

* THE HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

C.R.P. No.2648 of 2011

%04.01.2018

Between:

Shaik Mahmood Jani & others

.. Petitioners

AND

The Addl. Divisional Officer
LR-II-cum-Revenue Divisional Officer
Land Reforms Tribunal at Medak

.. Respondents

Counsel for the petitioners : Sri T.Vijay Hanuman Singh

Counsel for the respondents 1 to 3 : Govt. Pleader for Arbitration
Counsel for the respondents 5 to 10 : Sri G.Shiv Kumar Goud

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> Head Note:

? CITATIONS:

NIL

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

C.R.P. No.2648 of 2011

ORDER:

The revision petitioners, who maintained I.A.No.478 of 2008 in the unnumbered appeal L.R.A. (SR) No.116 of 2007, having been unsuccessful by the impugned dismissal order, dated 01.03.2011, maintained the present Civil Revision Petition against the respondents viz., (i) The Additional Revenue Divisional Officer, LR-II-cum-Revenue Divisional Officer, Land Reforms Tribunal, Medak (ii) The Authorised Officer, Land Reforms, Collectorate, Medak at Sangareddy (iii) The Tahsildar, Shivampet Mandal, Medak District (iv) Smt. Kulsum Bee, died per LRs (v) Syed Habeeb (vi) Syed Ghulam Dastagir (vii) Syed Siddique (viii) Syed Chand (ix) Syed Akhtar and (x) Syed Rafiq.

2. The contentions in the grounds of Civil Revision Petition impugning the order of the lower Court supra are that the said order is unsustainable, contrary to law and probabilities of the case and the same is the outcome of non-appreciation in proper perspective. The lower Court should have seen that the petitioners are not parties to the Land Reforms Case in C.C.No.1178/ NPR/ 75 and thereby, they have no knowledge about the order, dated 21.04.1993, passed by respondent No.1 till they came to know of the same on 08.10.2007 in filing the

appeal before the lower Court, with no lapse of time therefrom, on 27.10.2007 and the appeal thereby filed is within limitation. However, the application to condone the delay sought for as an abundant caution irrespective of the Section 20(3) of the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (for short, 'the Act') speaks the aggrieved party is entitled to file appeal from the date of communication of the order and since the petitioners are not parties before respondent No.1, no order was communicated to them; the appeal filed is well within time. The lower Court has not properly appreciated the same and wrongly dismissed the petition and thereby, the same is liable to be set aside. The petitioners' claim is that they are in lawful possession and enjoyment of the lands bearing Survey No.51 to the extent of Ac.3.11 cents, Survey No.55 - Ac.15.58 cents, Survey No.57 - Ac.10.80 cents, Survey No.58 - Ac.13.09 cents, Survey No.59 - Ac.4.98 cents, Survey No.33 - Ac.14.03 cents, Survey No.52 - Ac.19.36 cents, Survey No.40 - Ac.15.01 cents and Survey No.56 - Ac.11.36 cents, all situated at Skindlapur Village, Shivampet Mandal, Medak District, and that recently they came to know that the deceased respondent No.4 Kulsum Bee submitted a declaration in C.C.No.1178/ NPR/ 75 and illegally included the properties referred supra of the petitioners and shown the extent of Ac.47.56 cents equivalent to 0.8617

standard holding as surplus and the Additional Revenue Divisional Officer, LR-II (primary authority) accepted the said declaration in computing the holding by declaring the surplus, vide order dated 21.04.1993, and accepted the surrender of the land bearing Survey Nos.51, 55, 57, 58 & 59 totally admeasuring Ac.47.56 cents. The petitioners thereby filed the unnumbered appeal with a petition to condone the delay of 5287 days in filing the appeal.

3. Learned counsel for the petitioners reiterated the same, whereas it is the submission of the learned Government Pleader for Arbitration on behalf of the official respondents 1 to 3 that the impugned order traces back to 1993, sought for setting aside in 2007/8, no way requires interference by this Court while sitting in revision for no proper grounds to assign within the paramteres of sufficient cause to condone the delay, and it is highly improbable to believe all of a sudden they came to know just before filing the case without even any basis as to how all of a sudden they came to know only on 08.10.2007, but for to create a cause in maintaining the unnumbered appeal with the delay condonation petition on 27.10.2007 and thereby, the Civil Revision Petition is liable to be dismissed to avoid speculative litigation further.

4. Heard both sides and perused the material on record and the provisions relevant to the issue for decision.

5. Coming to the crux of the issue and on the scope of Section 20(3) of the Act and Rule 16 (9) of the A.P. Land Reforms (Ceiling on Agricultural Holdings) Rules, 1974 (for short, 'the Rules'), the unreported decision of this Court in C.R.P.No.257 of 1977 placed reliance referring the provisions says time for appeal commences from the date the order was communicated to the declarant's counsel for the reason that the communication to the counsel is a communication to the party. In fact, the decision has no application for it is not the claim of the petitioners that they are the declarants or claiming through declarants and parties to any order to appeal from communication.

6. The order of lower Court very clearly speaks that the petitioners and their ancestors earlier filed a Writ Petition in the High Court questioning the very enquiry about the declaration given by Kulsum Bee showing the excess land that was surrendered in her statement. In that context and after all the litigation was ended and after due notice to the concerned, in the light of declaration submitted by Kulsum Bee and the orders passed thereon, the petitioners cannot ignore the orders passed by the lower Tribunal; that too when

the orders passed were duly notified in the Gazette from which when, it is a deemed notice and the record also demonstrates the following of the due procedure in passing the orders after giving notice and hearing of the persons interested and thereby, the petitioners' contention has no *locus standi* much less to entertain the delay condonation petition to file appeal to reopen the declaration and surplus land surrendered by the declarant Kulsum Bee, that was accepted by the primary authority way back in 1993 after enquiry by following the procedure.

7. Once such is the case for there is no basis to the pretence of no knowledge and also for no other explanation to the delay of fifteen (15) years, for this Court while sitting in revision against the dismissal order for condonation of delay, there is nothing to interfere and the petitioners cannot even take shelter of the Section 20 (3) of the Act and Rule 16(9) of the Rules thereunder.

Accordingly, and in the result, the Civil Revision Petition is dismissed. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

04.01.2018

Note: L.R. Copy to be marked
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