

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

W.P.No. 4623 of 2010

Between:

D.Srikanth Reddy and another

... Petitioners

And

The Joint Collector and others

... Respondents

JUDGMENT PRONOUNCED ON: 04.07.2023

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

1. Whether Reporters of Local newspapers : yes
may be allowed to see the Judgment?
2. Whether the copies of judgment may be
marked to Law Reporters/Journals? : yes
3. Whether Their Lordships wish to
see the fair copy of the Judgment? : yes

SUREPALLI NANDA, J

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

W.P.No. 4623 of 2010

% 04.07.2023

Between:

D.Srikanth Reddy and another

..... Petitioner

And

\$ The Joint Collector and others

... Respondents

< Gist:

> Head Note:

! Counsel for the Petitioners : Sri Prakash Reddy
Sr. Designated counsel
Mr N.Ranga Rao

^ Counsel for Respondents 1 and 2: G.P. for Revenue
^ Counsel for respondents 3 to 11 : Sri Veerababy Gandu

? Cases Referred:

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

W.P.No. 4623 of 2010

ORDER:

Heard the learned senior designate counsel, Sri Prakash Reddy, appearing on behalf of the petitioners and learned Government Pleader appearing on behalf of respondents No.1 and 2 and learned counsel Sri Veerababu Gandu, appearing on behalf of the unofficial respondents No.3 to 11.

2. This writ petition is filed to issue a direction, writ order, one in the nature of Mandamus or any other appropriate orders calling for the records and to set aside the impugned orders dated 02.01.2010 passed in file No.F1/3148/2008 on the file of the 1st respondent Joint Collector, Ranga Reddy District as the same is arbitrary, illegal, violative of Article 14, 21 and 300-A of the Constitution of India.

3. The case of the petitioners, in brief, is as follows:

a) The unofficial respondents 3 to 11 have filed an appeal bearing No. F1/3148/2008 before the 1st respondent Joint Collector, Ranga Reddy District against the orders of the 2nd

respondent passed in file No.L/4308 of 1990, dated 25.03.1991, in respect of the land bearing Survey No.17 admeasuring Ac.0.28 guntas and Survey No.22 admeasuring Ac.0.12 guntas, in total Ac.1.00 gts situated at Injaur Village, Hayatnagar Mandal, Ranga Reddy District, for which the petitioners filed detailed counter stating that the appeal is filed after lapse of more than 17 years without filing any condonation of delay petition and also not filed date of knowledge affidavit and there is abnormal delay for filing the appeal. As per Section 24 of the Inam Abolition Act, the appeal time is 30 days. The 1st respondent has remanded the matter to the 2nd respondent for denovo enquiry, without conducting proper enquiry and without considering the facts and legal position.

b) One Balaiah and Sailoo sons of Lachaiah were the recorded Inamdars of the land bearing Survey No.17, Ac.0.28 gts and Survey No.22, Ac.0.12 gts in total Ac.1.00 gts situated at Injapur Village, Hayatnagar Mandal, Ranga Reddy District having half share each. Balaiah died in the year 1983 and later on his wife Smt Gngamma also died. The said Balaiah was not having any male issues except one daughter

Smt Jangamma @ Jayamma and her marriage took place in the year 1973 and they got four sons i.e. respondents 3 to 6. The Balaiah adopted his own brother Sailoo's son by name Balaiah.

c) Respondents 3 to 11 filed registered Will before the appellate authority that Balaiah's wife Smt Gangamma executed the same bequeathing the subject lands and other properties in favour of her daughter Jayamma @ Jangamma.

d) The inamdars in need of money for their family necessities, approached the petitioners and sold the same under Agreement of sale dated 25.04.1990 for a total sale consideration of Rs.40,000/-. At the time of agreement of sale, respondents 3 to 11 are minors. Later on, Smt Jangamma executed registered sale deed on 26.07.1990 vide document No.9482/1990 in favour of the petitioners.

e) After purchase of the said, the petitioners came to know that the subject lands are inam lands. As such the petitioners approached the Inams Tribunal i.e. The Revenue Divisional Officer, East Division, as successors in interest of inamdars. Necessary notices were issued to all the inamdars. After receiving notices, the inamdars given no objection for

issuance of ORC. Therefore, after completing formalities, M.R.O and RDO issued Occupancy Rights Certificate on 5.03.1991.

f) Smt Jangamma died in the year 2007 and till such time no claim was made by anybody. But after death of Jangamma, her legal heirs filed appeal before the 1st respondent. In the said appeal the 1st respondent set aside the Occupancy Rights Certificate and remitted to the 2nd respondent for denovo enquiry.

g) After purchase of the property, the petitioners developed the said lands and invested hard earned money and loan from bank and constructed poultry sheds, godowns, labourer room, dairy shed after obtaining necessary permission. Hence, this writ petition.

