

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**DATED THIS THE 31<sup>ST</sup> DAY OF JULY, 2018

BEFORE

THE HON'BLE MRS.JUSTICE B.V.NAGARATHNA

**WRIT PETITION No. 26411/2018 (LR)****BETWEEN:**

Ramakrishna Reddy  
S/o Dodda Muniswamy Reddy  
Aged About 70 years,  
Agriculturalist,  
R/at 352, Teachers Colony,  
Venkatapura,  
Koramangala Post,  
Bangalore-560034

**.... PETITIONER**

(By Sri. Varadarajan.M.S, Advocate)

**AND:**

1. The State of Karnataka,  
Represented by Tahasildar  
Anekal Taluk,  
Anekal Town,  
Anekal-562106  
Bangalore Urban District,
2. The Assistant Commissioner,  
Bangalore South Sub-Division,  
2<sup>nd</sup> Floor, Kandaya Bhavana,  
K.G.Road, Bangalore-560009.

**... RESPONDENTS**

(By Sri. Neelakantappa.K.Pujar, HCGP for R1 and R2)

This Writ Petition is filed Under Articles 226 And 227 Of The Constitution of India praying to Quash the impugned order dated 26.4.2018 passed in Appeal No.1068/2014 on the file of the Karnataka Appellate Tribunal Bangalore (Annexure-A) and etc.

This Petition coming on for Preliminary Hearing, this day, the Court made the following:

**ORDER**

Heard.

2. Learned HCGP accepts notice for respondent nos.1 and 2.

3. Though this writ petition is listed for Preliminary Hearing, with the consent of learned counsel on both sides, it is heard finally.

4. Petitioner has assailed judgment dated 26.04.2018 passed in Appeal No.1068/2014 by the Karnataka Appellate Tribunal (hereinafter referred to as "Tribunal" for the sake of brevity) Bengaluru, (Annexure-A). By the said judgment, Tribunal has declined to condone delay of 10 years 01 month and 28 days in preferring the appeal by the petitioner. The said appeal was preferred by the petitioner being aggrieved by the order passed by respondent no.2-Assistant Commissioner, Bengaluru South Sub-Division, Bengaluru, in LRF (83) (B) 57/97-98, dated 04.08.2004.

5. Briefly stated, the facts are, that petitioner has purchased land bearing Survey no.235/2, measuring 10 guntas and Survey no.244, measuring 28 guntas, both situated in Begur Village and Hobli, Bengaluru South Taluk from the erstwhile owner under a registered Sale Deed dated 27.12.1995. Subsequently, respondent no.2 initiated proceedings under Sections 79(A) and 80 of the Karnataka Land Reforms Act 1961 (herein after referred to as the "Act" for the sake of brevity) by order dated 04.08.2004. Respondent no.2 declared that there was infraction of Sections 79(A) and 80 of the Act and ordered for forfeiture of the aforesaid lands.

6. Being aggrieved by the said order, petitioner preferred Appeal No.1068/2014 before the Tribunal. There was a delay of 10 years 01 month 28 days in filing the said appeal. An application was filed for condonation of delay in filing the appeal under Section 5 of the Limitation Act. The Tribunal dismissed the said application, as a result, the appeal is also dismissed and the impugned order of the Assistant Commissioner has

been confirmed. Being aggrieved, petitioner has preferred this writ petition.

7. I have heard learned counsel for the petitioner, learned HCGP for respondents and perused the material on record.

8. During the course of submissions, learned counsel for the petitioner drew my attention to the order sheet maintained by respondent no.2 in the proceedings initiated by him under Section 79(A) read with Section 80 of the Act. He drew my attention to order dated 23.12.1998, subsequent order being 09.06.2004 and impugned order being 04.08.2004. He contended that between 23.12.1998 and 09.06.2004, there was a lull in the proceedings and for almost six years, no hearing took place before respondent no.2- Assistant Commissioner, all of a sudden on one day, the case was called on 09.06.2004 and subsequently, on 04.08.2004, impugned order was passed without notifying the petitioner. He therefore, submitted that there was a delay of 10 years 01 month 28 days in preferring the

appeal, as petitioner became aware of the impugned order dated 04.08.2004 passed by respondent no.2 only when respondent-authorities came near his land in order to give effect to the forfeiture order and till then he was unaware of the order which was passed behind his back.

9. He submitted that the Appellate Tribunal ought to have appreciated the aforesaid facts, condoned the delay and heard the appeal on merits, rather than dismissing the application filed under Section 5 of the Limitation Act and consequently, the appeal. Therefore, learned counsel submitted that this Court may quash the impugned judgment passed by the Tribunal dated 26.04.2004, Annexure-'A', and remand the matter to the Tribunal for consideration of appeal on merits by condoning the delay in approaching the Tribunal.

10. Per contra, learned HCGP appearing for the respondents supported the impugned judgment and contended that the long delay could not have been condoned by the Tribunal and there is no merit in the writ petition.

