

THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY

I.A.No.2 of 2020 in/and Review I.A.No.3 of 2020

IN

C.R.P.Nos.890, 1227, 1434, 1436, 1437, 1463, 1464, 1848, 1876  
& 1878 of 2017 and CRP(SR) No.31709 of 2016

AND

W.P.Nos.20615 and 12390 of 2021

**COMMON ORDER:**

I.A.No.2 of 2020 in Review I.A.No.3 of 2020 in the respective C.R.Ps are filed seeking to condone the delay of 979 days in filing the Review Applications, whereas Review I.A.No.3 of 2020 in the respective C.R.Ps are filed seeking to review the common order dated 11.08.2017 passed in the Civil Revision Petitions.

W.P.No.12390 of 2021 is filed aggrieved by the inaction of respondent No.1 in passing orders upon the Appeal filed by the petitioners on 05.01.2021, against the common order dated 03.09.2016, passed by the Joint Collector-II, Ranga Reddy District, whereas W.P.No.20615 of 2021 is filed questioning the action of respondent Nos.2 to 6 in entertaining the applications submitted by respondent Nos.7 to 20 in respect of the petitioners' landed property, admeasuring Acs.18.09 guntas, in Survey Nos.176 to 179 situated at Narsingi Village, Gandipet Mandal, Ranga Reddy District, for mutation of entries in Dharani Portal.

The facts, in brief, for the purpose of deciding the present I.As and the writ petitions are that the petitioners herein have filed a batch of C.R.Ps. challenging the common order dated 03.09.2016,

passed by the Joint Collector - II, Ranga Reddy District, in Case Nos.F1/3929/2013, F1/4265/2013, F1/4422/2013, F1/4423/2013, F1/4424/2013, F1/4427/2013 and F1/5278/2013. The first of batch of C.R.Ps, were filed under Section 28 of the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 (for short, 'the Act') and another batch of C.R.Ps. were filed under Article 227 of the Constitution of India. This Court *vide* common order dated 11.08.2017 held that the petitioners have deliberately resorted to suppression of material fact and held the same to be an abuse of process of the Court and that they have approached the Court with unclean hands, and as such, they are not entitled to seek any indulgence, and accordingly, dismissed all the C.R.Ps.

The learned counsel appearing for the review petitioners has stated that the previous counsel as well as the General Power of Attorney Holder of the petitioners did not prosecute the C.R.Ps properly before the Court and that the petitioners were not aware of the common order dated 11.08.2017 passed by this Court dismissing the C.R.Ps. Learned counsel has further stated that the common order passed by this Court was not on merits, but, on technicalities. That the petitioners believed the words of the General Power of Attorney Holder and entrusted the matter to him. But, the said General Power of Attorney Holder, in collusion with the unofficial respondents in the C.R.Ps, have played fraud on the petitioners as well as the Court, and therefore, the learned Single Judge has

dismissed the C.R.Ps. Learned counsel further states that the petitioners are illiterates and they were not aware of the order passed by this Court earlier and as soon as they came to know about the order, they have filed the present I.As seeking review of the order. That the petitioners should not be punished for the mistakes or lapses committed by their General Power of Attorney Holder or their counsel. That on coming to know about the dismissal of the C.R.Ps, the petitioners have obtained certified copies of the same and filed the present Review Applications. That there is a delay of 979 days in filing the said Review Applications, as such, they have filed I.A.No.2 of 2020 seeking condonation of the said delay. The learned counsel has further stated that if the delay is not condoned, the petitioners will be put to great hardship and irreparable injury.

Per contra, Sri G. Pedda Babu, the learned counsel appearing for some of the respondents in C.R.P.Nos.1463 and 1876 of 2017 and W.P.No.12390 of 2021, has stated that there are absolutely no merits in the Review Applications. That the delay of 979 days in filing the Review Applications cannot be condoned by any stretch of imagination, as there is no proper or cogent explanation by the petitioners for condoning the enormous delay of 979 days, therefore, the Review Applications are not maintainable. Moreover, the petitioners have filed the present Review Applications on 22.09.2020 i.e., after transfer of the learned Judge, who has passed the common order dated 11.08.2017, to another High Court. That as a matter of