4. No counter affidavit has been filed by official Respondents as on date.

5. The unofficial respondents 3 to 11 filed counter affidavit along with Vacate Stay Petition No.5988 of 2010.

6) PERUSED THE RECORD

a) Proceedings of the Revenue Divisional Officer dated 25.03.1991 vide No.L/4308/1990 issued in accordance with the provisions of Section (4) r/w Section 10 of Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 issued in favour of the Petitioners reads as under :

“In accordance with the provisions of Section (4) read with Section 10 of the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955.

Sri D.Srikanth Reddy 2) Sri D.Madhusudhan Reddy S/o D.Bal Reddy at Injapur Village, Hayathnagar Mandal Shall be registered as an occupant in respect of the land specified in the schedule below and shall be liable to pay Government and amount of Rs.640/- (Rupees six hundred and forty only) towards the premium in (10) annual instalment commencing from 22.03.1991 they shall also be liable to pay the Land Revenue Assessment in respect of the said land in accordance with the provisions of the Act, in Section (4).

THE SCHEDULE

Village Mandal And district	Sy.No.	Extent Acs.	Wet Gts. Dry	Remarks
Injapur Village Hayathnagar	17/ 17/	0.28 0.14 ½	Wet Wet	Remitted the entire

Mandal	22	0.12	Wet premium
R.R. District		-----	amount of
		1.1 ½	Rs.640/- *

(one acre and fourteen and half
Guntas only)

- (Rupees six hundred and forty only) vide Bank
Challan No.4956 dated 25.03.1991 a State Bank of
Hyderabad, Pathargatti, Hyderabad.

**b. Order impugned dated 02.01.2010 of the Joint
Collector – I, R.R. District, reads as under :**

““The main averments of the appellants is that they are the legal heirs i.e., grand children of the possessor of the inam lands under the present case and entitled to half share over the lands under the present case. The respondents contends that they have purchased the lands under the present case from the L.Rs of the possessors of the inam lands vide Document dated: 26-7-1990.

The pahani for the year 1974-75 shows that one Balaiah S/o Laxmaiah and Sayanna S/o Laxmaiah are the inamdars and possessors over Sy.No. 22 admeasuring Acs. 0-12 gts, Balaiah S/o Laxmaiah for an extent of Acs. 0-28 gts over Sy.No. 17/AA and (1) Ramaiah S/o Yadaiah and (2) Sathaiah S/o Kishtaiah for an extent of Acs. 0-29 gts over Sy.No. 17/AA. Neither the appellants nor the respondents are in possession and personal cultivation of the lands in Sy.No. 17 and 22 of Injapur Village as on the date of vesting.

Therefore, the issuance of the Occupancy Right Certificate No. L/4308/90 Dated: 25-3-1991 over Sy.No. 17 and 22 for an extent of Acs. 1-14 ½ gts in favour of the respondents is not in conformity of the procedure for issue of the Occupancy Right Certificate. Thus liable to be set aside. Accordingly, the Occupancy Right Certificate No. L/4308/90 Dt: 25-3-1991 issued by the Lower court is set aside and the case is remanded to the Revenue Divisional Officer, Rangareddy East Division for denovo enquiry and issue of Occupancy Right Certificate duly following the procedure laid down under the Act and Rules.

c. Order dated 26.02.2010 passed in WPMP No.5952/2010 in WP No. 4623/2010 reads as under :

“Interim suspension as prayed for. However, the petitioners shall not alter or alienate the subject land or create third party interest in respect of the subject lands until further orders.

