

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NO.2938 OF 2016

O R D E R

This civil revision petition, originally filed under Article 227 of the Constitution, was thereafter converted into a revision under Section 28 of the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 (*for brevity*, 'the Act of 1955').

The petitioners herein filed an appeal in Case No.F1/5351/2015 before the Joint Collector-II, Ranga Reddy District, under Section 24 of the Act of 1955. However, the appeal was not entertained and the Joint Collector-II, Ranga Reddy District, relegated them to the competent civil Court for redressal of their grievance *vide* order dated 24.03.2016.

While ordering notice to the respondents on 24.06.2016 in this revision, this Court directed them to maintain *status quo* in all respects in relation to the subject land pending examination of the scope and content of an appeal under Section 24 of the Act of 1955.

Heard Sri O.Manohar Reddy, learned counsel for the petitioners, and Sri P.Veera Reddy, learned senior counsel appearing for Sri Sabbineni Venugopal, learned counsel for the respondents.

Facts, to the extent relevant, are that late Chakali Jangaiah was the Inamdar of an extent of Ac.1.10 guntas in Sy.No.197/AA of Puppalguda Village, Rajendranagar Mandal, Ranga Reddy District. Chakali Jangaiah died leaving behind his wife, Pentamma and five sons - the petitioners and one Balraj. By way of registered sale deeds bearing Document Nos.11513 and 11514 of 1990 dated 30.08.1990, Pentamma sold this extent of Ac.1.10 guntas to the respondents. Thereafter, when the respondents applied for an Occupancy Rights

Certificate (ORC) under the provisions of the Act of 1955, Pentamma and Balraj, brother of the petitioners, appeared before the Revenue Divisional Officer, Chevella Division, and confirmed the factum of the sale of the land in favour of the respondents and an ORC was issued to them on 18.02.1992 in File No.L/3653/91.

It appears that the subject land, and other extents of land, was originally held jointly by late Chakali Balaiah, father of Chakali Jangaiah, along with late Chakali Komaraiah. The daughters of late Chakali Komaraiah filed a suit in O.S.No.88 of 1996 on the file of the learned II Additional Senior Civil Judge, Ranga Reddy District at Saroornagar, against their brother and mother, along with the petitioners and the respondents herein, for partition and separate possession of their claimed share. In their plaint, the sisters stated that defendants 1 to 6, being their brother, mother and the petitioners herein respectively, colluded and brought the other defendants, including the respondents herein, into cultivation over the suit property, including the subject land admeasuring Ac.1.10 guntas in Sy.No.197/AA of Puppalguda Village. The said suit is stated to have been dismissed on 09.11.2005, confirming the title and possession of the respondents herein over the subject land admeasuring Ac.1.10 guntas in Sy.No.197/AA of Puppalguda Village. It appears that the petitioners herein, being parties to the aforestated suit, chose to remain *ex parte*.

This, being the factual history, it appears that the petitioners filed the subject appeal under Section 24 of the Act of 1955 before the Joint Collector-II, Ranga Reddy District, in Case No.F1/5351/2015 assailing the grant of the ORC dated 18.02.1992 to the respondents in respect of the subject land. They claimed

therein that notice was not given to all the legal heirs of late Chakali Jangaiah before granting such certificate and that the appearance of their mother, Pentamma, and brother, Balraj, before the Revenue Divisional Officer, Chevella Division, did not divest them of their independent legal rights. However, *vide* order dated 24.03.2016, the Joint Collector-II, Ranga Reddy District, opined that the validity of the sale deeds executed by Pentamma in favour of the respondents had to be decided only by the civil Court and refused to admit the appeal, directing the petitioners to approach the civil Court for redressal of their grievance. This order is the subject matter of the present revision.

Sri O.Manohar Reddy, learned counsel, would contend that the appellate authority under the Act of 1955 failed to take note of the statutory bar under Section 29 of the Act of 1955, which states to the effect that no order passed by the Collector or by the Special Tribunal under the Act is liable to be questioned in any Court of law. Learned counsel would assert that the appellate authority ought to have examined the merits of the claim of his clients and that abdication of the statutory power solely vesting in it by the appellate authority is wholly unjustified and illegal. Learned counsel would also raise various other issues in relation to the grant of the ORC to the respondents in the year 1992.

