judge of this Court disposed of W.P.No.6968 of 1999, on 28.02.2007 as aforesaid. He also stated that the District Collector, Nellore, vide its report dated 23.03.2000 submitted a report to the Government stating that the Joint Collector inspected the tank along with other officials of the Revenue Department on 15.02.2000 and reported that the compensation of the lands from the year 1990 to the year 2000 (10 years) worked out to an amount of Rs.5.81 crores and suggested as an alternative course, the canal may be realigned detouring the Kaluvoy tank so that the ryots can cultivate the lands and will not suffer the loss due to non-cultivation. However, keeping in view the interest of ayacut of Acs.2424 under the tank, the alternative could not be materialised. He suggested for payment of appropriate compensation for

the loss of cultivation and also payment of compensation/*ex gratia* to the lands since the ryots can never cultivate those lands.

With regard to the extent of land involved, the covering letter of the District Collector reads as follows.

The details of 4 villages of Kaluvai River Areas (FTL), as available in the MRO, Office are as follows.

S. No.	Name of the village	Extent of Poramboku	Other details of Poramboku	Ryothuwari patta (AC)	Ryothuwari patta changed into inam lands (AC)	Assigned lands (AC)
1	Kaluvai	532.40	-	4.80	34.35	-
2	Madannagaripalli	317.58	20.87	242.02	2.17	55.31
3	Chintalapalem	36.81	19.47	122.14	11.26	0.11
4	Kalluru	32.69	-	-	-	-
	TOTAL	919.69	40.34	268.96	24.58	55.42

With regard to FTL, an extent of Acs.1432.78, Acs.472.96, the details of the lands are as follows:-

S.No.	Village	Category of land	Rythuwari lands (AC)	Inam lands	Assigned lands	Total
1	Kaluvai	Wet	4.80	34.35		
2	Madannagaripalli	Wet	242.02	2.97	55.31	
3	Chintalapalem	Wet	122.14	11.26	0.11	
	TOTAL		368.96	48.58	55.42	

It is recorded as patta lands possessed by the farmers before the re-survey of the lands is conducted. The details, records, patta are not available in the Mandal Revenue Office. As per resurvey settlement records, these are patta lands (Adangal copies, R.S.R. and details of crops are enclosed). There are about Ac.48.55 Inam lands in the river bed area. All the details are recorded in the R.S.R. only and they are in the possession of the farmers when resurveyed the records. Only R.S.R. records are available and no other records were made.

As per the records available, the FTL in Ac.55.42, the then Collector vide R.C.No.6952/69, dated 05.06.1969 were officially handed over to Harijans from poramboku lands. As these lands were situated between patta lands of farmers as per the settlement they were wrongly recorded are in possession of lands. The then Tahsildar allotted the said lands to the poor harijans,

below poverty category persons vide F.Dis.No.192/80 to 195/80. These pattas were allotted as per rules and land category was also recorded in R.S.R (copy enclosed). Hence, it is informed that except the assignment lands, other lands details could not be verified. Only R.S.R. is the only record available.

With regard to the title of the parties, the Committee observed as follows.

The patta land was so classified in the Diglot itself and they were under the enjoyment and possession of the ryots before the resurvey work was taken up. There is no separate record and pattas available in Mandal Revenue Office, Kaluvoya. This can be fully determined as patta lands of the ryots by perusing and verifying the R.S.R. only. As a matter of proof to show the evidence, the extracts of R.S.R. for the entire patta land covered to an extent of Acs.368.96 is enclosed. It indicates that this is the only record available to show that the ryots are the pattadars. The cultivation particulars in different falsies are also enclosed herewith.

Regarding Inam land, this is to submit that a total extent of Acs.48.55 is involved in it. All these inams were also available in R.S.R. itself. So, no separate record under Inams is available. The extracts of R.S.R. to this effect are also enclosed as a proof that these Inam lands were in possession of the ryots for a long time i.e., at the time of re-survey work was taken up. Ryotwari pattas were issued to the concerned after abolition of inam by the competent authority.

Regarding assigned lands, as per the records available in Mandal Revenue Office, Kaluvoy, it is revealed that on the request of weaker sections of Madannagaripalli village for grant of pattas, the classification of tank bed poramboke land in S.No.64 to an extent of Acs.32.72 and in S.No.71/2 to an extent of Acs.22.77 totalling Acs.54.99 was changed into A.W.Dry vide 'Collectors Office, Nellore, R.Dis.6951/69, dated 5.6.1969' and pattas were granted to weaker sections by the then Tahsildar, Atmakur taluk in the year 1970.

