

HIGH COURT FOR THE STATE OF TELANGANA
THE HON'BLE THE CHIEF JUSTICE SRI RAGHVENDRA SINGH CHAUHAN
AND
THE HON'BLE DR. JUSTICE SHAMEEM AKTHER
WRIT APPEAL NO.597 of 2019
18.07.2019

Between:

Kuralkala Rajeshwar Rao

...Appellant

and

The State of Telangana and others

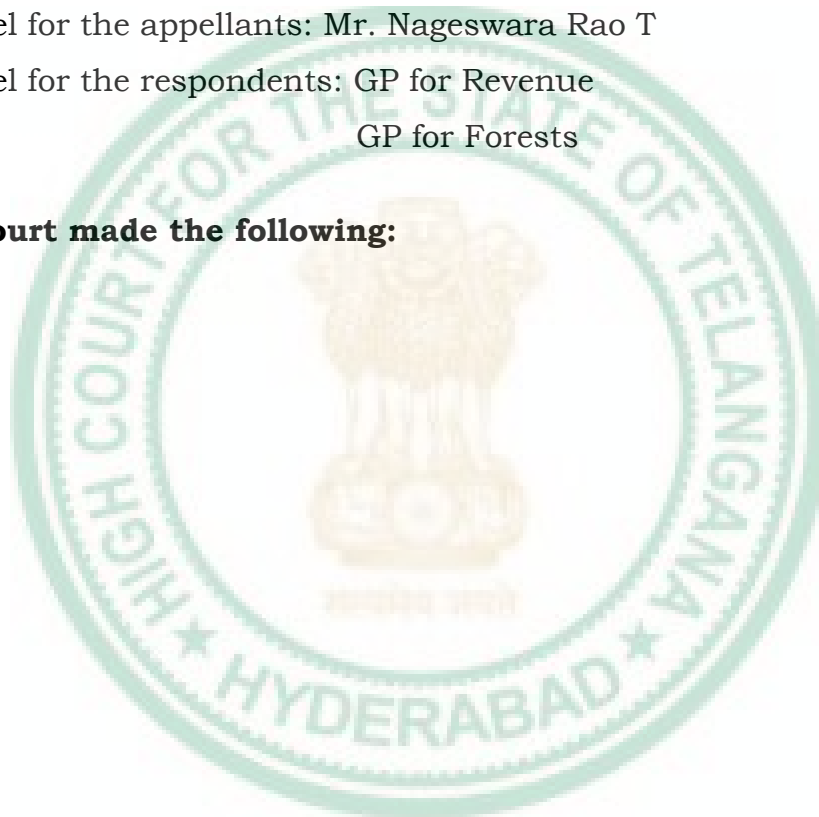
...Respondents

Counsel for the appellants: Mr. Nageswara Rao T

Counsel for the respondents: GP for Revenue

GP for Forests

The Court made the following:



JUDGMENT: (Per the Hon'ble the Chief Justice Sri Raghvendra Singh Chauhan)

The appellant is aggrieved by the order dated 24.06.2019, passed by a learned Single Judge in W.P.No.12520 of 2019, whereby the learned Single Judge has dismissed the writ petition filed by him. He sought the relief that the Court should declare the inaction of the respondents in delaying the implementation of G.O.Ms.No.1434 dated 26.07.1958, despite the fact that there is a vacant land in Survey No.77/1 of Jakaram Village, Mulugu Mandal, Warangal District, as violative of Articles 14 and 300-A of the Constitution of India.

Briefly, the facts of the case are that the appellant claimed that by G.O.Ms.No.1434 dated 26.07.1958, his father was granted lease for Ac.449.30 guntas in Jakaram Village, Mulugu Mandal, Warangal District, for a period of forty years from 1873 to 1912, on a condition that he shall construct a tank for wet cultivation in the area under lease. His father duly fulfilled the said condition. He further claimed that on the expiry of the lease period in 1912, his father acquired the proprietary rights over the leased area of Ac.449.30 guntas. Moreover, he claimed that his father already had a patta for a land to the extent of Ac.194.16 guntas adjoining the leased area of Ac.449.30 guntas. Thus, his father had proprietary rights over the extent of Ac.644.06 guntas of land.

The petitioner further claimed that, subsequently, the Forest Department required Acs.522.00 of the leased area out of Ac.644.06 guntas. Consequently, the Government passed an award providing only an extent of Acs.128.00 of wet land in favour of the father of the petitioner, for the purpose of cultivation.

Moreover, in lieu of the provided wet land to the extent of Ac.322.06 guntas, the Government made an award providing Acs.522.00 of dry land situated at Lakshmiddevapet. However, as the petitioner's father was aggrieved by the grant of Acs.522.00 of land situated at Lakshmiddevapet, he filed an appeal before the competent authority. The Board of Revenue, by its judgment dated 08.07.1950, directed the State to give the petitioner's father a reduced, but similar extent of land situated at Lakshmiddevapet. However, the District Collector, after examining the judgment passed by the Board of Revenue, concluded that only Acs.143.00 can be allotted, as rest of the land out of Acs.300.00 was already under cultivation. Despite the fact that the petitioner's father was aggrieved by the said decision, despite the fact that he filed an appeal requesting the competent authority to grant Acs.300.00 of land in Jakaram Village in his favour, the said request fell on deaf ears.

By G.O.Ms.No.1434 dated 26.07.1958, the Government directed the Chief Conservator of Forests to handover to the petitioner's father a land to the extent of Acs.115.00. However, despite the fact that the said order was passed on 26.07.1958, despite the lapse of many decades, the said order was not implemented by the Government. Therefore, the petitioner was constrained to file the writ petition in 2019. However, the learned Single Judge has dismissed the writ petition solely on the ground of delay and laches.

Relying on the case of **Tukaram Kana Joshi and others vs. Maharashtra Industrial Development Corporation and others [(2013) 1 Supreme Court Cases 353]**, Mr. T. Nageswara Rao, the

learned counsel for the appellant, has pleaded that even in the said case, inspite of a delay of twenty-five years, the same was condoned by the Hon'ble Supreme Court. Therefore, the learned Single Judge has erred in dismissing the writ petition, solely on the ground of delay and laches. Thus, according to the learned counsel, the impugned order deserves to be set aside by this Court.

Heard the learned counsel and perused the impugned order as well as considered the case law cited at the Bar.

A bare perusal of the judgment passed in the case of **Tukaram Kana Joshi** (supra) clearly reveals that the appellants therein were pursuing their case persistently. It is only after pursuing the case persistently for twenty-four years that they finally approached the Court. However, in the present case, after the judgment was pronounced by the Board of Revenue in 1950, the appellant sat quietly till the year 2019. Moreover, a bare perusal of G.O.Ms.No.1434 dated 26.07.1958 clearly reveals that the allotment of land was a conditional one. The condition imposed was that the timber accounts had to be settled before the area was handed over to the petitioner's father. There is no evidence to show that the timber accounts were duly settled by the petitioner's father. Thus, it is unclear whether the land was eventually allotted to the petitioner's father or not? Moreover, whether the land continues to be in its original nature or the nature of the land has been changed, during the course of five decades, is equally unclear. Hence, the learned Single Judge was legally justified in dismissing the writ petition.

For the reasons stated above, this Court does not find any illegality or perversity in the impugned order. The Writ appeal is hereby dismissed. There shall be no order as to costs.

The miscellaneous petitions pending, if any, shall stand closed.

RAGHVENDRA SINGH CHAUHAN, CJ

DR. SHAMEEM AKTHER, J

18th July, 2019
JSU



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