fact, the common order dated 11.08.2017 was passed by this Court duly taking into consideration the fact that the petitioners have approached this Court with unclean hands, have suppressed the material facts and that they tried to obtain orders from this Court by playing fraud. Learned counsel has further stated that once the fraud is established, the petitioners have no *locus standi* and the learned Judge has rightly dismissed the C.R.Ps. Learned counsel has further stated that in case the petitioners have any grievance, the remedy available to them is to file a Special Leave Petition before the Hon'ble Supreme Court against the order of the learned Single Judge dated 11.08.2017, but they cannot file Review Applications before this Court, more so, after transfer of the learned Judge to another High Court. That challenging the very same common order of the Joint Collector, the petitioners have filed two batches of C.R.Ps, one batch under Section 28 of the Act, and another batch under Article 227 of the Constitution of India. When the petitioners did not get any interim order in the first batch of cases, they filed the second batch of C.R.Ps. by suppressing the filing of the first batch. This Court, while issuing notice before admission in C.R.P.No.1227 of 2017, on 17.03.2017, has directed the parties to maintain *status quo*. Thereafter, the said *status quo* order was also vacated. That the petitioners having exhausted the statutory remedies available to them under law, cannot be permitted to file the present Review Applications. In order to buttress his contention that the Review Applications should not be entertained, more particularly, when the

learned Judge, who has passed the order has been transferred or retired from service, the learned counsel has relied on the judgment of the Hon'ble Supreme Court in *Vedanta Limited (Formerly known as M/s. Sesa Sterlite Limited) v. Goa Foundation and others*<sup>1</sup>, wherein the Hon'ble Supreme Court, under similar circumstances, has held as under:

*"Such practice must be firmly disapproved to preserve the institutional sanctity of the decision-making of this Court. The review petitioners were aware of the decision of this Court."*

Insofar as W.P.No.12390 of 2021 is concerned, Sri G. Pedda Babu, the learned counsel, states that the petitioners gave a representation to the Government and styled it as an appeal, and on the very next day, they have filed the writ petition seeking a direction to the respondent No.1 – Government to dispose of the said appeal. Learned counsel has stated that under the statute the aggrieved party has the remedy of filing an Appeal under Section 24 of the Act, and thereafter, a revision under Section 28 of the Act before this Court. The petitioners having exhausted the remedies available under the Act cannot file a representation or appeal before the Government which has no jurisdiction or power to decide the representation under the Act. Once the matter has been decided by this Court, the petitioners cannot approach the Government again for setting aside the orders passed by the Joint Collector or against issuance of the Occupancy Right Certificate itself.

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<sup>1</sup> (2021) 7 SCC 206

Sri E. Ajay Reddy, the learned Senior Counsel appearing on behalf of Ms. E. Anisha Reddy, the learned counsel appearing for the respondent in C.R.P.No.1437 of 2017, and respondent Nos.12 and 20 in W.P.Nos.12390 and 20615 of 2021, while adopting the arguments advanced by Sri G. Peddababu, learned counsel, has vehemently opposed the maintainability of the writ petitions and also the Review Applications. The learned Senior Counsel has held that once this Court has come to the conclusion that the petitioners have played fraud and tried to obtain orders from this Court by suppression of material facts and dismissed the C.R.Ps, the question of filing the Review Applications does not arise. More so, after the transfer of the learned Judge, who passed the common order in the C.R.Ps, to another High Court. Learned Senior Counsel has stated that the petitioners have initially filed a batch of C.R.Ps under Section 28 of the Act and thereafter another batch of C.R.Ps under Article 227 of the Constitution of India. That the learned Single Judge having found that the petitioners have suppressed about the filing of the earlier batch of C.R.Ps and obtained an interim order in one C.R.P. in the second batch of C.R.Ps, has vacated the interim order and dismissed the C.R.Ps. That once a fraud is established, the Court is not obligated to go into the merits of the case and the C.R.Ps were rightly dismissed by this Court. The remedy available to an aggrieved party by the dismissal order is to approach the Hon'ble Supreme Court, but they cannot file the present Review Applications. Moreover, the delay caused in filing the present

Review Applications is more than two and half years and there is no proper or convincing explanation whatsoever forthcoming for the said delay, except making bald statements that the counsel who appeared for the petitioners on the earlier occasion did not prosecute the C.R.Ps properly and that the petitioners are illiterates and did not have knowledge about the dismissal of the C.R.Ps, nothing has been stated. That the petitioners had full knowledge about the dismissal of the C.R.Ps. and the reason shown for seeking condonation of the delay is concocted one. That this Court as well as the Hon'ble Supreme Court has repeatedly held that once the rights of the parties are settled, the same cannot be unsettled. That there are no reasons to interfere with the common order passed by this Court and the Interlocutory Applications filed for condonation of delay of 979 days as well as the Review Applications are liable to be dismissed *in limini*.

