
(2022) 06 TEL CK 0063
In the Telangana High Court
Case No : Writ Appeal No. 480 Of 2021

State Of Telangana

APPELLANT

Vs

Chintala Kamalamma

RESPONDENT

Date of Decision : 16-06-2022

Acts Referred:

Indian Contract Act, 1872 — Section 23
Constitution Of India, 1950 — Article 14, 21, 300A

Citation : (2022) 06 TEL CK 0063

Hon'ble Judges : Satish Chandra Sharma, CJ;B. Vijaysen Reddy, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This writ appeal is filed challenging the order passed by a learned Single Judge in WP.No.6652 of 2015 dated 02.06.2021 whereby the writ petition was allowed directing the official respondents to pay the writ petitioners compensation at Rs.27,00,000/- per acre with 30% solatium and interest at 8% per annum.
2. The parties are referred to as arrayed in the writ petition.
3. WP.No.6652 of 2015 was filed aggrieved by the proceedings of the respondent No.3 bearing No.D/727/2008 dated 08.01.2015 rejecting the claim of the petitioners for enhancement of compensation.
4. The petitioners are agriculturists, who were assigned lands under pattas dated 21.02.1993 in Sy.No.88 of Raviryal Village. The Andhra Pradesh Industrial Infrastructure Corporation (APIIC) has given requisition for acquiring an extent of Ac.108.27 guntas of land in Raviryal village for extension of Hardware Park. In such acquisition, the assigned lands of the petitioners were included and ordered to be resumed. The lands of the petitioners in Sy.No.88 were resumed under proceedings dated 18.03.2006 and assignments were cancelled. The grievance of the petitioners was that actual extent of land was not taken into consideration and ex gratia/compensation was granted for lesser extent of land, as per

proceedings dated 07.08.2009. It is stated that though the total extent of assigned lands was Ac.49.07 guntas, the compensation was awarded only for an extent of Ac.37.05 guntas. The ex gratia amount of Rs.5,20,000/- was awarded to the petitioners No.1 to 34, Rs.7,05,000/- was awarded to petitioner No.35 and Rs.7,50,000/- was awarded to petitioner No.36.

5. WP.No.17083 of 2012 was filed challenging the proceedings dated 07.08.2009 on the ground that ex gratia amount paid was below the market value, the extents of land recorded in the revenue records, pattadar passbooks, title deeds and patta certificates were not taken into account. The compensation amount paid is contrary to the judgment of this Court in LAO-cum-REVENUE DIVISIONAL OFFICER, CHEVELLA DIVISION v. MEKALA PANDU [2004 (2) ALT 546 (LB)] and that the petitioners should have been paid compensation as per G.O.Ms.No.1307 (Assign.I) Department dated 23.12.1993 i.e. the market value as on the date of resumption plus 30% solatium and also considering the value of trees and wells. The Tahsildar, Maheswaram Mandal, insisted that the petitioners should accept ex gratia amount fixed by them at the rate of Rs.6,00,000/- per acre. The writ petition was filed as inadequate compensation was paid to the petitioners.

6. In the counter filed in WP.No.17083 of 2012 by the Special Deputy Collector/ Revenue Divisional Officer, it was stated that as per the survey conducted by them, the total extent of assigned land is Ac.38.19 guntas but as per the report of the Mandal Surveyor, Maheshwaram Mandal, the assignees were said to be in possession of Ac.52.38 guntas of land. The Assistant Director, Survey and Land Records vide proceedings dated 17.02.2009 reported that SDR records prepared by the Mandal Surveyor does not tally with the ground and the total area as per demarcation was found to be Ac.38.19 guntas only. The assignments were canceled on 18.03.2006 for resumption as per G.O.Ms.No.1307 dated 23.12.1993. The market value of the land was fixed at Rs.3,00,000/- per acre, which was not accepted, whereupon after negotiations, rate of Rs.6,00,000/- was agreed to. In the Grama Sabha held on 11.06.2009, all the assignees except two persons have requested to pay as a package amount of Rs.6,00,000/- per acre equally among all the petitioners instead of the extents individually held by them. The two petitioners, namely, Gonemoni Jangamma and Boda Sulochana, requested to pay the ex gratia as per the extent held by them.

