

HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

Writ Petition No.19835 of 2010

ORDER:

Heard learned counsel for petitioner and learned Government Pleader for Social Welfare (AP).

2) The petitioner seeks a Writ in the nature of Mandamus declaring the order passed by the 1st respondent in Lr.No.1607/LTR-1/2010 dated 30.07.2010 as illegal, arbitrary and contrary to the provisions of Andhra Pradesh Scheduled Areas Land Transfer Regulation No.1 of 1959 (for short "A.P.S.A.L.T. Regulation") as amended by 1/1970 and consequently set aside the eviction proceedings passed in S.R.No.315 of 1993 dated 26.04.1995 and consequential proceedings passed by the 2nd respondent in S.R.A.No.6 of 1995 dated 20.01.1998.

3a) Petitioner's case is that she is the owner of land in an extent of Ac.3.08 cts. in Sy.Nos.17/1A and 17/1B of Ramannagudem Village, Buttaigudem Mandal, West Godavari District and the same was purchased by her mother from one Uppala Srinivasa Rao (Non-Tribe) through possessory agreement of sale in 1969 and thereafter sale deed was executed. Since then the petitioner's family has been in possession of the said land.

b) While so, Special Deputy Tahsildar gave a complaint against the mother of the petitioner in S.R.No.315 of 1993 before the 3rd respondent under Section 3(2) (a) of A.P.S.A.L.T. Regulation 1/1959 as amended by 1/1970 and the 3rd respondent passed an order of eviction on 26.04.1995.

Aggrieved, the mother of the petitioner filed S.R.A.No.6 of 1995 before the Agent to Government and the same was dismissed on 20.01.1998. Assailing the same, petitioner's mother approached the High Court and filed W.P.No.3604 of 1998. While admitting the writ petition, the High Court granted stay in WPMP No.4284 of 1998 dated 11.02.1998. Pending the said writ petition the mother of the petitioner died and hence the present petitioner came on record as her LR as per order dated 10.04.2007.

c) The further case of the petitioner is that by order dated 28.06.2007 the above writ petition was disposed of with a direction to the writ petitioner to approach the Regional Authority—1st respondent by way of filing revision and pending disposal of the revision, interim order shall continue. Though the said order was sent to the petitioner, however, she has not received the order copy and hence there was delay in filing the revision. The said revision was dismissed by the 1st respondent without considering the merits of the case and communicated the proceedings dated 30.07.2010 stating that revision petition is filed after 12 years 1 month. The petitioner has given reason for filing the revision with delay but the 1st respondent without giving opportunity to the petitioner to explain the delay has passed the order. The said order is passed without following the principles of natural justice.

Hence, the present writ petition.

4a) Assailing the impugned order, learned counsel for petitioner would submit as per Section 6 of A.P.S.A.L.T. Regulation 1/1959 as amended by

1/1970, the State Government has to revise any decree or order passed by the Agent, the Agency Divisional Officer or any other prescribed officer under the Regulation by giving due notice and opportunity of hearing to the parties affected by the decree or order. However, neither in the said Section nor in any other provision of the said Regulation, any time limitation is prescribed for filing a revision and therefore, it has to be held that there is no time limitation for filing the revision. Learned counsel would submit the 1st respondent ought not to have dismissed the revision on the ground that it was filed belatedly after 12 years.

b) Next, learned counsel would argue that in Section 6 of A.P.S.A.L.T. Regulation 1/1959 as amended by 1/1970, it is made clear that the revisional authority shall pass the order only after giving due notice to the parties concerned and after giving them a reasonable opportunity of being heard but, however, in the instant case no opportunity was accorded to the petitioner to submit her case on merits as well as the reasons for delay in filing revision. In fact, though there is no obligation on the petitioner to explain the delay, however, the chronology of the events would show that petitioner's mother filed W.P.No.3604 of 1998 challenging the order in S.R.A.No.6 of 1995 and the said writ petition was disposed of only on 28.06.2007 giving liberty to the petitioner to approach the revisional authority i.e. the Government and file a revision within a period of six weeks. However, in view of delay in receiving the copy of the order in writ petition, the petitioner had to file the revision in the second week of February, 2010. Thus, the learned counsel would submit, under

