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.. Respondents

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.7156 of 2007

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ORDER:

The subject property is part of Pinapalli Zamin Estate which was taken over by the Government on 10.09.1952 under the provisions of Andhra Pradesh Estate (Abolition and Conversion into Ryotwari) Act 1948. The Case Nos. 6819 & 6817 were suo-moto taken up by the Settlement Officer Venkatapuram Unit, Bhadrachalam, under Section 9 of Andhra Pradesh (Scheduled Area Ryotwari) Regulation 1970 (Regulation 2 of 70). The claim before the Settlement Officer was that one Bandaru Suryanarayana and Chandra Rao, together claimed that they are entitled to grant of Ryotwari patta to an extent of 11.7 Hectares.

2. In response to the notice issued by the Settlement Officer, the three brothers have appeared before the Settlement Officer on 24.07.1979 and in support of their claim they produced certain documents. On due consideration of their claim, their claim was granted partly i.e., to an extent of 3.6 hectares and rest of the claim was denied. The order to that extent was passed on 24.07.1979.

3. Petitioners herein filed appeal before the appellate authority in the year 1999. The appeal was considered and by order dated 10.08.2002, the appellate authority rejected the appeal on the ground that it is time barred. The appellate authority also held that there was inordinate delay of more than 19 years in filing such an appeal and the

delay in filing the appeal before the appellate authority was not satisfactorily explained. The plea taken by the petitioners that they do not have the knowledge of orders passed by the original Settlement Officer and they came to know of the same only in the year 1999; on 18.05.1999 they submitted an application for issuance of certified copy of the order which was furnished to them on 04.06.1999 and therefore, the appeal was filed within time. The Revision filed against the said order was also rejected on the very same reasons by order dated 04.07.2005. Aggrieved thereby this writ petition is filed.

4. Heard Sri Nuthalapati Krishna Murthy, learned counsel for the petitioners and learned Government Pleader for Revenue (TG).

5. Learned counsel for the petitioners submit that until the year 1999 the petitioners were not aware of the orders passed by the Settlement Officer on 24.07.1979. The said decision was never communicated to their ancestors or to the petitioners. Until and unless the decision is communicated, the limitation clause is not attracted and therefore, the limitation has to be computed only from the date of knowledge of such decision. Since petitioners have knowledge only in the year 1999 there was no delay in preferring the appeal and the appellate authority as well as revisional authority erred in dismissing the appeal/revision on the ground of delay and laches. In spite of specific plea raised before the appellate authority and revisional authority and even before this Court, no material is placed on record to show that the order of 24.07.1979 was not communicated to the parties therein. In the absence of proof of communication, no knowledge can be attributed to the parties in the proceedings and their successors.

6. In response learned Government Pleader submits that a reading of the order of the original authority would itself show that the parties before the original authority were present on the day when the hearing took place; in support of their claim, they submitted certain documents and those documents were scrutinized and partial claim was granted.

Thus, it is clear that the order was passed in the presence of those claimants and therefore, it cannot be said that there was no knowledge about the orders passed. He would further submit that there was no explanation as to how delay took place and what action was taken by the claimants who suffered the order before the Settlement Officer. Thus, there is inordinate delay and the appeal and revision are dismissed on the ground of delay and laches on the part of the petitioners. He would therefore, submit that the authorities have come to correct conclusion and there is no mitigating circumstance warranting interference by this Court.

7. The only issue for consideration is whether the appellate authority as well as revisional authority erred in dismissing the appeal on the ground that there was inordinate delay in filing the appeal?

8. It is not in dispute that the Settlement Officer conducted enquiry with prior notice to the claimants. Claimants received the notice and appeared before him with the material available with them and on 24.07.1979 after due consideration of their claim and discussing validity of the claim, orders were passed on the said date. The relevant portion of the order reads as under :

“ The petitioners are non-tribals. They were served with individual notices on 16.07.1979 and directed to produce the documentary evidence.