7. Reply affidavit was filed by the petitioners in WP.No.17083 of 2012 contending that the compensation paid was not just and proper and the allegation that the package amount was agreed to was denied. WPMP.No.26674 of 2013 was filed in the said writ petition seeking a direction to the LAO/RDO, Ranga Reddy East Division, to consider the representation of the petitioners dated 14.06.2014 for payment of enhanced ex gratia on par with assigned of adjacent land in Sy.No.18 of Raviryal Village.

8. WP.No.17083 of 2012 was disposed of by order dated 3.12.2014 directing the respondent No.3 to consider the representation of the petitioners dated 14.06.2014. Pursuant thereto, the respondent No.3 issued proceedings

No.D/727/2008 dated 08.01.2015 rejecting the claim of the petitioners for enhancement of ex gratia amount.

9. Aggrieved thereby, WP.No.6625 of 2015 was filed by the petitioners, inter alia, contending that they should have been paid compensation as full owners instead of treating them as assignees with limited rights as per the judgment of the Larger Bench supra. The petitioners cannot be deprived of due amount of compensation as payable in accordance with law. The State and its officers cannot extract any undertaking or consent to bind or estop the petitioners in the matter of payment of compensation. The petitioner are entitled to challenge the compensation amount paid them, despite agreement or consent to receive the amount, when it comes to light or when they discover that they have not been paid their due amount legally. The action of the respondents is void on the ground of public policy and would be unenforceable under Section 23 of the Contract Act. The alleged agreement to accept a lesser amount of ex gratia without solatium would be void as such an agreement would defeat the provisions of G.O.Ms.No.1307 dated 23.12.1993, according to which, the ex gratia amount payable shall be equivalent to the market value as on the date of resumption + 30% solatium. Any concession or undertaking given by any person in ignorance of legal rights or under duress or under unequal bargaining position cannot bind such person. The action of the respondents is violative of Articles 14, 21 and 300-A of the Constitution of India.

10. There is no provision under G.O.Ms.No.1307 dated 23.12.1993 to conduct Grama Sabha and extract consent or agreement or signatures of the assignees on an agreed figure labeling it as a package. The Grams Sabha has no statutory sanction. As per the basic value maintained by the Sub-Registrar, Maheshwaram Mandal, the market value of the land is Rs.27,50,000/- per acre. Similarly placed persons, whose assigned lands have been acquired in Sy.No.18 under resumption proceedings dated 24.10.2009, were paid ex gratia of Rs.6,00,000/- per acre. Challenging the said proceedings, they filed WP.No.14271 of 2010 and the writ petition was allowed by order dated 07.03.2011 setting aside the resumption proceedings. The RDO, East Division, Ranga Reddy District, was directed to determine the ex gratia payable to the assignees strictly in accordance with G.O.Ms.No.1307 dated 23.12.1993. After order dated 07.03.2011, the RDO, East Division, Ranga Reddy, issued proceedings dated 12.04.2012 raising the ex gratia amount to Rs.15,00,000/- per acre from Rs.6,00,000/- per acre. The said proceedings dated 12.04.2012 was challenged in WP.No.28096 of 2012 on the ground that ex gratia of Rs.15,00,000/- per acre was inadequate.

11. In the counter filed by the respondent Nos.3 and 4 in WP.No.6625 of 2015, it was contended that as per the records, the total extent of land in Sy.No.88 of Raviryal Village is Ac.38.19 guntas but as per the report of the Mandal Surveyor, Maheshwaram Mandal, the assignees were said to be in possession of Ac.52.38 guntas of land. The Assistant Director, Survey and Land Records vide proceedings dated 17.02.2009 reported that SDR records prepared by the

Mandal Surveyor does not tally with the ground and the total area as per demarcation was found to be Ac.38.19 guntas only. As per Assistant Director, Survey and Land Records, an extent of Ac.38.19 guntas in Sy.No.88 of Raviryal Village has been handed over to the APIIC authorities after payment of ex gratia to the assignees under G.O.Ms.No.1307 dated

