

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.625 of 2019

ORDER :

This Revision is filed challenging the order dt.20-11-2018 in I.A.No.189 of 2018 in O.P.No.232 of 2011 of the Senior Civil Judge, Wanaparthi refusing to condone the delay of 2138 days in filing petition for restoration of O.P.No.232 of 2011, which was disposed on 15-06-2012 *ex parte*.

2. Petitioner Nos.1, 2 and 3 had sought a reference under Section 18 of the Land Acquisition Act, 1894 (for short 'the Act') in respect of their property, which had been acquired by the State for the purpose of excavation and widening of OVP Ramanpad Left Main Canal under Award No.8/2010 dt.27-03-2010.

3. The said reference was numbered as O.P.No.232 of 2011 and was posted to 15-06-2012 for filing of claim statement. But petitioner Nos.1 to 3 did not appear and it was closed on 15-06-2012.

4. Almost 6 years later, on 20-04-2018, petitioner Nos.2 and 3 and the legal representative of 1st petitioner, who is said to have died in 28-02-2014, filed I.A.No.189 of 2018 to condone the delay of 2139 days in filing petition for restoration of O.P.

5. In the affidavit filed in support of the said application, they stated that after seeking reference under Section 18 of the Act, they

left the village for livelihood and at that time, 2nd petitioner was suffering from cardiac disease and had been operated in March, 2012, that 1st petitioner died on 28-02-2014, and therefore they could not attend before the Court on 15-06-2012.

6. Counter-affidavit was filed by respondent opposing the said application stating that delay in filing application had not been properly explained.

7. By order dt.20-11-2018, the Court below dismissed the said application stating that when the O.P. was posted to 15-06-2012, petitioner Nos.1 to 3 as well as their counsel were not present and there was no representation on their behalf, and so the Presiding Officer, after perusing the record and the Award passed by the Land Acquisition Officer, came to the conclusion that there is no material to show that the amount awarded in the Award is not as per law, and confirmed the Award. It held that if petitioner Nos.1 to 3 felt aggrieved by the said order, they should have come forward to file application to set it aside, but they have approached the Court after expiry of 2139 days and they did not show sufficient cause for condoning the delay.

8. Assailing the same, this Revision is filed.

9. Learned counsel for petitioner contended that 1st petitioner died on 28-02-2014 and 2nd petitioner had cardiac surgery in March, 2012

and these facts ought to have been taken into account by the Court below while deciding I.A.No.189 of 2018.

10. Learned counsel for petitioners relied on a decision of the Supreme Court in **K.Subbarayudu and others Vs. Special Deputy Collector (Land Acquisition)**¹. In the said judgment, the Supreme Court had held that the term 'sufficient cause' has to receive liberal construction so as to advance substantial justice, when no negligence, inaction or want of *bona fides* attributable to the parties.

11. The fact remains that petitioner Nos.1 to 3 had themselves sought reference under Section 18 of the Act to the Court of the Senior Civil Judge, Wanaparthi questioning the quantum of compensation awarded to them in the Award dt.28-03-2010 in Award No.8/2010. The reference was numbered as O.P.No.232 of 2011 and had been posted to 15-06-2012 for filing claim statement. All that the petitioners needed to do was to have the claim statement filed through counsel on that day in the Court, but they failed to do so. Even if the 2nd petitioner had heart surgery in March, 2012, nothing prevented the 1st petitioner and 3rd petitioner to have the claim statement drafted by a counsel and signed by themselves and 2nd petitioner to be filed into the Court on 15-06-2012. No difficulty is attributed to 3rd petitioner to approach the Court either on 15-06-2012 or subsequently.

12. In the instant case, there is evidence of negligence and inaction on the part of petitioners to approach the Court between 15-06-2012

¹ (2017)12 SCC 840

and 20-04-2018 i.e. almost 6 years. Therefore, they are not entitled to any indulgence by condoning the said period of delay.

13. Therefore it cannot be said that petitioners have made out sufficient cause for condoning the inordinately long delay of 2139 days in seeking to set aside the order dt.15-06-2012 dismissing O.P.No.232 of 2012.

14. Therefore the Civil Revision Petition fails and it is dismissed at the stage of admission. No costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 13-06-2019

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