

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

Writ Appeal No.1282 of 2016

JUDGMENT: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in W.P.No.31529 of 2011 dated 05.08.2016. The respondent herein invoked the jurisdiction of this Court, under Article 226 of the Constitution of India, to declare the proceedings of the Tahsildar (Mandal Revenue Officer) dated 12.07.2007 in exercising jurisdiction under Section 4(1)(a) of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 (for short "Act 9 of 1977"), in directing possession of the assigned land admeasuring Ac.0.43 cents in R.S.No.896/10 of Nandigama Village and Mandal to be taken, and in directing the crop raised on the land and the building thereupon to be removed, as arbitrary and illegal.

In the order under appeal, the Learned Single Judge noted that the subject land was assigned in the year 1940, and the respondent-writ petitioner had purchased the said land by way of registered sale deeds dated 19.07.1995 and 09.02.1998; as the assignment in 1940 was prior to the promulgation of the Board Standing Orders on 18.06.1954, the provisions of Act 9 of 1977 had no application; and the provisions of the said Act would apply only for assignments made after 18.06.1954.

The fact that the original assignment was in the year 1940, and the respondent-writ petitioner had purchased the subject land, is not in dispute. The only contention urged before this Court by the Learned Government Pleader for Revenue is that the respondent-writ petitioner had belatedly invoked the jurisdiction of this Court, under Article 226 of the Constitution of India, more than four years after the order, impugned in the writ petition, was passed; she had also failed to appear before the authorities pursuant to the notice issued to her; and as the writ petition

was liable to be dismissed solely on the ground of delay and laches, the indulgence shown by the learned Single Judge in granting relief to the respondent-writ petitioner necessitated interference.

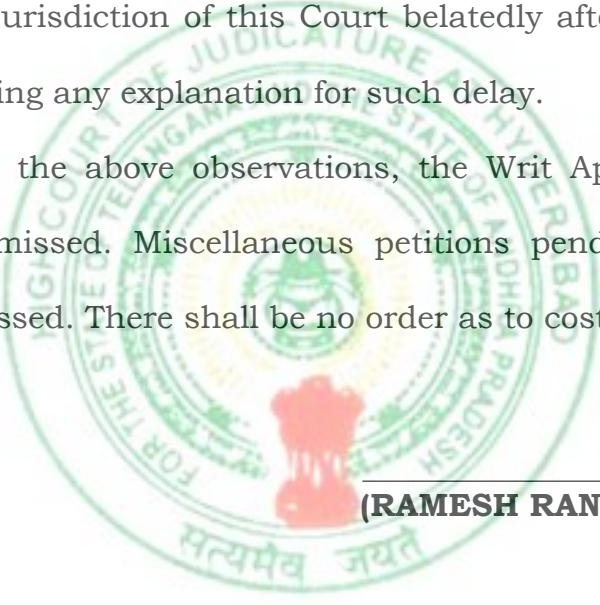
Section 2(1) of Act 9 of 1977 defines “assigned lands” to mean the lands assigned by the Government to landless poor persons under the rules for the time being in force, subject to the condition of non-alienation; and includes lands allotted or transferred to landless poor persons under the relevant law for the time being in force relating to land ceilings. It is only those lands, which are assigned with a condition of non-alienation, which are assigned lands within the meaning of Section 2(1) of Act 9 of 1977; and it is only for such lands that the prohibition against transfer, under Section 3 thereof, would apply.

Learned Government Pleader would fairly state that the subject land was assigned in the year 1940 long prior to 18.06.1954 when the Board Standing Orders came into force; and, consequently, there could have been no non-alienation clause for such assignment. It is evident, therefore, that the order passed by the Tahsildar under Section 4(1) of Act 9 of 1977, treating the subject land as assigned land and applying Section 3 of the Act to the subject lands purchased by the respondent-writ petitioner, is illegal.

As the exercise of jurisdiction, under Article 226 of the Constitution of India, is discretionary, delay and laches are grounds to non-suit the respondent-writ petitioner. The delay in invoking the jurisdiction of this Court, in the present case, is of around four years, which is undoubtedly inordinate. It does not also appear that any explanation was furnished for such a delay. We must, however, bear in mind that the respondent-writ petitioner was aged 70 years when she invoked the jurisdiction of this Court, and the extent of assigned land is a small extent of Ac.0.43 cents less than half an acre. While the learned Government Pleader is justified in his submission that this Court would not come to the aid of the indolent and the lethargic, and belated claims

would not, ordinarily, be entertained in writ proceedings, interference in proceedings under Clause 15 of the Letters Patent would be justified only if the discretion exercised by the learned Single Judge is so patently illegal as to necessitate interference. Whether a belated challenge to an order should be entertained and, if so, on what conditions are all matters within the discretion of this Court under Article 226 of the Constitution of India. Exercise of discretion by the Learned Single Judge, in the facts and circumstances of the present case, does not warrant interference in an intra-court appeal under Clause 15 of the Letters Patent. Suffice it to make it clear that the order passed by the learned Single Judge shall not be construed as enabling every person, whose assignment is cancelled, to invoke the writ jurisdiction of this Court belatedly after four years, that too without offering any explanation for such delay.

Subject to the above observations, the Writ Appeal fails and is, accordingly, dismissed. Miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.



(RAMESH RANGANATHAN, ACJ)

(A.SHANKAR NARAYANA, J)

02nd December, 2016
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