

HONOURABLE SRI JUSTICE P.NAVEEN RAO
CIVIL REVISION PETITION NO.3957 OF 2004

Date: 14.12.2017

Between:

B.V.Krishna Murthy, s/o.Shivakotaiah,
Aged about 70 years, occu: Advocate,
R/o.Devarakonda, Mandal: Devarakonda,
Nalgonda district.

..... Revision Petitioner/
Respondent

and

Pulijala Ashaiah (died) per LRs
(respondents 2 to 4) and others.

.....Respondents



The Court made the following:

HONOURABLE SRI JUSTICE P.NAVEEN RAO

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ORDER:

This revision is preferred under Section 28 of Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 (for short, Act, 1955) challenging the decision of Joint Collector, Nalgonda, dated 24.04.2003 purportedly made under Section 24 of the Act, 1955. By the said order, the Joint Collector cancelled the Occupancy Right Certificate (ORC) granted in favour of petitioner on 28.12.1992.

2. Briefly stated the case of the petitioner is, under registered sale deed vide document bearing No.379/1968 dated 02.06.1969, petitioner purchased the land to an extent of Ac.12.23 guntas from Pulijala Ashaiah and ever since he is in possession and enjoyment of the same. ORC was granted to petitioner by the Revenue Divisional Officer, Miryalaguda on 28.12.1992. Earlier said Ashaiah made attempts to set aside the ORC granted in favour of petitioner. He has submitted application to the Mandal Revenue Officer on 13.07.1994. The Mandal Revenue Officer having taken note that ORC was already granted, refused to entertain his application and advised him to avail civil law remedy. He again made application to the District Collector on 27.11.1995. The District Collector also refused to entertain the application. He again submitted another application to the District Collector on 04.03.1996 and the same was also not accepted. While so, he submitted representation to the Hon'ble Chief Minister, received by the Grievance Cell in March, 1998 and the same was forwarded to the Joint Collector. The Joint Collector entertained the same and

treated it as appeal under Section 24 of the Act, issued notice to the petitioner and on consideration of respective submissions, the claim of Ashaiah was accepted and ORC issued on 28.12.1992 was cancelled.

3.1. Learned counsel Sri T.Vishnu Teja, appearing for petitioner, made two legal submissions. Firstly, the Joint Collector has no power to treat an application made to a different authority suo-motu as appeal under Section 24 of the Act, 1955; and to exercise power under Section 24 of the Act, an aggrieved person must prefer an appeal and then only the Joint Collector acquires jurisdiction under Section 24 of the Act, 1955; and secondly, even assuming that the Joint Collector has validly entertained the application and treated it as appeal, as Section 21 of the Act, 1955 prescribes period of 30 days to prefer appeal and as such application was not preferred within 30 days, appeal is not maintainable and, therefore, Joint Collector ought to have dismissed the application/appeal filed by Ashaiah on that ground alone.

3.2. Learned counsel further submitted that though elaborate submissions were made, more particularly with reference to maintainability of appeal under Section 24 of the Act, 1955 on both the grounds, the same was not considered and the Joint Collector decided the issue on merits; held that documents on record would disclose that Ashaiah was in possession and the Revenue Divisional Officer without undertaking proper exercise, by relying on photocopies of documents submitted by petitioner,

granted the ORC, allowed the application/appeal preferred by Ashsiah and such action is *ex facie* illegal.

4. Learned counsel relied on the decision of this Court in the case of **Mohd.Ahmedullah Khan and Another v. Joint Collector and others**¹.

5. Though notices were served on Ashaiah and after his death, on the legal representatives, no appearance is entered. Respondents are not present.

6. As noted above, the two contentions urged by the learned counsel for petitioner on maintainability of application/appeal rests on the scope of Section 24 of the Act, 1955.

7. Against the decision made under Section 10 of the Act, 1955, an aggrieved person can prefer appeal to the appellate authority under Section 24 of the Act, 1955.

8. To attract the provision in Section 24 of the Act, two conditions are required to be fulfilled, i.e., 1) an aggrieved person must prefer appeal to the appellate authority and 2) such appeal has to be preferred within 30 days from the date of the decision made.

9. In the instant case, from the facts as briefly noted above, it is clear that no appeal was preferred by Ashaiah within 30 days from the date of the decision made. It is also relevant to note that in the years 1994, 1995 and 1996, Ashaiah was representing to various authorities contending that illegally ORC was issued in favour of

¹ MANU/AP/0170/2009

petitioner on 28.12.1992. Thus, at least by 1994, Ashaiah was aware of ORC granted in favour of petitioner. He ought to have preferred appeal immediately thereafter. Instead, he submitted representation to the Mandal Revenue Officer, who is lower authority than the Revenue Divisional Officer, who granted ORC. Thereafter, to the District Collector twice and then to the Hon'ble Chief Minister. Thus, the statutory limitation prescribed under Section 24 of the Act, 1955 expired long ago, by the time he made application to the Office of Hon'ble Chief Minister. Furthermore, Act do not envisage submission of any application to any authority including the Hon'ble Chief Minister. An aggrieved person against the order made under Section 10 of the Act should prefer appeal under Section 24 of the Act within 30 days from the date of the decision made. There is no other provision in the Act, which enables an aggrieved party to make an application/representation to any other authority other than the authority under Section 24 of the Act. Thus, *per se* application made to the Hon'ble Chief Minister was not maintainable. Furthermore, as rightly contended by the learned counsel for petitioner, under Section 24 of the Act, 1955, appellate authority can exercise jurisdiction on validity of certificate issued under Section 10 of the Act only if an appeal is preferred by the aggrieved party. No appeal was preferred, as noted above, and only application was made to the Hon'ble Chief Minister, which was forwarded to the Joint Collector. Such application cannot be called as an appeal. Furthermore, Act do not envisage exercise of suo-motu power by the Joint Collector. Thus, treating the application as appeal and passing order thereon

by the Joint Collector is *ex facie* illegal, without jurisdiction and competence.

10. Having regard to this finding, the Court has not gone into the contentions urged by the learned counsel on merits of the case as the order under challenge is liable to be set aside on the ground of error in exercising jurisdiction and competence. Civil Revision Petition is accordingly allowed.

Miscellaneous petitions, if any, pending shall stand closed.

There shall be no order as to costs.

Date: 14.12.2017
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JUSTICE P.NAVEEN RAO



HON'BLE SRI JUSTICE P.NAVEEN RAO



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