Per contra, Sri P.Veera Reddy, learned senior counsel, would contend that the petitioners are liable to be non-suited for lack of *bonafides*. Learned senior counsel would assert that the second petitioner herein was himself a witness to the sale deeds executed by his mother in favour of the respondents and that all the petitioners were well aware of the said sale, being majors as on that date. He

would point out that despite suffering the adverse finding in the judgment in O.S.No.88 of 1996 on the file of the learned II Additional Senior Civil Judge, Ranga Reddy District, wherein the title and possession of the respondents was confirmed, the petitioners, who chose to remain *ex parte*, did not take steps to challenge the said finding recorded as long back as in the year 2005. Learned senior counsel would further state that much water has flown under the bridge since the sale of the subject land, along with another piece of undisputed land, in favour of his clients and that some multi-storied structures have already come up while some are still in the process of coming up in the subject land, and that is the reason why the petitioners have chosen to rake up this issue now for unlawful gain.

Having given earnest consideration to the issue, this Court is of the opinion that the appellate authority under the Act of 1955 ought not to have washed its hands off the statutory appeal filed before it on the ground that the issue has to be decided by the civil Court. No doubt, the appellate authority cannot examine the validity of sale deeds, but being the prescribed statutory appellate authority under the Act of 1955, it has to examine the correctness of an order passed by the primary authority, the Revenue Divisional Officer, granting an ORC. To that extent, the petitioners have made out a valid point.

That being said, the question would arise as to whether the matter should be remanded to the appellate authority for consideration of their appeal afresh on merits.

To decide this issue, various other factors also have to be taken into consideration. Factually, it is clear from the record that the petitioners did nothing in the matter since execution of the sale deeds by their mother in the year 1990 and issuance of the ORC by the

Revenue Divisional Officer, Chevella Division, in the year 1992. That apart, they were parties to the suit, O.S.No.88 of 1996 on the file of the learned II Additional Senior Civil Judge, Ranga Reddy District, which was dismissed after trial as long back as in the year 2005, wherein the title and possession of the respondents over the subject land was upheld. They may have been set *ex parte* in the said suit, but cannot claim ignorance of the fact that the respondents were parties thereto and succeeded to the extent indicated above.

More vital is the aspect of limitation. Section 24 of the Act of 1955 states to the effect that any person aggrieved by a decision of the Collector under Section 10 of the Act of 1955 may appeal to the prescribed authority, within thirty days from the date of the decision, or such further time as the prescribed authority may, for sufficient cause allow. In the light of the definition of 'Collector' under Section 2(a) of the Act of 1955, the primary authority under Section 10 would be the Revenue Divisional Officer concerned and from his order, the appeal would lie under Section 24 of the Act of 1955 to the District Collector. In the present case, the Revenue Divisional Officer, Chevella Division, granted the ORC in favour of the respondents as long back as on 18.02.1992. The present appeal was filed in the year 2015. The delay, given the statutory limitation of thirty days, would therefore be in the range of 23 years! There is no indication of the petitioners having filed a condone delay petition before the appellate authority. Further, it is not as if the appellate authority has unfettered discretion in condoning such lengthy delay. Sufficient cause would have to be shown to seek condonation of such long delay. In the present case, the petitioners cannot claim ignorance or lack of knowledge of the intervening interest of the respondents over

the subject land after execution of sale deeds in their favour by their mother and the respondents' acts in furtherance of such title and possession. *Ergo*, it would be a clear abuse of process to allow the petitioners to present their appeal afresh before the Joint Collector-II, Ranga Reddy District, notwithstanding the delay and laches on their part. It is manifest that subsequent development of the land is the reason for the belated awakening of the petitioners and their lack of *bonafides* in this regard is patent on the face of the record.

On the above analysis, this Court holds that the order dated 24.03.2016 passed by the Joint Collector-II, Ranga Reddy District, in File No.F1/5351/2015, refusing to entertain the appeal filed by the petitioners under Section 24 of the Act of 1955, on the ground that the competent civil Court should be approached, is erroneous in law in so far as issues falling strictly under the Act of 1955 are concerned. However, on facts and in law, this Court finds that the said appeal was hopelessly barred by time apart from completely lacking in *bonafides* and could not therefore be entertained in any event.

The civil revision petition is accordingly dismissed. Interim order dated 24.06.2016 shall stand vacated. Pending miscellaneous petitions, if any, shall stand dismissed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

14TH OCTOBER, 2016

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