

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE MS JUSTICE J.UMA DEVI

Writ Appeal No.1086 of 2017

JUDGMENT: (Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in W.P.No.20039 of 2002 dated 21.06.2017. The appellant herein filed the writ petition seeking a mandamus to declare the action of the respondents in taking possession of his land, without issuing a notification, as arbitrary and illegal; and for a consequential direction to the respondents to acquire the land by issuing a fresh gazette notification under the Land Acquisition Act, 1894 (for short "the Act"), and by paying compensation along with consequential benefits; or alternatively to direct the respondents to assign alternative land to the extent of the land of which the petitioner was dispossessed.

The Learned Single Judge **has**, by the order under appeal, dismissed the writ petition on two grounds. Firstly on the ground that the appellant-writ petitioner's name did not figure anywhere in the notification issued in April, 1983, and secondly on the ground of inordinate delay and laches. With regards the first ground, the Learned Single Judge observed that the appellant-writ petitioner's name did not figure anywhere in the notification issued in April, 1983; and the acquisition proceedings which were initiated in 1983 had lapsed. With regards delay and laches, the Learned Single Judge observed that, while the appellant-writ petitioner had asserted that possession had been taken over as far back as in 1983, the writ petition came to be filed in the year 2002; and there was no explanation for the inordinate delay in approaching the Court. The Learned Single Judge also observed that no material was placed before the Court to establish the right, ownership

and title of the appellant over this extent of Ac.0.21 guntas of land in Survey No.99 of Hafizpet Village, Selingampally Mandal, Ranga Reddy District.

Sri P.Jithender Reddy, learned counsel for the appellant-writ petitioner, would draw our attention to the notification dated 14.04.1983 to submit that the appellant-writ petitioner's name is reflected therein, and the Learned Single Judge had erred in holding that the notification did not reflect his name. Learned counsel has also placed reliance on the order of this Court in W.P.No.13329 of 1985 dated 26.11.1985 whereby the declaration issued under Section 6 of the Act was set aside on the ground that simultaneous publication of the notifications, under Sections 4(1) and 6 of the Act, was illegal. While confirming the notification under Section 4(1) of the Act, the Learned Single Judge had quashed the order dispensing with the enquiry under Section 5-A of the Act and publication of declaration under Section 6 of the Act.

While it does appear that the name of the appellant-writ petitioner is reflected in Section 4(1) notification, the Learned Single Judge was justified in refusing to entertain the writ petition on the ground of inordinate delay and laches. The Section 4(1) notification was issued on 14.04.1983. The order, on which the appellant placed reliance, was passed in W.P.No.13329 of 1985 dated 26.11.1985. Under proviso (1) to Section 6 of the Act, no declaration could be made, in respect of a land covered by a notification under Section 4(1) of the Act, after expiry of three years from the date of publication of the notification. Even from the date on which W.P.No.13329 of 1985 was disposed of on 26.11.1985, the three year period, to issue the declaration under Section 6(1) of the Act, expired on 26.11.1988. Even from the year

1988, the delay in invoking the jurisdiction of this Court in 2002, is 14 years.

Sri P.Jithender Reddy, learned counsel for the appellant-writ petitioner, would draw our attention to paragraph No.5 of the writ affidavit in support of his submission that the delay has been explained. All that has been stated in paragraph 5 of the writ affidavit is that, after the order was passed in W.P.No.13329 of 1985 and the petitioner therein was assigned land, the appellant was making repeated requests and visits to the office of the 2nd respondent, but to no avail.

Submission of representations by the appellant does not, by itself, justify his failure to invoke the jurisdiction of this Court within a reasonable time. The delay in invoking the jurisdiction of this Court is of around 14 years. The Learned Single Judge was justified, therefore, in refusing to exercise his discretion to entertain the writ petition on the ground of inordinate delay and laches.

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 do not find any such infirmity in the order under appeal refusing to entertain the writ petition on the ground of inordinate delay. Suffice it to make it clear that the order now passed by us shall not preclude the appellant from approaching the Competent Civil Court in terms of the liberty granted in the order under appeal.

The Writ Appeal fails and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(J.UMA DEVI, J)

03rd August, 2017
JSU

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE MS JUSTICE J.UMA DEVI**



Writ Appeal No.1086 of 2017

Date: 03.08.2017

JSU