Insofar as W.P.No.12390 of 2021 is concerned, the learned Senior counsel has stated that the petitioners have no *locus standi* to file the said writ petition, as the petitioners have already exhausted the remedies available under the Act, therefore, they cannot re-agitate the matter once again before the Government by filing frivolous applications styled as appeals. Once the statute prescribes a particular mode for challenging the grant of Occupancy Rights Certificates, the same has to be followed and the representations filed by them cannot be taken up as appeals or revisions. That the

very filing of the writ petition is for perpetuating the fraud that was initially played. In view of the same, the prayer sought for in W.P.No.20615 of 2021 cannot be granted. That the unofficial respondents are in possession and enjoyment of the subject land and the subject land has already been converted into non-agricultural land and therefore, the petitioners cannot seek a direction to the respondent authorities not to change the entries in the revenue records or stop the alienation of the subject land. The petitioners have no semblance of any right, title or interest over the subject property and therefore, the prayer in this writ petition cannot be granted. Therefore, the filing of the writ petitions is gross abuse of process of law and the same has to be deprecated and the writ petitions are liable to be dismissed with exemplary costs.

Sri Mir Masood Khan, the learned counsel appearing on behalf of some of the respondents in C.R.P.Nos.1436 and 1464 of 2017, while adopting the arguments of Sri G. Pedda Babu, the learned counsel, and Sri E. Ajay Reddy, the learned Senior Counsel, has stated that once the lands are sold by the pattadar of the lands, the rights, if any, existing will cease to exist after the death of the said pattadar. Since the subject property has been sold to the unofficial respondents, the petitioners cannot re-agitate the matter once again. Admittedly, in this case, the sale was not challenged at any point of time by the Legal Representatives of the pattadars and the transactions have become final. The learned counsel further

states that the present Review Applications are not maintainable and the writ petitions are nothing but an abuse of process of law and therefore, the same have to be dismissed.

When queried by this Court as to whether any complaint has been filed either against the learned counsel, who appeared for the petitioners in the C.R.P.s, or the General Power of Attorney Holder of the petitioners, the learned counsel for the Review Petitioners has fairly admitted that they have not filed any such complaint.

The learned Judge has dismissed the batch of C.R.Ps *vide* common order dated 11.08.2017, on the following grounds:

*“That may be so but the fact remains that upon filing the second set of revision petitions, the petitioners successfully secured an interim order in CRP No.1227 of 2017 on 17.03.2017. It is possible that the petitioners may have expected the second batch of cases to come up before a different Court as had happened with their writ petition. Manifest on the face of the record are their multiple attempts by different means and through different counsel to challenge the very same order.*

*No doubt, 3 out of 12 petitioners in the first batch of cases did not figure as petitioners either in the writ petition or in the second batch of cases. However, no indulgence can be shown to them in the light of the aforestated facts and as they are all closely related and were sailing together. Even now, the miscellaneous applications filed seeking liberty to enable the 9 petitioners in the second set of cases to prosecute one or the other revision filed against each case indicate their complicity in the matter. Abuse of process by the petitioners in these cases is therefore apparent as they chose to file the first batch of cases through their GPA and being aware of the pendency of these cases on 22.12.2016, they chose to invoke the writ jurisdiction of this Court and having failed in that attempt, they filed the second batch of cases under Article 227 of the Constitution, perhaps being under the impression that they would come before a different Court so that they could attempt to secure favourable ex parte orders.”*

Once the learned Judge has dismissed the C.R.Ps, the remedy available to the petitioners is to challenge the said order before the Hon'ble Supreme Court. But, the petitioners have kept quite and filed the present Review Applications nearly after more than two and half years. It is pertinent to note that the learned Judge, who has passed the common order in the C.R.Ps, was transferred to Punjab and Haryana High Court on 14.10.2019. Thereafter, the present Applications have been filed seeking to condone the delay in filing the Review Applications and to Review the common order dated 11.08.2017. Even though the affidavits filed in support of the said Applications are running into so many pages, except stating that the petitioners were not given proper advice by the earlier counsel and that they were not aware of the dismissal of the C.R.Ps, nothing has been stated in the said affidavits with regard to the delay caused.

