

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.11.2017

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND

THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A No.266 of 2017 and
CMP No.4143 of 2017

K.B.Mammotty

...Appellant

Vs

1.The Appellate Authority (Land Reforms)
Mahe, Union Territory of Puducherry.

2.The Land Tribunal,
Mahe, Union Territory of Puducherry.

3.Mrs.Devootty ...Respondents

Prayer:- Writ Appeal filed under clause 15 of Letters Patent,
against the order made in W.P.No.33661 of 2016 dated 26.09.2016.

WP.No.33661 of 2016: Writ Petition filed under article 226 of
the Constitution of India to issue an appropriate order.
Direction or Writ including a Writ of Certiorari to call for the
records relating to the impugned order of the first respondent
in AA.No.02/2007/0115 dated 11.01.2016 and quash the same.

For Appellant : Mr.P.Mohanraj

For R1 and R2 : Ms.V.Usha
Addl.Govt.Pleader (Pondy)

For R3 : No appearance

J U D G M E N T

K.K. SASIDHARAN, J.

This intra court appeal is directed against the order dated
26 September, 2016 in W.P.No.33661 of 2016, dismissing the writ
petition filed by the appellant challenging the order passed by
the Appellate Authority under the Mahe Land Reforms (Amendment)
Act, 1980 remanding the matter to the Land Tribunal for fresh
consideration.

2. We have heard the learned counsel for the appellant. None appeared on behalf of the third respondent.

3. The Land Tribunal, Mahe, initiated suo motu proceedings under the Mahe Land Reforms (Amendment) Act for assignment of Jenmam right. Though the third respondent was the owner of the property on the basis of a Settlement Deed executed by her husband, the fact remains that notice was not issued to her by the Land Tribunal. The Land Tribunal allowed the application filed by the appellant by order dated 21 October, 2005.

4. The third respondent filed an appeal before the Appellate Authority under the Mahe Land Reforms (Amendment) Act. The Appellate Authority found that notice was not given to the third respondent. The Appellate Authority, therefore, allowed the appeal and remanded the matter to the Land Tribunal for fresh consideration.

5. The order passed by the Appellate Authority was put in issue before the writ court. Before the writ court, the appellant contended that there was no reason given by the Appellate Authority for condoning the delay.

6. The learned single Judge considered the entire pleadings and the documents available on record and arrived at a finding that the delay was rightly condoned by the Appellate Authority.

7. The appellant has challenged the order passed by the Appellate Authority on the ground that detailed reasons were not given. Even the order passed by the Land Tribunal, Mahe in favour of the appellant dated 21 October, 2005 does not contain any reason as to how the Tribunal has arrived at a finding that the appellant is entitled to purchase the Jenmam right.

8. There is no dispute that by virtue of the registered Settlement Deed dated 25 September, 2002, the original owner settled the property in the name of the third respondent. Though the name of the third respondent was shown as a party to the proceedings in S.M.3 of 2005 J, there is nothing on record to show that she was served with a notice before passing the final order granting Jenmam right. The order passed by the Tribunal indicates that public notice was published. However, there is nothing to show that attempt was made to serve notice in person or by registered post.

9. The third respondent, in her affidavit filed in support of the application in A.A.No.2/2007 before the Appellate Authority contended that she was not aware of the proceedings initiated by the appellant. It was only on 29 May, 2007, when attempt was made to put up a building in the said property, she

came to know that a purchase certificate was issued by the Land Tribunal. The third respondent, immediately thereafter initiated action for filing the appeal along with an application to condone the delay. It is true that the Appellate Authority has not given detailed reasons while condoning the delay. However, the fact remains that notice was not issued to the third respondent before passing the final order by the Tribunal. When it is made out that the third respondent was not in the know of things with respect to the proceedings pending before the Land Tribunal, the Appellate Authority was perfectly correct in condoning the delay. We are therefore the view that the learned single Judge was correct in dismissing the writ petition filed by the appellant.

10. The learned counsel for the appellant submitted that the observation made by the learned single Judge with respect to the ownership of the land on the basis of the Settlement Deed executed in favour of the third respondent would prejudice the case of the appellant before the Land Tribunal. We make it clear that the Land Tribunal should decide the matter on merits and as per law, uninfluenced by any of the observations made in the order passed by the Appellate Authority or the Writ Court.

11. The intra court appeal is dismissed with the above observation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

svki

To

- 1.The Appellate Authority (Land Reforms)
Mahe, Union Territory of Puducherry.
- 2.The Land Tribunal,
Mahe, Union Territory of Puducherry.

+1 cc to Mr.P.Rajendran Advocate sr 80703

W.A No.266 of 2017

gmr (co)
aa13/12/2017