There is no record available in the Office of M.R.O., Kaluvoy, to show that the pattas granted were conditional or not. But by the time of patta certificates were granted, the assignment rules 1951 were existing basing on G.O.1142, Revenue

Department, dated 18.06.1954, which reveal that all the patta certificates granted free to the weaker sections are all conditional and in 'D' form certificate. As such, in the absence of certificate available with the legal heir of the assignees, it is construed that the patta certificates granted at the time shall be conditional. All these pattas are conditional pattas. They are under the possession and enjoyment of S.Cs., who are original beneficiaries and their legal heirs. No Darkhast pattas were granted to the petitioners involved in the present writ petition.

As such the committee is of the opinion that the pattas granted to the assignees to the extent of 55.42 acres are all conditional.

As a matter of supporting evidence, the patta certificates granted in the same village, in the year to some other assignees are collected and submitted for kind perusal of the Government.

Sl. No.	Name of the assignee	Village	Caste	S. No.	Classification	Extent given	File No.
1	Banala Kondaiah, S/o Guravaiah	Madnnagaripalli	Viswa-brahmin	64	Dry	1.51	192/80 Dt 11.8.70
2	Ankepalli Penchalaiah, S/o Dasaraiah	Madnnagaripalli	Harijan	64	Dry	1.25	193/80 Dt 11.8.70
3	Nippatlapalli Potteiah, S/o Tiripaiah	Madnnagaripalli	Harijan	64	Dry	0.42	194/80 Dt 11.8.70
4	Dandu Tiripaiah, S/o Polaiah	Ramannagaripalli	Harijan	64	Dry	1.15	195/80 Dt 11.8.70

Thus, the purpose of the committee constitute vide G.O.Ms.No.59, I&CAD (P.W.TGP.II) Department, dated 21.01.2003 is only to ascertain the pattas granted are conditional or not in respect of the lands submerged in Kaluvoy tank.

The pattas granted are conditional on perusal of the records available in the same village and in the same year.

The copy of the old records including granting pattas in favour of the (8) petitioners enclosed. The changes were also carried out in R.S.R. and the same extracts are also enclosed as a proof. In view of the above facts, the question of tracing out of the old records does not arise since they are recorded as such in the Re-settlement survey register (R.S.R) itself at the time of its preparation except the lands assigned to an extent of Acs.55.42.

The record also discloses that the Collector and District Magistrate, Nellore, vide her report dated 23.05.2000 opined that an amount of Rs.582 lakhs is required to be paid as compensation for the lands to be acquired and three years time will take for acquiring the said lands. She suggested to take advice of the Chief Engineer, Telugu Ganga Project, for changing the balance reservoir by diverting the water through another canal.

Now a notice is issued to the learned counsel for the petitioners by the Secretary to Government, Water Resources Department, on 08.02.2017 stating as follows.

a) The Chief Engineer, NTR TGP, Tirupathi, was requested to take up the detailed investigation for alternative alignment of South Feeder Canal between Km.8.020 to Km.11.400 without interfering the Kaluvoy Tank and detach the Kaluvoy tank from the South Feeder Canal System.

b) Regarding payment of Crop compensation to the lands of the petitioners covered in the reference 1st cited, the District Collector, Nellore, was requested to submit a detailed report to the Government whether it is appropriate to pay crop compensation as per norms and eligibility in consultation with the Agriculture Department.

What emerges from the above extracts of the orders, correspondence and reports is as follows.

1) The FTL of the Kaluvoy tank is +79.150 Mts and the area of submergence under FTL is Acs.1432.78.

2) The lands claimed by the petitioners are situated within the FTL level and they were cultivating the crops either under ryotwari pattas or under assigned lands till the construction of Somasila Project and conversion of the tank as a balancing reservoir depending on the water condition. After it was converted as a balancing reservoir, all the lands are under submergence and there is no scope for cultivation at all.

3) There are no documents of title in favour of the petitioners except reflection of their names in the revenue records like RSR extracts and 10(1) Accounts. It is a mystery as to how their names were reflected in the revenue records, but mere mention of their names will not clothe them with any title over the lands claimed by them. Strangely some of the petitioners filed copies of pattadar pass books and title deeds. It was alleged to have been issued after 1990.

4) Even though the petitioners have no title to the land, the learned counsel for the petitioner submits that in view of the long occupation of the lands, their title can be recognised. But such an argument cannot be appreciated in respect of the lands situated within FTL area.

In view of the above, this Court sees no ground to entertain the present writ petition and the writ petition is accordingly dismissed. However, this will not prevent the Government from taking appropriate action pursuant to its communication made to the learned counsel for the petitioners on 08.02.2017. There shall be no order as to costs.



A.RAMALINGESWARA RAO, J

19.09.2017
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