THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.21640 OF 2017

Dated:07.09.2017

Between:

K. Sridhar Reddy, S/o. Late K. Pratap Reddy,
Aged about 43 years, Occ: Agriculture,
R/o.H.No.2-4, Chinnaraviral Village,
Abdullapurmet Mandal, Ranga Reddy District .. Petitioner

And

The State of Telangana, rep., by its
Principal Secretary, Revenue Department,
Secretariat, Hyderabad and others .. Respondents

The Court made the following:

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ORDER:

Petitioner claims that his father purchased land to an extent of Ac.10.00 in Survey No.293/3 under simple sale deed dated 24.02.1979 from D. Subhash Reddy, who was the original owner of the property. Father of the petitioner made application under Section 5-A of the Andhra Pradesh Rights in Land and Pattadar Passbooks Act, 1971 (for short, 'the Act') for regularizing the subject property and the Tahsildar, Abdullapurmet Mandal, Ranga Reddy District, the 4th respondent, passed orders dated 28.12.1990 granting regularization. However, 18 years after such regularization, D. Subhash Reddy preferred appeal before the Revenue Divisional Officer, Saroornagar, the 3rd respondent, challenging the said regularization. The 3rd respondent allowed the appeal preferred by D. Subhash Reddy. The same was challenged by the petitioner in C.R.P.No.5237 of 2009. This Court remanded the matter to the original authority to consider the issue afresh under Section 5-A of the Act. Thereafter, the 4th respondent passed orders on 31.12.2011 rejecting the application of the father of the petitioner for regularization of sale deed dated 24.02.1979. Aggrieved thereby, father of the petitioner preferred appeal before the 3rd respondent. During pendency of the appeal, father of the petitioner died on 26.01.2015. Thereafter, in June, 2015, petitioner submitted application before the 3rd respondent to bring him on record and permit him to prosecute the appeal in the place of his father.

2. According to learned counsel for the petitioner, the said application was not considered and no orders were passed. The appellate authority passed orders on the appeal preferred by the father of the petitioner on 04.11.2015 i.e., after death of the father of the petitioner. Aggrieved thereby, petitioner preferred revision under Section 9 of the Act before the Joint Collector, Ranga Reddy District, the 2nd respondent. The 2nd respondent by the order impugned in the Writ Petition rejected the revision on the ground that the said revision was filed beyond 90 days and therefore, the same is not maintainable. Challenging the same, this Writ Petition is filed.

3. Notices were issued in the Writ Petition on private respondents on 03.07.2017 and the petitioner was also permitted to take out notice on private respondents and file proof of service. Subsequently, notices were served, but no appearance is entered on behalf of respondents 5 to 7.

4. A bare reading of the order of the 2nd respondent would show that the revision filed by the petitioner was rejected only on the ground that the said revision is not filed within reasonable time.

5. Section 9 of the Act vests power in the revisional authority to *suo motu* exercise revisional power on an application made before him. However, the Section does not prescribe any time limit within which a revision should be filed.

6. Admittedly, in the present case, rejection of the revision is only on the ground that the same was not filed within reasonable time.

7. According to learned counsel for the petitioner, appeal was rejected on 04.11.2015 and a copy application was filed for supply of certified copy thereof and on securing the copy of the order revision was preferred. According to learned counsel, it cannot be said that the revision was not filed within reasonable time.

8. As the order of the appellate authority was passed on 04.11.2015 and the copy of which was obtained by the petitioner on 29.03.2016, it cannot be said that such revision was not preferred within reasonable time. Furthermore, what is required to be noticed is that the appellate order was passed after death of the father of the petitioner. The appellate authority could not have proceeded to decide the appeal without first considering the application filed by the petitioner to bring him on record and to prosecute the appeal in the place of his late father. In the grounds of revision, petitioner has specifically contended that the order of the appellate authority is vitiated on that ground, informing the revisional authority the date of death of his father and filing an application to bring legal representatives on record. There is no whisper of dealing with the said contention by the revisional authority in the order of revision.

9. Having regard to the peculiar facts of this case, I am of the considered opinion that the decision of the revisional authority in summarily rejecting the revision on the ground that it was not filed within reasonable time is not sustainable. Accordingly the order impugned is set aside and the matter is remitted to the revisional authority for consideration of the revision duly taking note of the grounds urged in the revision, more particularly with reference to

the issue of consideration of appeal by the Revenue Divisional Officer after death of the father of the petitioner without considering the application of the petitioner to bring the legal representatives on record and to prosecute the appeal in the place of his late father, and after putting the parties on notice, and pass appropriate orders as warranted by law within a period of two months from the date of receipt of a copy of this order.

10. With the above observations and directions, the Writ Petition is allowed. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in the Writ Petition shall stand closed.

P. NAVEEN RAO, J

Date:07.09.2017
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