11. The detailed narration of facts would not call for a reiteration. It is noted that respondent no.2 initiated action under Section 79(A) read with Section 80 of the Act in respect of alienation made in favour of the petitioner in respect of two parcel of land under the registered Sale Deed dated 27.12.1995. The proceedings were commenced in the year 1998 and order sheet of the said proceedings in LRF (83)/87/97-98 has been produced at Annexure-'C'. On perusal of the same, it is noted that the order sheet has been written and maintained from 12.03.1998 onwards and the order sheet from 15.12.1998 to 04.08.2004 reads as under:

*15.12.1998*

*The Presiding Officer is engaged otherwise, hence case adjourned to 23.12.1998 at 11.00 a.m.*

*By Order  
Sd/-  
Manager  
Asst. Commissioner's Office  
Bangalore Sub-Division, Bangalore*

*23.12.1998 Case called. Respondent absent.*

*Case is reserved for orders. He has filed all relevant documents.*

*Sd/- 23.12.98*

*09.06.04*

ಕರೆಯಿಸಲಾಯಿತು ಪ್ರತಿವಾದಿ ಹಾಜರು, ತನ್ನ ತಂದೆ ಹೆಸರಿನಲ್ಲಿ ಜಮೀನು ಇದ್ದು ಅದರ ಪಹಣಿ ವಂಶವೃಕ್ಷ ನೀಡಿರುವುದಾಗಿ ತಿಳಿಸಿ, ಈಗ ತನ್ನ ಹೆಸರಿನಲ್ಲಿ ಇರುವ ಪಹಣಿ ನೀಡಿರುವುದಾಗಿ ತಿಳಿಸಿದ್ದಾರೆ. ಒಪ್ಪಿದೆ. ಕಡತವನ್ನು ಆದೇಶಕ್ಕೆ ಮುಂದೂಡಿದೆ.

ಸಹಿ/-

ಸಹಿ/- 9.6

04.08.04 ಕರೆಯಿಸಲಾಯಿತು. ಪ್ರತಿವಾದಿಗಳು ಗೈರು ಹಾಜರು ವಿವರವಾದ ಆದೇಶದಂತೆ ಸರ್ಕಾರಕ್ಕೆ ಮುಟ್ಟುಗೋಲು ಹಾಕಿ ಆದೇಶಿಸಿದೆ.

ಸಹಿ/- 04.08.04

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Sd/-

ಉಪ ವಿಭಾಗಾಧಿಕಾರಿಗಳ ಪರವಾಗಿ  
ಬೆಂಗಳೂರು ದಕ್ಷಿಣ ಉಪ ವಿಭಾಗ

12. On a reading of same, it becomes clear that on 15.12.1998, respondent no.2 being otherwise engaged, the case was adjourned to 23.12.1998. On 23.12.1998, petitioner did not appear and matter was reserved for orders. But, till 09.06.2004, no orders were passed in respect of the proceedings. On 09.06.2004,

the matter was suddenly taken up not for the purpose of passing orders, but for further consideration of the matter without issuing notice to petitioner herein to appear on the said date. Subsequently, on 04.08.2004, the impugned order of forfeiture has been passed. Thus, between 23.12.1998 and 09.06.2004, petitioner was not in the know of the fact, whether order would be passed in the matter or, proceedings would be taken up for further consideration. Though, on 23.12.1998, it was noted in the order sheet that case is reserved for orders, but for over five long years, on 09.06.2004, without intimation to petitioner, matter was taken for further consideration. This itself shows that there is violation of principles of natural justice. The impugned order has been passed without notifying the petitioner and not hearing the matter subsequent to 09.06.2004. Had the petitioner been informed or intimated about further consideration of the matter and had he appeared, then the principles of natural justice would have been complied with. The same not having been done in the instant case, it is the case where there has been



infraction or the principles of natural justice. After nearly a decade thereafter when the respondent authorities sought to give effect to the impugned order dated 04.08.2004, petitioner became aware of the said order of forfeiture. In the circumstances, reasons for delay of 10 years 01 month 28 days in approaching the Tribunal was sufficient in law and ought to have been condoned by Tribunal rather than dismissing the application seeking condonation of delay.

13. In the circumstances, impugned judgment dated 26.04.2018, Annexure-'A', is quashed. I.A. No.1 filed in the said appeal is allowed. Delay of 10 years 01 month 28 days in approaching the Tribunal is condoned for the aforesaid reasons and there being sufficient reasons in law to do so. The matter is remanded to the Tribunal for consideration of the appeal on merits.

14. Since, parties are represented by their respective counsel and proceedings commenced in the year 1998, they are directed to appear before the Tribunal without expecting any separate notices from

the Tribunal, on **29.08.2018**. The Tribunal is directed to dispose off the appeal in an expeditious manner and in accordance with law.

Writ Petition is ***disposed off*** with the aforesaid terms.

**Sd/-  
JUDGE**

Psg\*