DISCUSSION AND CONCLUSION:

5) A bare perusal of the order impugned dt. 02.01.2010 vide No.F1/3148/2008, passed by the 1st Respondent herein in an Appeal filed by the unofficial Respondents No.3 to 11, U/s.24 of Andhra Pradesh

(Telangana Area) Abolition of Inams Act, 1955, aggrieved by the orders of the Revenue Divisional Officer, R.R. East Division, in granting Occupancy Rights Certificate No.L/4308/90, dt. 25.03.1991, in respect of land in Sy.No.17 and 22, admeasuring Ac.1.14½ gts., situated at Injapur Village, Hayathnagar Mandal, R.R. District, in favour of the Petitioners herein indicates that the said Occupancy Rights Certificate issued in favour of the Petitioners had been set aside observing that the same is not in conformity of the procedure for issue of the Occupancy Right Certificate and further remanding the matter to the Revenue Divisional Officer, Ranga Reddy East Division for denovo enquiry.

6) A bare perusal of the impugned proceedings dt. 02.01.2010 of the 1st Respondent herein vide No.F1/3148 /2008 clearly indicates that the Appeal had been filed by the unofficial Respondents No.3 to 11 herein aggrieved against the issuance of the Occupancy Right Certificate dt. 25.03.1991, in favour of the Petitioners in respect of the subject land after a period of more than 17 years and further that there is no any

reference to delay on the part of the unofficial Respondents herein nor any reasons had been pleaded seeking condonation of the said delay in approaching the 1st Respondent since as per Sec.24 of Inam Abolition Act, Appeal time is 30 days and Appeal should be filed within reasonable time. The order impugned strangely neither refers to the delay aspect of 17 years nor is there any discussion about any condone delay petition having been filed by unofficial Respondents herein nor indicates the said petition as having been considered by the 1st Respondent on merits on the point of delay and the delay having been condoned. The order impugned dt. 02.01.2010 also does not refer to any affidavit having been filed indicating the date of knowledge of passing of the order dt. 25.03.1991 in favour of the Petitioners herein, in explaining the delay in filing the appeal aggrieved by the said order.

7) It is specifically pleaded and averred by the Respondents herein in the Appeal filed U/s.24 of the A.P. (T.A.) Abolition of Inams Act, 1955, that the occupancy rights certificate were issued to the

Petitioners basing on the registered Sale Deed dt. 26.07.1990 said to have been executed by the adopted son of one Chakali Balaiah and Sayanna and the legal heirs of Sayanna. This Court opines that the unofficial Respondents having admitted regarding execution of the Registered Sale Deed in favour of the Petitioners herein and knowing fully well that ORC has been granted in favour of the Petitioners on the basis of Sale Deed the unofficial Respondents herein cannot question the said ORC unless they take steps for the cancellation of the said registered Sale Deeds.

8) The learned Senior designate counsel appearing on behalf of the Petitioner herein places reliance on the judgment dt. 21.11.2022 passed in Executive Officer, Group of Temples, Wanaparthi, Mahabubnagar District Vs. Joint Collector, Mahabubnagar & Others reported in (2023) 1 ALT 83 and further brings to the notice of the Court that the Executive Officer had preferred SLP No.21809/2022 aggrieved against the final judgment and order dt. 21.11.2022 passed in WP No.913/2002 and the Hon'ble Apex Court vide its order dt.

02.01.2023 had directed Status Quo to be maintained by the parties.

9. This Court opines that the Petitioner is entitled for the relief as prayed for in the present writ petition in view of the fact that whenever there is inordinate delay in invoking the provisions of a statute, an application should be rejected on that ground alone. Principle reiterated from time and again that even if no time limit is prescribed in the statute for the exercise of power, such power has to be exercised within reasonable time and what is reasonable time depends on the facts of each case. This Court is of the firm opinion that settled transactions cannot be disturbed after a long period of time and in the present case the Appeal is preferred by the unofficial respondents No.3 to 11 after a period of more than 17 years after the issuance of occupancy right certificate in favour of the petitioners herein, without explaining the reasons for the delay of 17 years in approaching the 1st respondent.

10. Taking into consideration of the above said facts and circumstances and specific averments made by the Petitioner at paras 5, 10 and 11 of the affidavit filed by the Petitioner in support of the present Writ Petition which has not been denied by the Official Respondents herein, the order impugned dt. 02.01.2010 in No.F1/3148/2008 of the 1st Respondent herein is set aside.

11. Accordingly, the writ petition is allowed. However, there shall be no order as to cost.

Miscellaneous petitions, if any, pending shall stand closed.

SUREPALLI NANDA, J

Dated: 04.07.2023

Note: L.R. copy to be marked
b/o
kvrn