

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.38793 of 2012

ORDER:

Heard Mr.P.Sidhar Reddy for petitioner and the Assistant Government Pleader (Revenue) for respondents.

The petitioner prays for Writ of Certiorari to call for the record leading upto and inclusive of order dated 09-08-2012 in Case No.P2/482/2011 and quash the same as illegal and amounts to refusing to exercise the jurisdiction conferred on the 1st respondent.

The substantive issue between the petitioner and the 4th respondent arises under the A.P (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 (for short 'the Act'). The 1st respondent through the order impugned in the writ petition by referring to alleged exorbitant delay in filing the revision under Section 7(d) of the Act against the order of Director of Settlement dated 19-04-1997 in R.P.No.124/82, dismissed the revision.

The admitted circumstances are as follows:-

The petitioner's father late M.Daniel applied for grant of ryotwari patta under Section 11(a) of the Act. The claim of petitioner's father was rejected. Late M.Daniel filed R.P.No.124/82 before the Director of Settlements, Hyderabad.

On 19-04-1997, the Director of Settlements disposed of batch of RPs., challenging refusal to grant ryotwari patta in respect of lands at Katrenipadu Village, Musunuru Mandal, Krishna District. A few of the aggrieved persons filed further revisions under Section 7(d) of the Act against the common order before the 1st respondent. These revisions are taken on file as Case Nos.P2/124/2010, P2/1103/2009 and P2/1084/1997.

The petitioner filed revision before the 1st respondent with a delay of fourteen years. The order dated 09-08-2012 refers to consideration of the revision on merits but the revision was dismissed on the ground that the petitioner failed to satisfactorily show cause why revision is not filed firstly within the time and secondly the cause shown is incorrect or insufficient.

The operative portion of the order impugned in the writ petition is as follows:-

“In order to peruse the reasons for condonation of delay in these (3) cases stated above, I called for those (3) files and I noticed that the revision petitions, in these cases were not filed with such exorbitant delay.

In P2/124/2010, the Revision Petition was filed on 06.02.2010 and the delay from 19.04.1997 upto 06.02.2010 was condoned without citing any reason for such condonation and therefore, I am not inclined to follow the principle of condonation of delay in this case.

In P2/1103/2009, the original Revision Petition was filed on 13.09.1997 and therefore there was no such delay

of about (15) years as in this case. Hence, this precedence also cannot be used to condone the delay in this case.

In P2/1084/1997, Revision Petition was filed on 13.09.97 and therefore there was no such delay of almost (15) years as in this case.

In view of the above I am not inclined to use the precedence of (3) cases to condone the delay in this case. However, after examining the reasons submitted by the Counsel for condoning the delay, I notice that the entire blame has been put on the Counsel who had appeared before Director of Settlements when the case was dismissed by Director of Settlements on 19.04.97. As a prudent and diligent petitioner, it is responsibility of the petitioner before Director of Settlements, to have kept track of the development in the Court of Director of Settlements and should have taken appropriate action to have filed the Revision Petition before this Court, in time, I see lack of due diligence on behalf of the Revision Petition and therefore I am not inclined to accept the reasoning given for condoning the delay.

In the result, the Revision Petition is dismissed at the stage of admission."

The sufficient cause stated by the petitioner is that he was not aware of the pending case in R.P.No.124/82, when his father died. The counsel, who was representing the revision petition before the Director of Settlement also died without handing over the record and on account of complete ignorance, the further revision under Section 7(d) of the Act is not filed within time. It is

specifically brought to the notice of the 1st respondent that as against the common order, the revisions are still pending, and the cases filed by revision petitioner may be taken up along with the revisions pending against the common order of Director of Settlements. The request of petitioner was rejected on the grounds already noted and the revision was dismissed by the 1st respondent.

I have perused the affidavit filed by the petitioner and taken note of the information furnished by the Assistant Government Pleader namely that the two revision petitions filed against the common order in respect of the same village in the neighbourhood are yet to be disposed of by the 1st respondent. The cause shown by the petitioner is that his father died and the learned counsel who appeared for his father also died in the year 2003 after the orders were passed by the Director of Survey and Settlements. The probability of not collecting the file by the petitioner's father cannot be over looked. The rights under Section 11(a) of the Act are valuable in nature instead of considering the issue on merits, the revision is heard on delay in presentation and dismissed. This court is of the view that the petitioner can be given an opportunity to canvass the merits along with similarly situated persons, whose revisions are pending before the 1st respondent.

The order impugned in the writ petition is set aside. The matter is remitted to the 1st respondent and the 1st respondent is directed to hear Case No.P2/482/2011 along with Case Nos.P2/1103/2009 and P2/124/2010 and dispose of expeditiously.

The writ petition is accordingly ordered. No order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

Dt: 27-09-2016
Prv

S. V. BHATT, J



