

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.21499 of 2007

ORDER:

Heard Sri B.Nalin Kumar, learned counsel for petitioners, learned Government Pleader for Revenue appearing for respondent Nos.1 and 2, and Sri G.Ravi Mohan, learned counsel appearing for 3rd respondent.

2. In this Writ Petition, the petitioners assail the order dt.04-08-2007 in Case No.F1/1859/2007 passed by the 1st respondent in exercise of his power under Section 24 of the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 (for short "the Act").

3. It is not in dispute that an order dt.28-05-1991 in proceedings No.L/264/1991 was passed by 2nd respondent in favour of 3rd respondent granting him Occupancy Rights in respect of an extent of Ac.7.21 guntas in Sy.Nos.591, 592 and 594 of Mangalpally village, Ibrahimpatnam Mandal, Ranga Reddy District.

4. Questioning the same, the petitioners filed an appeal under Section 24 of the Act before the 1st respondent specifically contending as under:

“The appellants herein being aggrieved by the orders passed in file No.L/264/1991 dt.29-05-1991 on the file of the Revenue Divisional Officer, Hyderabad East Division of granting Occupancy Rights Certificate in favour of the Respondent No.2 in respect of the agricultural lands bearing survey No.591:Ac.0-15 gts., Sy.No.592:Ac.3-27 gts., and Sy.No.594:Ac.3-19 gts, in total admeasuring Ac.7-21 gts., situated at Mangalpalli Patelguda village, Ibrahimpatnam Mandal, Rangareddy district, has preferred the present appeal within the period of limitation from the date of knowledge and furnishing the Certified copy of the order under appeal, annexed with the same.

That one Kale Pedda Jangaiah and Kale Chinna Jangaiah, Kale Pochaiah and others are the Inamdars in possession of the above said lands. They are not the parties to the lower court proceedings. They do not know about the case and passing of the order under appeal. The appellants filed R.O.R. appeal bearing No.A2/2943/2006 before the Sp. Grade Deputy Collector and R.D.O. The said appeal is pending. In that appeal, the 2nd respondent herein stated that the O.R.C. granted in his favour and as such after enquiry the appellants obtained the certified copy of the order under appeal which is furnished to the appellants very recently, as such the present appeal is within the period of limitation.”

Thus, the petitioners have given clear explanation for not preferring the appeal within the time prescribed for the said purpose under Section 24 of the Act before the 1st respondent.

5. Without looking into the same, the 1st respondent passed the impugned order stating that petitioners have not filed any explanation for the delay. It is thus clear that the

impugned order has been passed by 1st respondent without applying his mind to the specific contention raised by petitioners as to why a delay in filing the appeal before him is liable to be condoned.

6. Learned Government Pleader appearing for respondent Nos.1 and 2 fairly stated that the petitioners had given explanation for filing the appeal with delay and for condonation of the same, and the

1st respondent is not correct in stating that there is no explanation furnished by them for the delay.

7. Although learned counsel for 3rd respondent contended that the appeal was filed with a delay of 15 years and that certain family members of petitioners were heard by 2nd respondent before he passed the order dt.29-05-1991 in favour of 3rd respondent, and therefore the petitioners had knowledge about the grant of Occupancy Right Certificate by 2nd respondent, I am not inclined to go into the said submission in view of the fact that 1st respondent has to consider whether the plea raised by petitioners seeking condonation of delay is correct or not after giving opportunity to both sides to adduce evidence in that regard. The 1st respondent had failed to do so as can be seen from the impugned order.

8. Therefore, the Writ Petition is allowed and the order dt.04-08-2007 in Case No.F1/1859/2007 of the 1st respondent is set aside. The matter is remitted back to the 1st respondent. The 1st respondent shall give an opportunity to the petitioners as well as 3rd respondent and consider the reasons furnished by petitioners for not preferring the appeal within the time permitted by law, and if he is satisfied that the explanation for the delay is sufficient, he may condone it and then decide the appeal on merits. This exercise shall be completed by 1st respondent within three (03) months from the date of receipt of a copy of this order. No costs.

9. As a sequel, miscellaneous petitions pending if any, in this Writ Petition shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 14-06-2016

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