The three claimants are brothers and are Present. They have produced the following documents :

1. Registered sale deed No.24/57, dt.4.3.1957, executed by Smt. Chittimmala Mallamma W/o.Venkata Rama Narsaiah for S.No.51 extent Acs.8-10 in favour of Sri Bandaru Narayana Murthy, S/o.Surya Rao.

2. Registered transfer deed No.216/57, dt.28.6.57 executed by Sri Bandaru Narayana Murthy, S/o.Surya Rao, for S.No.51 extent Acs.8-10 in favour of Sri Bandaru Suryanarayana, Sri Rama Murthy and ChandraRao S/o.Surya Rao.”

9. The extracted portion would clearly show that the claimants were very much present when the decision was made. No other material is

produced on record to show that the said order is passed in their absence.

10. The pleadings in the affidavit filed in support of the writ petition are silent as to when the original claimants have died and whether they have initiated any action after the orders are passed by the Settlement Officer. It is also not in dispute that the Settlement Officer has granted partial relief to the claimants and it appears pattas were granted. Thus, it is clear that the claimants are very much aware of the partial relief granted to them and they were satisfied to the extent of relief granted to them. In the affidavit, the petitioners only sought to emphasise the factum of no proof of service of the proceedings dated 24.07.1979. Except highlighting that issue, no other pleading is raised on the efforts made by the petitioners or their ancestors in prosecuting their further legal remedies after the orders are passed by the Settlement Officer on 24.07.1979. Therefore, it cannot be believed that the petitioners/their ancestors were not aware of such order.

11. Be that as it may, as the order itself would clearly show that on 24.07.1979 the claimants were present and the said orders were passed in their presence. In the absence of any other material to show that claimants were not present on that date, the justification now sought to be made out to file appeal after 19 long years is not valid and bonafide. It is also appropriate to note that the order of the revisional authority was passed on 04.07.2005 whereas the writ petition is instituted in the year 2007. The plea raised even for coming to this Court after two years was that first petitioner was sick. Except for the first petitioner, other petitioners were young and there is no pleading of their health condition. This shows lack of bonafides.

12. Learned counsel for the petitioner placed reliance on the decision of this Court in ***M.Balakrishnan Vs Sadanapalli Mariamma***^[1], in support of his contention that only from the date of

knowledge, the period of limitation has to be computed. It is relevant to note that in Para No.6 of the said judgment, this Court observed as under :

“As literal construction of the expression ‘within 30 days from the date of the judgment, decree or order appealed from’ in Rule 51 (1) of the Rules leads to absurdity in cases where the said judgment decree or order is passed without notice to the aggrieved party, the same has to be construed as within 30 days from the date of knowledge of the judgment, decree or order appealed from. If the party or his counsel is present on the date of pronouncement of judgment, decree or order, then the party has actual knowledge of the same and the period of limitation in such cases has to be computed from the date of judgment, decree or order.”

13. Even these observations go against the petitioners as noted above. When the order was passed by the Settlement Officer on 24.07.1979 the claimants were very much present and they have the knowledge. Thus, the claimants had 60 days time for preferring appeal from the date of passing of order. Thus, the limitation as available to the claimants has expired long ago and the same cannot be revived to the petitioners only on the ground that they have knowledge of the order in the year 1999 and the certified copy of the order was obtained only on 04.06.1999. As the period of limitation has already expired, long after, cause cannot be revived on the mere ground that they were furnished with certified copies on 04.06.1999.

14. I therefore, see no merit in the claim of petitioners. The order of the appellate authority and revisional authority are well considered orders and warrant no interference. There is no perversity or patent illegality in the said orders warranting interference of this Court in exercise of power of judicial review under Article 226 of the Constitution of India.

15. Writ petition is accordingly dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand dismissed.

P.NAVEEN RAO,J

18th August, 2016
Rds

[\[1\]](#) 1992 (1) APLJ 322