23.12.1993. Regarding payment of ex gratia it was stated that Grama Sabha was conducted on 11.06.2009 in the presence of Village Sarpanch, MPTC and the village elders wherein the petitioners/beneficiaries have expressed their willingness stating that ex gratia may be paid equally among them irrespective of their possession and two beneficiaries, namely, Gonemoni Jangamma (Ac.1.07 guntas) and Boda Sulochana (Ac.1.10 guntas) requested to pay ex gratia for the extent held by them. On instructions of the District Collector, vide Lr.No.D/727/2008 dated 25.06.2009 and Lr.No.LC3/4753/2005 dated 01.08.2009, the ex gratia was paid to 40 beneficiaries irrespective of their possession at Rs.6,00,000/-per acre in lumpsum.

12. It is further stated that as per the consent and orders of the District Collector, the ex gratia amount was paid for an extent of Ac.34.33 guntas in favour of 40 beneficiaries equally i.e. Rs.5,20,000/- each at Rs.6,00,000/- per acre and for an extent of Ac.2.17 guntas to two beneficiaries i.e. Rs.7,50,000/- to each at Rs.6,00,000/- per acre vide proceedings dated 07.08.2009. After obtaining the sale particulars from the Sub-Registrar, Maheshwaram Mandal for the preceding three years i.e. from 01.01.2003 to 31.12.2006, the market value of the lands under resumption was fixed at Rs.3,00,000/- per acre under G.O.Ms.No.1307 dated 23.12.1993. Since the rate proposed was not accepted by the assignees, negotiations were held with them and they agreed for the rate of Rs.6,00,000/- per acre in lumpsum.

13. In the reply affidavit, filed by the petitioners, it was stated that enhanced compensation of Rs.15,45,000/- was paid to assignees in Sy.No.18. They were initially paid Rs.6,00,000/-. Further enhancement was sought by filing WP.No.28096 of 2012, which was disposed of by enhancing the ex gratia amount from Rs.15,00,000/- to Rs.26,50,000/- + 30% solatium. In the writ appeal filed by the Government, the order was modified remitting the matter for fresh determination of market value. Accordingly, the RDO vide proceedings dated 06.04.2017 determined the ex gratia payable as Rs.15,45,000/- per acre.

14. Having perused the material on record, the learned Single Judge allowed WP.No.6652 of 2015 by order dated 02.06.2021 by making the following observations:

"...One set of land owners cannot be given compensation of Rs. 27,00,000/- per acre and another set of land owners only Rs.6,00,000/- per acre on the ground that they have given their consent. Once this Court has come to the conclusion that the so called consent and the Resolution of Gram Panchayat, dated 11.06.2009 are vitiated by fraud, the petitioners are also entitled to the same

relief as was granted in W.A.No.1013 and 1049 of 2018.

In view of the law laid down by the Hon'ble Supreme Court, referred to above, and for the reasons given in the preceding paragraphs, the entire proceedings initiated by the official respondents fixing the compensation of Rs.6,00,000/- per acre for the lands in Sy.No.88 based on the so called Resolution of Gram Panchayat dated 11.06.2009 are vitiated by fraud and the same have to be set aside.

Learned counsel for the petitioners has stated that the contention of the official respondents that the assignments given to the petitioners in Sy.No.88 as well as the similarly situated persons in Sy.No.18 were cancelled and the lands were resumed by the government is also false. Earlier when the writ petitioners have challenged the said resumption orders, this Hon'ble Court passed orders stating that as the official respondents have already initiated steps to pay the ex gratia compensation to the petitioners as well as the land losers in Sy.No.18, the order of resumption has become redundant. Learned counsel has relied on the letter, dated 30.04.2008, addressed by the Special Grade Deputy Collector & Revenue Divisional Officer, Ranga Reddy East Division, to the Collector, Ranga Reddy District, to buttress his contention that the said cancellation order is without notice to the petitioners and those cancellation orders were never served on the petitioners.

