

HON'BLE THE ACTING CHIEF JUSTICE DILIP B.BHOSALE

AND

HON'BLE SRI JUSTICE S.V.BHATT

W.A.No.787 OF 2015

PC:(Hon'ble Sri Justice S.V.Bhatt)

Heard Mr. V.Rajagopal Reddy, learned counsel for the appellants, learned Government Pleader for Revenue, Mr.G. Sathyaveer Reddy, learned counsel for respondents 3 to 15.

The writ appeal is directed against the order dated 19.02.2015 in W.P.No.24132 of 2003. Respondents 3 to 34 are the appellants.

The issue arises under the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 (for short 'the Act').

Respondents 3 to 15 in the appeal are writ petitioners and they have challenged the order of Joint Collector dated 26.04.2003 in File No.F1/105/2001. The learned Single Judge allowed the writ petition by recording the following findings:

"14. Any decision affecting the rights of persons must have finality at one stage or the other. It cannot be reopened at the whim of any person as and when deemed convenient to such person. In the instant case, the original appeal was dismissed on 25.6.1985. To a great extent, appeals were affirmed by this Court on 18.07.1990. After 13 years from the date of disposal of the writ petition and after 18 years of original order in appeal and 23 years after issuance of ORC, appeal was entertained. There is no discussion in the order passed by the Joint Collector as to what compelled him to entertain the appeal after such long time and passing the orders directing lower authority to reconsider the entire issue. As contended by the counsel for the petitioners, in the mean time layout was formed, the land was divided into house site plots and plots were sold and houses were constructed and people are living in the housing colony for several years. On account of orders passed after such a long lapse of time, everything stands upset. It certainly affects all the property owners at this distance of time.

15. Even though Section 24 of the Act prescribes 30

days time to prefer an appeal against any decision, appeal was preferred after 23 years. There is no provision in the Act to entertain second appeal on the same issue by same authority. Though discretion vested in the appellate authority to condone the delay for sufficient cause, 23 years delay cannot be said as reasonable, more particularly when the parties were litigating for decades and were aware of the ORCs issued to vendors of petitioners. The 4th respondent is a family member of party respondents. Earlier he was litigating individually and now all the family members joined with him. The property in issue is traced to father of 4th respondent by all family members. Entertaining the appeal under Section 24 after long lapse of time when the statute prescribes only 30 days for filing such appeal amounts to arbitrary exercise of power.

16. Having regard to the above findings, the order under challenge is not sustainable and it is accordingly set aside.

17. Writ petition is accordingly allowed.”

Admittedly, the appellants filed appeal under Section 24 of the Act against the grant of Occupancy Rights Certificate (ORC) by respondent No.2 herein in File No.E/210/75. It is not in dispute that the grant of ORC was the subject matter of appeal before Joint Collector/1st respondent herein in Case No.B3/9208/1983. Through order dated 25.06.1985, the appeals filed against grant of ORC were dismissed. The aggrieved parties filed W.P.Nos.18202, 19358 and 19362 of 1987 in this Court. On 18.07.1990, the W.Ps were disposed of.

While matters stood thus, the appellants filed appeal which is taken on file as Case No.F1/105/2001 dated 26.04.2003. The 1st respondent through order dated 26.04.2003 directed the 2nd respondent as follows:

“I have perused the material papers on record. The crucial document i.e., the Sethwar has also been perused. According to the entries made in the certified copy of the Sethwar the land bearing Sy.Nos.121,122,124,125 and 126 situated at Thattiannaram Village are shown as Government in Col.No.3 which means the lands are patta lands and

one Yaseen Begum as the Pattedar of these lands. The Sethwar is the conclusive document which determines the classification of the lands. It is well settled proposition that occupancy rights have to be granted under the provisions of Inams Abolition Act in respect of the inam lands. As per the Xerox copies of the pahanies produced by the Counsel for the Respondents these lands are shown as Dstagarda lands. Thus, there is a contradiction in regard to the classification of the lands in question. The aspect whether the lands are inam or patta has not been examined in detail in the earlier proceedings. Therefore, it becomes imperative to examine the matter in detail in regard to the classification of the lands in question. Therefore, the matter is remitted back to the Revenue Divisional officer, Ranga Reddy East Division to consider the matter afresh. He shall enquire into the classification of the lands in question and pass appropriate orders. He shall issue notices to all concern and the parties are at liberty to file the documentary evidence before the Revenue Divisional Officer for his consideration.”

Hence, the writ petition.

Learned counsel appearing for the appellants finds fault with the finding of the learned Single Judge by reference to Section 24 of the Act. According to learned counsel, Section 24 does not provide any period of limitation for preferring an appeal against the grant of ORC by the Revenue Divisional officer. It is alternatively submitted that the appeal can be entertained at any time if sufficient cause is shown. We are afraid both the submissions of the learned counsel for the appellants are without merit and are liable to be rejected. Section 24 of the Act reads as follows:

Section 24 (1) Any person aggrieved by a decision of the Collector under Section 10 may, within thirty days from the date of decision, or such further time as the prescribed authority may for sufficient cause allow, appeal to the prescribed authority and its decision shall be final.

(2) If any question arises whether any building or land falls within the scope of Section 9 the same shall be referred to the prescribed authority whose decision shall be final.

From the above, it is clear that a person aggrieved by grant of

ORC is required to file appeal within 30 days and the period for filing appeal can be extended by appellate authority subject to such person showing sufficient cause for not filing the appeal within time. In the case on hand, the appeal against the grant of ORC dated 14.02.1979 was filed after 24 years and rightly observed by the learned Single Judge after 18 years from the date of dismissal of appeal by the Joint Collector at the first instance. The remedy of appeal pursued by the appellants against the grant of ORC dated 14.02.1979 is misconceived and definitely not available at this point of time and the Joint Collector without examining the appellate jurisdiction and also the fact that the earlier orders by the same authority were confirmed the granting ORC, erroneously exercised his jurisdiction and remanded the matter for fresh consideration by the Revenue Divisional Officer. We are in full agreement with the view taken by the learned Single Judge and no ground is made out for interference. We confirm the order and dismiss the appeal accordingly.

Consequently, miscellaneous petitions, if any pending, also stand disposed of.

ACJ

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DILIP B.BHOSALE,

S.V.BHATT,J

Date:10.09.2015

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