

Reserved on 16.4.2025

Delivered on 14.5.2025

Court No. - 50

Case :- WRIT - C No. - 9868 of 2015

Petitioner :- Chinta Mani And 8 Others

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Muktesh Kumar Singh

Counsel for Respondent :- C.S.C.

Hon'ble Chandra Kumar Rai,J.

1. Heard Mr. Muktesh Kumar Singh, learned counsel for the petitioners and Mr. Om Anand, learned Standing Counsel for the State respondents.

2. Brief facts of the case are that under the U.P. Imposition of Ceiling on Land Holdings Act 1960 hereinafter referred to as Ceiling Act, respondent no.4/ Prescribed Authority vide order dated 14.1.1976 declared the plots of khata No. 38 area 33 bigha 1 biswa 18 dhoor belonging to petitioner no.1 as surplus land. Against the order dated 14.1.1976, petitioners filed a Writ C No. 28662 of 2002 which was entertained and interim order was passed staying the dispossession of the petitioners from the land in dispute. Against the order dated 14.1.1976, petitioners has also filed a restoration application which was dismissed in default. Against the order dismissing the restoration application in default, petitioner no.1 again filed a restoration application dated 23.7.1990 which was rejected by respondent no.4 vide order dated 31.7.2003. Against the order dated 31.7.2003, an appeal under Section 13 of the Ceiling Act was filed on behalf of the petitioner no.1 which was registered as appeal No. 394 of 2003. The aforementioned appeal was heard by Commissioner Vindhyachal Division Mirzapur and the same was dismissed vide order dated 25.1.2007. Writ C No. 28662 of 2002 filed by petitioner no.1 was dismissed in default vide order dated 9.8.2012 and restoration application filed against the order dated 9.8.2012 in aforementioned Writ C No. 28662 of 2002 was dismissed vide order dated 27.4.2015 hence this writ petition for the following relief:-

"A writ order or direction in the nature of certiorari quashing the order dated 31.7.2003 passed by Additional District Magistrate Finance and Revenue/ Prescribe Authority Ceiling District Mirzapur (Respondent no.4) and order dated 25.1.2007 passed by Commissioner, Vindhyachal Region, Mirzapur (respondent no.3)."

3. Stamp Reporter has reported laches of 7 years 202 days in filing the instant petition before this Court which has been explained in para No. 19 of the writ petition stating that petitioner no.1 was working at Mumbai, as such, delay/laches has been caused in filing the instant petition.

4. State has filed his counter affidavit and petitioners have filed his rejoinder affidavit.

5. Counsel for the petitioners submitted petitioners' holding has been declared as surplus by the ceiling authority in illegal and arbitrary manner. He further submitted that restoration application filed by petitioners has been dismissed and order has been maintained in appeal without considering the case of the petitioners on merit. He submitted that impugned order passed by ceiling authorities should be set aside and matter should be remitted back before consolidation authority to decide the ceiling proceeding on merit after affording proper opportunity of hearing to the petitioners. He further placed reliance upon the following judgements of Hon'ble Apex Court in support of his argument:-

"(i) 1987 (0) Supreme (All) 1106 Ram Nain Misra and Others Vs. Deputy Director of Consolidation and Others

(ii) 2025 Law Suit (SC) 402 Inder Singh Vs. State of Madhya Pradesh"

6. On the other hand, Mr. Om Anand, learned Standing Counsel for the State respondents submitted that the Prescribed Authority has rightly declared the plot in question as surplus vide order dated 14.1.1976. He further submitted that restoration proceeding has been initiated with inordinate delay and the same was not pursued in proper manner accordingly restoration applications were rejected by the Prescribed Authority Ceiling. He further submitted that ceiling appeal filed by petitioners was also dismissed in accordance with law. He submitted that instant petition has been filed by petitioners after 7 years from the date of the order passed in ceiling appeal without any satisfactory

explanation for filing appeal with inordinate laches. He submitted that no interference is required and writ petition is liable to be dismissed.

7. I have considered the arguments advanced by learned counsel for the parties and perused the records.

8. There is no dispute about the fact that Prescribed Authority Ceiling has declared the plot in question as surplus on 14.1.1976. There is also no dispute about the fact that successive restoration application filed on behalf of the petitioner no.1 was rejected and ceiling appeal filed by petitioners has also been dismissed.

9. In order to appreciate the controversy involved in the matter, the relevant portion of the appellate order passed by Commissioner Vindhyachal Division Mirzapur will be relevant for perusal which is as under:-

