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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Appeal No.334 of 2017

(Arising out of order dated 6.4.2017 in Writ Petition (C) No.794 of 2017 of the learned Single Judge)

Rameshwar Yadav S/o Late Bhagbali Yadav, Aged About 30 Years R/o Village Uslapur, Alka Avenue, Police Station Chakarbhatha, Tahsil Takhatpur, Up Tahsil Sakri, District Bilaspur (Chhattisgarh).

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Revenue And Disaster Management Department, Mahanadi Bhawan, Mantralaya, New Raipur (Chhattisgarh).
2. The Collector, Bilaspur, District Bilaspur (Chhattisgarh).
3. The Sub Divisional Officer (Revenue), Kota, District Bilaspur (Chhattisgarh).
4. The Tahsildar, Kota, District Bilaspur (Chhattisgarh).
5. Ashwani Miri S/o Ramadhar Miri, Aged About 36 Years R/o Village Kharjhiti, Police Station & Tahsil Kota, District Bilaspur (Chhattisgarh), At Present Resident Of Ward No. 4, Devhariya Para, Kargi Road, Kota P. S. & Tahsil Kota, District Bilaspur (Chhattisgarh).

---- Respondents

For Appellant	: Shri Bharat Rajput, Advocate.
For Respondent/State	: Shri UNS Deo, Government Advocate.

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Sharad Kumar Gupta, Judge.

Order on Board

Per Thottathil B. Radhakrishnan, Chief Justice

18/09/2017

1. We have heard the learned counsel for the Appellant and the learned Government Advocate on the merits of this appeal which has come up with an application seeking condonation of delay. The Registry has noted that this appeal is barred by limitation and the delay is of 96 days in its institution.

2. The sum and substance of the claim of the Appellant before the learned Single Judge was that the Sub-Divisional Officer (Revenue), Kota had, through the order dated 8.8.2016, decided certain issues against the Appellant/writ Petitioner. The learned Single Judge noted that all that the Sub-Divisional Officer (Revenue) had done was to apply mind to the relevant factors to consider whether sanction is to be granted as a superior officer. Bereft the sanction of the Sub-Divisional Officer, the Tahsildar could not have carried forward any action under Section 51 of the Land Revenue Code.

3. Learned counsel for the Appellant argued that the order of the Sub-Divisional Officer (Revenue) is essentially an interlocutory order and cannot be subjected to a statutory appeal. The Tahsildar could not have exercised his statutory power under Section 51 of the Land Revenue Code without sanction of the superior authority. Obviously, exercise of power by the superior authority to consider whether sanction has to be granted or not, calls for duly adverting to and considering the requisite facts to arrive at an opinion as to the grant of sanction, or its refusal. All that the Sub-Divisional Officer (Revenue) has done is only to that extent. This by itself does not make out an independent cause of action.

4. Having regard to the clear observation in the aforesaid regard in paragraph-4 of the impugned order, we are of the view that the learned Single Judge has given reasons and has rightly exercised discretion by refusing to entertain the writ petition on the face of the alternate statutory remedy that is available to the writ Petitioner in the event of the ultimate decision being against him. Hence, preserving the remedy by way of statutory appeal, when such situation arises, we affirm the judgment of the learned Single Judge and accordingly dismiss this writ appeal.

5. In this view of the matter, we do not think that any useful purpose would be served in condoning the delay. Hence, the application seeking condonation of delay is also dismissed.

Sd/- Sd/-

(Thottathil B. Radhakrishnan) (Sharad Kumar Gupta)
CHIEF JUSTICE **JUDGE**

Anu