

**HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN**

AND

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

WRIT APPEAL No.976 OF 2013

JUDGMENT (ORAL) : (Per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)

We have heard the learned Government Pleader for Land Acquisition appearing for the appellant - State and Sri R. Satyanarayana Reddy, learned counsel for the respondents.

2. Eight (8) persons jointly filed the writ petition from which this Writ Appeal arises. They are among the twenty two (22) persons, who came to associate among themselves as Gram Swarajya Cooperative Joint Farming Society Limited. Land was assigned to them for the purpose of agricultural operations. On the ground that the land was not put to use for such purpose, it was resumed through Tahsildar orders dated 07.10.1988. The Revenue Divisional Officer set aside that order on 04.12.1988. The Tahsildar carried that in a statutory revision. That was dismissed. Therefore, the writ petitioners and others continued to be in possession. Later on, more than two decades thereafter, proceedings were again initiated for resumption of land on the ground that the land was not being put to use. That ended up in resumption order dated 26.11.2008. That order was not challenged. In 2011, the writ petition, from which this writ appeal arises, was instituted seeking directions on the premise that resumption ought not to have been effected without paying compensation to the occupants (assignees) and

that the writ petitioners are entitled to *ex gratia* compensation, which they claimed at the rate of Rs.29,00,000/- per acre with interest. The learned single Judge held that the writ petitioners are entitled to compensation at the market rate of land which prevailed as on the date of resumption with interest at 9% per annum from the date of resumption till the date of payment. This is under appeal at the instance of the State.

3. The learned Government Pleader argued that the resumption order dated 26.11.2008 having become final, there was no authority in law to intervene with that in statutory proceedings or even through writ proceedings. He further points out that no relief was sought for as against the resumption proceedings and the relief sought for was confined to payment of *ex gratia* compensation resulting out of the situation of resumption.

4. Per contra, the learned counsel for the respondents argued that the respondents - writ petitioners are all senior citizens and they are in penurious circumstances requiring the support of ameliorative measures, and therefore, *ex gratia* compensation as fixed by the learned single Judge may not be interfered with.

5. The resumption order dated 26.11.2008 was not challenged. The learned single Judge projected that order as if it is one that resulted out of a *mala fide* exercise of power of the Tahsildar having regard to the earlier proceedings. We are of the view that such approach could not have been adopted because of the huge time lag between the prior proceedings of 1988 and the resumption order of 2008. The learned

single Judge has criticized the action of the Tahsildar in publishing the notices about the proposal for resumption on the land in the locality, while, according to the learned single Judge, the addresses of the writ petitioners would well have been available going through the prior proceedings around two decades ago. We are not impressed to hold that the said view could be sustained, particularly, because the order dated 26.11.2008 is a statutory order of resumption and that order is, itself, one which could have been subjected to a statutory appeal and a further revision, if need be. We also do not see any pleading which would show that the writ petitioners were impeaching cancellation of assignment and the resumption order before the learned single Judge. All that they had sought for is for *ex gratia* compensation having regard to the totality of the facts and circumstances.

6. In the light of the fact that the resumption order had become final, the consequences of that resumption order is not something which calls for compensation to be adjudicated upon and granted. We say this because the order of resumption is founded in violation of terms of grant of D-Form Patta.

7. Obviously, therefore, any mitigating circumstances, having regard to the age of the writ petitioners or other economic issues, are matters which may fall for consideration only in the domain of what could be called as *ex gratia* compensation and consideration for grant of such *ex gratia* compensation. The very concept of *ex gratia*, obviously, indicates that it is non-statutory. It is not in accordance with law or as a

result of the legal right flowing out of any particular eligibility. *Ex gratia* compensation could be granted by the Government having regard to various factors; may be, including those projected by the writ petitioners. However, there could not have been a direction through a writ jurisdiction to grant *ex gratia*.

8. In the result, the directions contained in the impugned order are vacated leaving it open to the writ petitioners to seek *ex gratia* relief from the Government as may be granted by that authority having regard to totality of the facts and circumstances.

9. The Writ Appeal is ordered accordingly. No order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in the Writ Appeal stand closed.



THOTTATHIL B. RADHAKRISHNAN, CJ

V. RAMASUBRAMANIAN, J

July 25, 2018.
P V/V V