

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE Mr. JUSTICE ABHINAND KUMAR SHAVILI**

Writ Appeal Nos.1500 & 1567 of 2017

Common Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

Both these appeals are preferred against the order passed by the learned Single Judge in W.P. No. 8895 of 2008 dated 8.8.2017. While W.A. No. 1500 of 2017 is filed by the petitioner in the Writ Petition, W.A. No. 1567 of 2017 is filed by the 5th respondent therein.

It is necessary to note that, while the A.P. Bhoodan Yagna Board was arrayed as the 4th respondent in the Writ Petition, they have not chosen to prefer an appeal against the order of the learned Single Judge and Sri G. Kiran Kumar, learned Standing Counsel for the A.P. Bhoodan Yagna Board, submits that, since the learned Single Judge has remanded the matter to the Joint Collector, all the contentions, which the A.P. Bhoodan Yagna Board (for short "the Bhoodan Yagna Board") had taken before the learned Single Judge, would be urged before the Joint Collector on remand.

A preliminary objection is taken by Sri Vedula Venkataramana, learned Senior Counsel appearing on behalf of the appellant-writ petitioner, to the maintainability of this appeal preferred by the 5th respondent in the Writ Petition against the order of the learned Single Judge. Learned Senior Counsel would submit that it is the Bhoodan Yagna Board which claims that the subject lands were gifted by the inamdar in their favour in 1956; the 5th respondent merely represents a group of persons in whose favour the Government proposed to allot the subject land after taking it over from the Bhoodan Yagna Board; the mere possibility of their being allotted plots in the subject land, would not enable the appellant-5th respondent to prefer an appeal against the grant of Occupancy Right Certificate (ORC) in favour of the appellant-writ

petitioner; and the appeal filed by the 5th respondent is therefore not maintainable.

While Sri V.V. Narasimha Rao, learned counsel for the appellant-5th respondent, would submit that the 5th respondent has been nominated by the Bhoodan Yagna Board to contest the matter before the Joint Collector, no document has been placed before us in support of such a claim. The Bhoodan Yagna Board itself is a party to the Writ Petition and the learned Standing Counsel, appearing on their behalf, submits that they would be contesting the matter before the Joint Collector. The mere possibility of the subject land being allotted as plots in favour of the association, which the appellant-5th respondent represents, in case the ORC granted in favour of the appellant-writ petitioner is set aside and the Bhoodan Yagna Board is held to be the owners would not justify the appellant-5th respondent maintaining this appeal. We are satisfied, therefore, that W.A. No. 1567 of 2017 must be dismissed on the ground that no appeal is maintainable at the instance of a person, who has no right whatsoever in the subject land, as they cannot be held to be persons aggrieved by the order under appeal.

In so far as the claim of the appellant-writ petitioner is concerned, Sri Vedula Venkataramana, learned Senior Counsel, would submit that, since no application was filed by the Bhoodan Yagna Board before the Joint Collector to condone the inordinate delay of 19 years, the Joint Collector could not have entertained the appeal. On the other hand, Sri G. Kiran Kumar, learned Standing Counsel for the Bhoodan Yagna Board, would place reliance on a judgment of this Court in **S. Mallesh and Others vs. Government of A.P. and others**¹ to submit that it is wholly unnecessary for an application to be filed to condone the delay, since Section 24(1) of the A.P. (Telangana Area) Abolition of Inams Act, 1955 enables any person, aggrieved by a decision of the Collector under Section 10, to prefer an appeal to the prescribed authority within 30 days

¹ 2010 (2) ALT 712

from the date of the decision of the Collector, or within such further time as the prescribed authority may, for sufficient cause, allow. Learned Standing Counsel would further submit that discretion is conferred on the Joint Collector to entertain the appeal on sufficient cause being shown; in the present case, the Bhoodan Yagna Board has, in its appeal filed before the Joint Collector, furnished details of when they came to know of the ORC being granted; they have also contended that, since the factum of the subject land being gifted to the Bhoodan Yagna Board in 1956 was noted by the Tahsildar himself on 18.6.1964, no ORC could have been granted later in favour of the appellant-writ petitioner; the Bhoodan Yagna Board has also alleged fraud having been played by the appellant-writ petitioner in obtaining an ORC; and, in such circumstances, the Joint Collector was justified in entertaining the appeal, more so as the appellant-writ petitioner did not even choose to file her response to the appeal preferred by the Bhoodan Yagna Board before the Joint Collector; and no such contention was even raised before the Joint Collector during the hearing of the appeal. The learned Single Judge has, by the order under appeal, merely directed the Joint Collector, consequent on the matter being remanded back to him, to deal with the aspect of delay; and, if he is of the opinion that it is a case to condone the delay, to give reasons therefor, and then decide the case on merits after hearing all the concerned at the earliest.

While it is no doubt true that a learned Single judge of this Court in **S. Mallesh¹** has construed Section 24(1) as not obligating the Joint Collector to consider condonation of delay only if an application has been filed in this regard, we see no reason to examine this issue in the present appeal, as this contention can also be urged by the appellant-writ petitioner before the Joint Collector. In an *intra-Court* appeal, under Clause 15 of the Letters Patent, interference is justified only if the order under appeal suffers from a patent illegality. We find no such infirmity in the said order.

W.A. No. 1500 of 2017 also fails and is, accordingly, dismissed.
Miscellaneous Petitions pending, if any, shall also stand dismissed.
There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(ABHINAND KUMAR SHAVILI, J)

30th October, 2017

pnb



THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE Mr. JUSTICE ABHINAND KUMAR SHAVILI



Writ Appeal Nos.1500 & 1567 of 2017

Date: 30.10.2017

pnb