

HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY

Writ Appeal No.349 of 2019

Date: 23.10.2019

Between:

U.Jagdish Pershad

...Appellant

And

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

...Respondents

Standing Counsel for the appellant : Mr. N. Naveen Kumar

Counsel for the respondents : Mr. Chetluru Srinivas

The Court made the following:

JUDGMENT: (Per the Hon'ble Sri Justice A.Abhishek Reddy)

Aggrieved by the dismissal order, dated 31.12.2018, passed by the learned Single Judge in W.P.No.29628 of 2015, the present Writ Appeal is filed.

2) The brief facts of the case are that the appellant herein claims to be the absolute owner and possessor of land in Sy.No.82 admeasuring Ac.1.34 gts., Sy.No.83 admeasuring Ac.0.04 gts., Sy.No.84 admeasuring Ac.0.26 gts., Sy.No.124 admeasuring Acs.3.00 gts., situated in Gudimalkapur Village, Asifnagar Mandal, Hyderabad. Challenging the Order, dated 12.02.2014, passed by the Tahsildar, Asifnagar Mandal, Hyderabad District, in file No.D/1710/1992, the appellant herein filed an appeal before the Joint Collector, Ranga Reddy District, vide case No.B2/25/2015. It is the case of the petitioner that he had purchased the subject property from one Begari Rajeshwar, S/o.Begari Venkaiah @ Venkat under an Agreement of Sale, dated 09.12.1981; he is in possession and enjoyment of the said lands from the date of agreement. It is his further case that in the year 1984, after obtaining permission from HUDA, he has converted the entire subject property into a layout by demarcating the land into plots, and sold them to third party purchasers under registered instruments and the purchasers are enjoying their respective plots. It is the contention of the appellant that without any notice to him, an application under Section 32(1) of the Andhra Pradesh (Telangana Area) Tenancy & Agricultural Lands, 1950, was filed by respondent Nos.4 to 28 herein for seeking restoration of possession of the subject land. The then Mandal Revenue Officer, passed an Order, dated 17.08.2002, in file No.D/1710/92 behind his back. Aggrieved by the same, some other respondents therein, had filed an appeal challenging the order of the M.R.O., Asifnagar, wherein the Joint Collector has set aside the

order dated 17.08.2002 and remanded the matter to the Tahsildar for fresh enquiry.

3) After receipt of the Orders of the Joint Collector, dated 17.08.2002, the Tahsildar has again initiated the proceedings by issuing notices to all the parties concerned and passed an Order, dated 12.02.2014, in file No.D/1710/1992, directing the Mandal Revenue Inspector to deliver the possession of the subject lands to M.Sanjeeva Reddy and others. Aggrieved by the said Order, dated 12.02.2014, the appellant herein has filed a third party appeal before the Joint Collector in the year 2015 along with a condone delay application seeking to condone the delay from 12.02.2014 to 24.10.2014 in filing the appeal; the said appeal was numbered as case No.B2/25/2015. The Joint Collector, after going through the relevant documents and the records, vide Order dated 19.08.2015, had dismissed the appeal filed by the appellant herein on the ground of laches and limitation. The Joint Collector had further held that there is no cogent and convincing explanation for the delay in filing the appeal and thereby dismissed the petition filed seeking condonation of delay to file a third party appeal. Aggrieved by the Orders of the Joint Collector, dated 19.08.2015, passed in case No.B2/25/2015, the appellant herein has filed W.P.No.29628 of 2015. The learned Single Judge, after going through the record, has passed the Order, dated 31.12.2018, impugned in this appeal, upholding the Order of the Joint Collector, and dismissing the third party appeal filed by the appellant herein.

4) The learned counsel for the appellant mainly contends that the valuable rights of the parties are involved in the present litigation and as such, the Joint Collector as well as the learned Single Judge ought not to have taken a pedantic approach in condoning the delay. Instead, they should have taken a pragmatic view of the matter. Though the reasons for

the delay caused in filing the appeal before the Joint Collector were properly explained, the Joint Collector did not advert to the same. Thus, he has erroneously dismissed the petition filed for condonation of delay. The learned Counsel also tried to impress upon this Court that the appellant could not file the appeal in time due to the death of his son, and also his own illness.

5) Admittedly, in the present case, the appellant herein is a third party to the proceedings before the Tahsildar, Asifnagar. In the petition filed under Section 32 (1) of the Andhra Pradesh (Telangana Area) Tenancy & Agricultural Lands, 1950 (for short 'the Act'), the petitioners were protected tenants, who were illegally dispossessed by the landlord contrary to the provisions of the Act. Section 32 of the Act reads as under:

32. Procedure of taking possession :- (1) *A tenant or an agricultural labourer or artisan entitled to possession of any land or dwelling house under any of the provisions of this Act may apply to the Tahsildar in writing in the prescribed form for such possession.*

(2) *No landholder shall obtain possession of any land or dwelling house held by a tenant except under an order of the Tahsildar, for which he shall apply in the prescribed form.*

(3) *On receipt of an application under sub-section (1) or sub-section (2) the Tahsildar shall, after holding an enquiry pass such order thereon as he deems fit.*

(4) *Any person taking possession of any land or dwelling house otherwise than in accordance with the provisions of sub-section (1) or sub-section (2), as the case may be, shall, without prejudice to his liability to the penalty provided in Section 96, be liable to forfeiture of the crops, if any, grown on the land to the payment of such costs as may be awarded by the Tahsildar or by the Collector on appeal from the Tahsildar.*

6) Admittedly, the appellant is neither the pattedar, nor the owner, nor the possessor of the land and is merely an agreement-holder. No title or right would vest with the person who is only an agreement-holder. Thus, he has no *locus* to challenge the order of the Mandal Revenue Officer as he is a third party to the proceedings. If any person is aggrieved by the order passed by the Mandal Revenue Officer, it is only the pattedar, or his successors-in-interest. The cause title shows that he

has filed the case in his personal capacity and not on behalf of the pattadar of the subject lands. A perusal of the record would show that the appellant herein has been taking contrary stands before different Fora. On one hand, he claims to be the absolute owner and possessor of the lands, and yet on the other hand, he claims to be an agreement-holder of one Begari Rajeshwar. Moreover, the appellant could not explain cogently the reasons for delay caused in filing the appeal before the Joint Collector. When a statute prescribes the period of limitation for filing an appeal or revision, the parties to the litigation should be diligent enough in challenging the orders of the Subordinate Courts or Tribunals, if they are so aggrieved by the order of the primary authority. The petitioner, for the reasons best known to him, did not file the appeal in time. Moreover, the reasons for the delay and laches shown are not convincing and cogent enough to condone the delay in filing the appeal. Hence, the orders of the learned Single Judge as well as the Joint Collector assailed in the writ petition do not suffer from any infirmity. Hence, the appeal has to fail. If the appellant is so advised, he is free to approach the competent Civil Court for agitating his right.

7) For the afore-stated reasons, the Writ Appeal is dismissed.

The miscellaneous petitions pending, if any, shall stand closed.
There shall be no order as to costs.

RAGHVENDRA SINGH CHAUHAN, HCJ

A.ABHISHEK REDDY, J

23rd October, 2019
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