Learned Counsel for the petitioners has further stated that this Hon'ble High Court in W.A.Nos.1013 and 1149 of 2018 in respect of lands in Sy.No.18 of the very same Village while fixing the compensation @ Rs.27,00,000/- per acre has passed the following order:

"Accordingly, the writ petition is allowed with costs of Rs.20,000/- to be paid by the 1st respondent within 4 weeks and which is to be recovered from A.Narasimha Reddy, Revenue Divisional Officer, Kandukur Division (the 4th respondent) who passed the impugned order;

the proceedings No.D/727/2011, dated 06.04.2017 of the 4th respondent are set aside; the respondents are directed to pay to the petitioners compensation for deprivation of their lands in Sy.No.18 of Raviryal Village @ Rs.27,00,000/-with 30% solatium and interest @ 8% p.a., on the difference between the amount which they were already paid and the amount now directed to be paid in this order, till such payment is made from the date of resumption within eight (8) weeks from today".

and pursuant to the said order, the Revenue Divisional Officer has fixed the compensation accordingly. As held by the Division Bench of this Court in W.A. Nos.1013 and 1149 of 2018, the petitioners are also entitled to the same benefits that have been given to the land owners of Survey No.18 and they cannot be discriminated and paid less amount.

In view of the above, the proceedings dated 08.01.2015 of the Special Grade

Deputy Collector and Revenue Divisional Officer, Saroornagar Division, Ranga Reddy District, are hereby set aside and the official respondents are directed to pay the petitioners compensation for deprivation of their lands in Sy.No.88 of Raviryal Village @ Rs.27,00,000/- per acre with 30% solatium and interest @ 8% p.a., on the difference between the amount which they were already paid and the amount now directed to be paid in this order, till such payment is made from the date of resumption within eight (8) weeks from today."

15. Heard the learned Government Pleader for Land Acquisition for the appellants and learned counsel for the respondents/writ petitioners.

16. It is not in dispute that the lands of the petitioners in Sy.No.88 and adjoining land in Sy.No.18 were acquired under the same notification. The contention of the learned Government Pleader for Land Acquisition that the petitioners have consented for receiving compensation at Rs.6,00,000/- per acre in the Grama Sabha and consent award was passed whereas the assignees in Sy.No.18 were paid ex gratia amount as per G.O.Ms.No.1307 dated 23.12.1993 and that the petitioners cannot resile from their consent is without any merit. As noted in the extracted portion of the order of the learned Single Judge, the consent and resolution of the Grama Sabha dated 11.06.2009 were held to be vitiated by fraud. Having perused the record, the learned Single Judge found that the handwriting and the ink on the so-called Grama Sabha resolution and the names and the signatures of the villagers are totally different and it cannot be said that the resolution dated 11.06.2009 and signatures were made on the same day.

17. Learned Government Pleader for Land Acquisition has not made any submissions challenging the findings recorded by the learned Single Judge and conclusions holding that the so-called Grama Sabha and the consent obtained were vitiated by fraud. It is borne out of the record that in WA.Nos.1013 and 1149 of 2018 the land owners in Sy.No.18 of the same village were awarded ex gratia/compensation of Rs.27,00,000/- with 30% solatium and interest at 8% per annum per acre on the difference between the amount which they were already paid and the amount now directed to be paid in the order. Since the date of acquisition is same in Sy.No.18 and Sy.No.88, the petitioners cannot be treated differently and shall be paid compensation on par with the similarly placed persons in Sy.No.18.

18. Insofar as the extent of land for payment of compensation is concerned, the learned counsel for the writ petitioners fairly conceded that the compensation amount be paid to the petitioners for the extent of Ac.37.05 guntas of land as per physical possession vide proceedings of the LAO/RDO, Ranga Reddy East Division, in Lr.No.D/727/2008 dated 07.08.2009.

19. For the aforesaid reasons, this Court does not find any infirmity in the impugned judgment that warrants any interference. There are no merits in the writ appeal which is hereby dismissed, with the above observation, along with the pending miscellaneous petitions, if any with no order as to costs.