

HON'BLE SRI JUSTICE S.V.BHATT

W.P. No.10953 OF 2008

ORDER:

Heard Mr.Srinivasa Rao for petitioners and the Assistant Government Pleader for Tribal Welfare.

The petitioners challenge communication No.2138/LTR-2/2008 dated 18.04.2008, which reads as follows:

"From:
The Secretary to Government,
Tribal Welfare Department,
A.P.Secretariat,
Hyderabad.
To
Sri Nanduri Srinivasa Rao, Advocate,
Bhadrachalam-507111.

Sir,
Sub: Tribal Welfare-Khammam District-Revision
Petition filed by Sri Kosa Raju Srinivas Rao s/o. Late
Bapanaiah and Smt.Kosa Raju Lalithamma
w/o.Bapanaiah dated 02.03.2008 r/o. Yathalakunta (V)
Sathupalli (M) Khammam District against of the orders
of the Additional Agent to Government in
C.M.A.No.22/2005 dated 17.11.2007 in respect of
Acres.20.00 in Survey No.54 & C.M.A. No.23/2005
dated 17.11.2007 in respect of Acres 5.00 in survey
No.54 of Yathlakunta (V) of Sathhupalli (M)-Reg.
Ref: Revision Petition filed by Sri Kosaraju Srinivas Rao
& Smt.Kosaraju Lalithamma dated 02.03.2008.

In the reference cited Sri Kosa Raju Srinivas Rao
's/o.Late Bapanaiah & Smt.Kosa Raju Laithamma,
w/o.Bapanaiah have filed a Revision Petition through
their counsel aggrieved by the Orders of the Additional
Agent to Government, Bhadrachalam in
C.M.S.Nos.22/2005 & 23/2005 dated 17.11.2007 on
02.03.2008 which is belated.

After careful examination of the matter, Government
hereby rejects the application as it is time barred."

as illegal, amounts to arbitrary exercise of jurisdiction by the 1st respondent and consequently pray for direction to hear and dispose of the revision on merits.

The circumstances relevant for disposal of the writ petition are stated thus:

The petitioners aggrieved by the orders of 3rd respondent in LTR case Nos. 998/94 dated 26.02.1996 and 999/94 dated 02.02.1996 filed C.M.A Nos.22 and 23 of 2005 before the 2nd respondent. The 2nd respondent, it appears from Ex.P2, has considered the case on merits, pronounced the order on 17.11.2007 dismissing appeals filed by petitioners herein. The case of petitioners is that the copy of order dated 17.11.2007 was not received by the petitioners even as late as 22.02.2008. On 11.03.2008, revision against the common order dated 17.11.2007 in C.M.A. Nos. 22 and 23 of 2005 was filed and the revision was rejected through the communication impugned in the writ petition.

The case of petitioners is that the 1st respondent committed an illegality in calculating the period of limitation to file revision, for according to petitioners, till the copy is received by petitioners on 22.02.2008, the period cannot be included and therefore, the revision filed on 11.03.2008 is within the period of limitation. They further contend that assuming without admitting that there is delay, unless and until the record is called for from the office of 2nd respondent, verified the dates of dispatch and the receipt of copy of order by petitioners, the finding on delay in filing the revision should not have been recorded. They further contend that even if

delay has occasioned, the Government has power to condone the delay. Therefore, for all the above reasons, they pray for setting aside the communication and consequential direction to 1st respondent to hear and dispose of the revision on merits.

The learned Assistant Government Pleader for Tribal Welfare submits that the petitioners can be given liberty to represent the revision with an application to condone delay and the same will be considered by the 1st respondent. The contention is merely noted to be rejected.

The chronological reference to dates and events *prima facie* shows that the rejection of revision filed by the petitioners as time barred is untenable and consequently the communication dated 18.04.2008 is set aside. The 1st respondent is directed to number the revision filed on 02.03.2008, hear and dispose of the revision within six months from the date of receipt of a copy of this order. The interim order granted on 21.05.2008 is directed to be continued pending revision.

The writ petition is ordered as indicated above. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT,J

Date:09.03.2017
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