

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.26840 OF 2012

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking the following relief:-

“to issue a writ, order or direction more particularly in the writ of mandamus declaring the proceedings Rc.No.D3/134/2010 dated 27.12.2010 issued by the 3rd respondent and not paying the benefits under G.O.Ms.No.68 Irrigation and CAD (Project Wing-LAV-R.R) Department dated 8.4.2005 and other consequential orders is as arbitrary, illegal and violative Article 300-A of the Constitution of India apart from violative of principles of natural Justice and to Quash or set aside the same and to issue a consequential direction to the respondent to issue a notification under land acquisition act for additional structures as per the proposal of the 5th respondent Executive Engineer Lr.No.TS/ATO/W/Z/R&R/465 M dated 17.6.2008 and to pay compensation and also pay the benefits under the policy of Rehabilitation and Resettlement approved by G.O.Ms.No.68 Irrigation and CAD (Project Wing-LAV-RR) Department dated 8.4.2005 and to pass such other order or orders which are deemed fit and proper in the circumstances of the case.”

2. It is stated in the affidavit filed in support of the writ petition that the petitioners are residents of Tammavaram Village of Korsepadu Mandal, Prakasam District and they are eking out their livelihood by doing cultivation of agricultural land owned by them. The respondents declared that entire Tammavaram Village was submerged for Gundlakamma reservoir project. The petitioners were affected and displaced by the said project. Respondent No.3

seems to have submitted a requisition for acquisition of lands and structures in view of fore shore submersion. Respondent No.4 had submitted a draft notification proposal to respondent No.3 by invoking urgency clause on 21.04.2006 dispensing enquiry under Section 5A of the Land Acquisition Act intending to acquire lands and structures including that of the petitioners. The petitioners submitted a representation to the respondents that they are losing more lands and house structures apart from the lands and structures notified under acquisition.

Respondent No.3 approved the draft notification on 22.04.2006 and thereafter, an award was passed on 06.06.2006 vide award No.78/2006. At the time of payment of compensation, the petitioners came to know that their representations were not considered and they protested before the respondents on the ground that the additional structures were not included in the notification and in the award. Thereupon, an enquiry was conducted and it was found that there are other lands and structures that are being to be submerged. Respondent No.5 sent a requisition, dated 13.04.2008, by sending a consolidated statement for issuing an additional notification. Respondent No.3 has not taken any steps to issue an additional notification under the provisions of the Land Acquisition Act and in turn, the respondents visited their village and tried to dispossess them from the village on 04.06.2011. The petitioners protested and on their protest, they left the village. So, they filed W.P.No.19859 of 2011 before this Court and this Court granted interim order on 15.07.2011 in W.P.M.P.No.24051 of 2011 in W.P.No.19859 of 2011 directing the respondents not to dispossess them from their

houses in Thimmavaram Village pending disposal of the said writ petition. Respondent No.2, while filing counter-affidavit in the above writ petition, annexed a copy of the proceedings Rc.No.D3/134/2010, dated 27.12.2010, wherein the requisition for additional structures and payment of compensation thereof was rejected. The said order is illegal and arbitrary.

Respondent No.5, *vide* letter, dated 17.06.2008, submitted revised measurements after verification of the structures and sent proposal to respondent No.4 for consideration to revise structured measurements in place of original requisition measurements. Respondent No.3, without conducting any enquiry and without issuing any notice to the petitioners, passed the impugned order stating that the additional structures are not available at the time of passing of the award and it is not possible to consider the request of respondent No.5 to revise structured measurements in place of original requisition measurements. Challenging the impugned order, the petitioners filed the present writ petition.

3. Heard and perused the material available on record.
4. Considering all the facts and circumstances of the case, this Court is of the view that the writ petition can be disposed of with the following direction:

The petitioners are directed to make a representation to the authority concerned within a period of thirty (30) days from the date of receipt of a copy of this order and on such representation being made, the authority concerned shall consider the same and pass appropriate orders in accordance with law.

5. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

6. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE RAJA ELANGO

17.04.2017
AMD



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Date: 17.04.2017

AMD