A perusal of the common order dated 11.08.2017 passed in the batch of C.R.Ps shows that though the initial batch of C.R.Ps filed under Section 28 of the Act was filed by their G.P.A holder, but subsequently, the petitioners have filed an application seeking leave of the Court for prosecuting the C.R.Ps in their individual capacity and not through the G.P.A holder, and the said leave was granted by this Court. Thereafter, they have filed another batch of C.R.Ps. under Article 227 of the Constitution of India. In the interregnum, they have also filed a writ petition under Article 226 of the Constitution of India and the same was dismissed. Therefore, the

petitioners cannot now contend that they were not aware of the order passed by this Court or that the C.R.Ps were not properly dealt with by their counsel. The sequence of events i.e., the date of dismissal, the date of transfer of the learned Judge, who passed the common order, and the date of filing of the present Review Applications clearly reveal that the petitioners have filed the present Review Applications after the transfer of the learned Judge to another High Court. Moreover, there is no proper explanation with regard to the condonation of the delay. There are absolutely no reasons to condone the enormous delay of 979 days in filing the Review Applications.

In *Esha Bhattacharjee v. Raghunathpur Nafar Academy*<sup>2</sup>, the Hon'ble Supreme Court has held as under:

*"ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.*

*x) If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation.*

*xi) It is to be borne in mind that no one gets away with fraud, misrepresentation or interpolation by taking recourse to the technicalities of law of limitation."*

In *Mohammad Akbar Lone v. DG, Prasar Bharti*<sup>3</sup>, the Court while dealing with a review petition, held that there was a reckless delay of 1230

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<sup>2</sup> (2013) 12 SCC 649

days in filing the review petition and the sequence of the events which prompted the petitioners to file the review petition after a long delay of more than three years had not been accounted.

In *Northern India Caterers v. Lt. Governor Delhi*<sup>4</sup>, the Hon'ble Supreme Court observed that the scope of a review petition is limited to deal with an error apparent on the face of the record and it cannot be used as a forum to re-argue the matter. The Court dismissed the petitioner's application for condonation of delay and also dismissed the review petition.

As rightly pointed out by Sri G. Pedda Babu, the learned Counsel, the Hon'ble Supreme Court has deprecated the practice of filing the Review Applications seeking review of the orders, after the retirement or transfer of the learned Judge, who passed the said orders, to some other High Court.

In the instant case, the petitioners have chosen to file the Review Application after two and half years, more particularly, after the transfer of the learned Judge, who has passed the common order, to Punjab and Haryana High Court. Therefore, this Court does not find any reason to condone the delay in filing the Review Applications.

Insofar as W.P.Nos.20615 and 12390 of 2021 are concerned, admittedly, the petitioners having exhausted the remedies under the Act, cannot re-agitate their rights by making an

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<sup>3</sup> 2018 SCC OnLine J & K 664

<sup>4</sup> (1980) 2 SCC 167

application/representation before the Government styling the same as an appeal. Moreover, there is no provision under the Act for filing such an application/representation before the Government. Unless and until the statute prescribes a remedy of filing an application before the Government, the parties cannot seek any direction from this Court to dispose of the representations filed before the Government. Therefore, this Court is of the opinion that W.P.Nos.20615 and 12390 of 2021 are filed without any legal basis or any statutory right.

In the result, I.A.No.2 of 2020 in/and Review I.A.No.3 of 2020 in C.R.P.Nos.890, 1227, 1434, 1436, 1437, 1463, 1464, 1848, 1876 & 1878 of 2017 and CRP(SR) No.31709 of 2016 are dismissed. W.P.Nos.20615 and 12390 of 2021 are also dismissed.

Consequently, the miscellaneous petitions pending, if any, in W.P.Nos.20615 and 12390 of 2021 shall stand closed. There shall be no order as to costs.

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**A.ABHISHEK REDDY, J**

Date : 02.12.2021  
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