"न्यायालय आयुक्त, विन्ध्याचल मण्डल, मीरजापुर

अपील सं० **394** वर्ष **2003**

चिन्तामणि बनाम उ०प्र० सरकार

अंतर्गत धारा-**13**, उ०प्र० अधिकतम जोत

सीमा आरोपण अधिनियम, **1960**

ग्राम महुआरी कला, तप्पा **96**, परगना कंति

तहसील सदर, जनपद मीरजापुर।

आदेश

11- उपरोक्त आदेश दिनांक **23-3-99** के विरुद्ध अपीलकर्ता द्वारा लगभग **8** माह विलम्ब से दिनांक **23-12-99** को पुनर्स्थापन प्रार्थना पत्र प्रस्तुत कर यह आधार लिया गया कि दिनांक **23-3-99** को जब वह अपने अधिवक्ता को बुलाने चला गया तो इस बीच एकपक्षीय आदेश पारित कर उसका पुनर्स्थापन प्रार्थना पत्र अस्वीकार कर दिया गया। दिनांक **23-3-99** के आदेश के विरुद्ध **8** माह विलम्ब से प्रस्तुत पुनर्स्थापन प्रार्थना पत्र में उपरोक्त अंकित आधार हास्यास्पद है। दिनांक **23-3-99** को विद्वान अधिवक्ता को बुलाने हेतु चले जाने पर उसका पुनर्स्थापन प्रार्थना पत्र अस्वीकार कर दिया गया था तो **8** माह विलम्ब से पुनर्स्थापन प्रार्थना पत्र प्रस्तुत किए जाने का कोई कारण स्पष्ट नहीं किया गया है। पुनर्स्थापन प्रार्थना पत्र दिनांक **23-12-99** विलम्ब से प्रस्तुत किए जाने के सम्बन्ध में कोई स्पष्टीकरण भी नहीं दिया गया है निस्तारण दिनांक **31-7-03** के आदेश द्वारा किया गया है। जिसमें नियत प्राधिकारी ने यह उल्लेख किया है कि दिनांक **23-3-99** के आदेश के विरुद्ध एक पुनर्स्थापन प्रार्थना पत्र दिनांक **1-11-99** को प्रस्तुत किया गया है। वस्तुतः यह तिथि दिनांक **1-11-99** न होकर दिनांक **23-12-99** है। विलम्ब के सम्बन्ध में कोई स्पष्टीकरण न प्रस्तुत किए जाने के कारण नियत प्राधिकारी ने अपीलकर्ता के उपरोक्त पुनर्स्थापन प्रार्थना पत्र को अस्वीकार

कर दिया है। जिसके विरुद्ध दिनांक **13-8-99** को प्रस्तुत पुनर्स्थापन प्रार्थना पत्र में यह कहा गया कि अपीलकर्ता के वरिष्ठ अधिवक्ता को नहीं सुना गया और कनिष्ठ अधिवक्ता द्वारा प्रस्तुत कथनों के आधार पर उसका प्रार्थना पत्र अस्वीकार कर दिया गया है। अपीलकर्ता द्वारा समय-समय पर अन्यमनस्क ढंग से अपनी सुविधानुसार बिना समुचित आधारों के न्यायिक प्रक्रिया का दुरुपयोग करते हुए उपरोक्त प्रार्थना पत्र प्रस्तुत किया गया है। अतः ऐसे न्यायार्थी को विधि के अन्तर्गत कोई उपषम दिए जाने का कोई औचित्य एवं अवसर नहीं है। नियत प्राधिकारी ने अपीलकर्ता द्वारा प्रस्तुत प्रार्थना पत्रों में उचित रूप से अस्वीकार किया तथा आक्षिप्त आदेश दिनांक **30-8-03** में कोई त्रुटि नहीं पाई जाती है। तदनुसार यह अपील निरस्त किए जाने योग्य है।

उपरोक्त के परिप्रेक्ष्य में अपील निरस्त की जाती है।

दिनांक: **25-1-2007**

(के०एम० पाण्डेय)

आयुक्त

विन्ध्याचल मण्डल, मीरजापुर”

10. The perusal of the appellate order passed by Commissioner Vindhyachal Division Mirzapur fully demonstrate that petitioners have abused the process of law. The petitioners have not pursued the ceiling proceeding before the Prescribed Authority as well as before Commissioner in proper manner even the instant writ petition has been filed before this Court after about 7 years from the date of passing of the order passed by Commissioner stating only that petitioner no.1 was employed in Mumbai which is not satisfactory explanation for delay of 7 years. The purpose behind the petitioners' dilatory tactics is to keep the ceiling proceeding pending on one ground or other.

11. It is also material to mention that petitioner no.1 has filed another Writ C No. 28662 of 2002 before this Court against the order of Prescribed Authority Ceiling dated 14.1.1976 which was dismissed for non-prosecution and restoration application has also been rejected by this Court.

12. Regarding the scope of Section 5 of Limitation Act, the Hon'ble Apex Court in the recent judgement has held that delay condonation matter is not only technical consideration. The relevant paragraph of the judgement are as under:-

13. On the question of delay condonation, the Hon'ble Apex Court in the recent judgement reported in **2025 0 Supreme (SC) 66, H. Guruswamy & Ors. Versus A. Krishnaiah Since Deceased by LRS** has held that question of limitation

is not merely a technical consideration. Paragraph nos.13 to 19 of the judgment rendered by Hon'ble Supreme Court in ***H. Guruswamy (supra)*** will be relevant for perusal, which is as under:

"13. We are at our wits end to understand why the High Court overlooked all the aforesaid aspects. What was the good reason for the High Court to ignore all this? Time and again, the Supreme Court has reminded the District judiciary as well the High courts that the concepts such as 'liberal approach', 'Justice oriented approach', 'substantial justice' should not be employed to frustrate or jettison the substantial law of limitation.

14. We are constrained to observe that the High Court has exhibited complete absence of judicial conscience and restraints, which a judge is expected to maintain while adjudicating a lis between the parties.

15. The rules of limitation are not meant to destroy the rights of parties. They are meant to see that the parties do not resort to dilatory tactics but seek their remedy promptly.

16. The length of the delay is definitely a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not. From the tenor of the approach of the respondents herein, it appears that they want to fix their own period of limitation for the purpose of instituting the proceedings for which law has prescribed a period of limitation. Once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. While considering the plea for condonation of delay, the court must not start with the merits of the main matter. The court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay.

17. We are of the view that the question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of equity. No court should keep the 'Sword of Damocles' hanging over the head of a litigant for an indefinite period of time.

18. For all the foregoing reasons this appeal succeeds and is hereby allowed.

19. The impugned order passed by the High Court is set aside

and that of the Trial Court dated 05.08.2014 passed in Misc. No. 223 of 2006 is hereby restored."

14. Considering the entire facts and circumstances of the case, there is no scope of interference against the impugned order passed by ceiling authorities.

15. The writ petition is **dismissed**.

16. No order as to costs.

Order Date :- 14.5.2025
Vandana Y.