law there is no time stipulation for filing revision and on facts also, due to reasons submitted supra, there was no wilful delay on the part of petitioner in filing the revision. Therefore, the 1st respondent ought to have heard the matter on merits by giving due opportunity to the petitioner and her counsel, instead the 1st respondent only sent a letter to the petitioner's counsel stating that the revision petition since being filed with an inordinate delay of twelve years one month and four days in stead of within two months from the date of receipt of the order in S.R.A.No.6 of 1995 and rejected as time barred. He would submit the order is against the provisions of A.P.S.A.L.T. Regulation 1/1959 as amended 1/1970.

5) Learned Government Pleader for Social Welfare opposed the petition stating that there was an inordinate delay of 12 years in filing the revision and therefore 1st respondent has rightly reject the revision.

6) As can be seen, the impugned order dated 30.07.2010 reads that the revision was dismissed mainly on the ground that there was inordinate delay of twelve years one month and four days in filing the revision petition and the same was not filed within two months from the date of the order in S.R.A.No.6 of 1995 dated 20.01.1998 under Rule 8(1) of the Andhra Pradesh Scheduled Areas Land Transfer Rules, 1969.

7) On a perusal of A.P.S.A.L.T. Regulation 1/1959 as amended by 1/1970 and Andhra Pradesh Scheduled Areas Land Transfer Rules, 1969, I am constrained to hold that the order is not in consonance with Regulation 1/1959 and its Rules.

8) As rightly argued by the learned counsel for petitioner, Section 6 of A.P.S.A.L.T. Regulation 1/1959 only says about the method of disposal of a revision but it has not prescribed any time limit for filing the revision. Section 6 A.P.S.A.L.T. Regulation 1/1959 reads thus:

“Section 6—Revision

The State Government may revise any decree or order passed by the Agent, the Agency Divisional Officer or any other prescribed officer under the Regulation;

Provided that the power shall be exercised only after due notice to the parties affected by the decree or order and after giving them a reasonable opportunity of being heard.”

The above provision is pellucid to the effect the State Government shall pass order after giving due notice to the parties affected by the decree or order and after giving them a reasonable opportunity of being heard.

9) In the instant case, the order dated 30.07.2010 would show that the 1st respondent has not heard the petitioner and her counsel before passing the order. Moreover, the revision was dismissed on the sole ground that same was not filed within two months from the date of receipt of the order in S.R.A.No.6 of 1995 dated 20.01.1998. It appears, the 1st respondent has taken aid of Rule 8 of Andhra Pradesh Scheduled Areas Land Transfer Rules, 1969 to arrive at the said decision. It must be made clear that Rule 8 relates to the filing of appeal but not revision. Rule 8 reads thus:

“Rule 8: (1) *An appeal against any decree or order passed under sub-rule (4) of Rule 7 by the officer referred in sub-rule (2) of Rule 3 shall lie to the Agent.*

(2) Subject to the provisions of Clause (b) of sub-section (3) of Section 3, every appeal under the said sub-section shall be preferred within a period of two months from the date of the decree or order appealed against.

(3) The appellate authority to whom an appeal has been preferred under sub-section (3) of Section 3 may hold or cause to be held such further enquiry, if any, as it may consider necessary and after giving the parties concerned a reasonable opportunity of being heard, may pass such orders as it thinks fit.”

Thus, two months time prescription made in Rule 8 relates to filing of an appeal but not revision. Therefore, the impugned order which was rendered in terms of Rule 8(1) of A.P. Scheduled Areas Land Transfer Rules, 1969 is not sustainable.

10) In the result, this Writ Petition is allowed and the impugned order is set aside and the matter is remitted back to the 1st respondent with a direction to strictly follow the provision under Section 6 of A.P.S.A.L.T. Regulation 1/1959 as amended by 1/1970 and pass an order on merits after giving notice to the parties affected and giving them a reasonable opportunity of being heard, within three (3) months from the date of receipt of a copy of this order. No costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 24.08.2018
Murthy