

Sakuru

Vs

Tanaji

Civil Appeal No. 1852 of 1979

(V. Balakrishna Eradi, Sabyasachi Mukharji JJ)

10.07.1985

JUDGMENT

V. BALAKRISHNA ERADI, J. -

1. In this filed by special leave granted by this Court against the judgment dated April 12, 1978 of a learned Single Judge of the High Court of Andhra Pradesh, the sole question arising for decision is whether the provisions of section 5 of the Limitation Act, 1963 can be invoked for condoning the delay in the filing of an appeal before the Collector under section 90 of the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950 - Act 21 of 1950 (hereinafter called 'the Act').

2. The facts which have led up to the present controversy may now be briefly set out. The Revenue Divisional Officer, Adilabad declared the respondent - Tanaji to be the owner of an extent of 6 acres, 39 guntas comprised in Survey Nos. 289 and 290 of Hasnapur village under section 38-E of the Act on the ground that he (the respondent) was a "protected tenant". Though an appeal lay to the Collector under section 90 of the Act against the said order passed by the Revenue Divisional Officer the appellant landholder did not prefer an appeal but, instead, filed a Writ Petition - W.P. No. 2064 of 1976 before the High Court of Andhra Pradesh challenging the legality and correctness of the order passed by the Revenue Divisional Officer. That Writ Petition was dismissed by a learned Single Judge of the High Court on July 1, 1976. Writ Appeal No. 385 of 1976 filed against the decision of the learned Single Judge was subsequently dismissed by a Divisional Bench of the High Court on December 6, 1976. Long thereafter, on August 22, 1978, the appellant preferred an appeal before the District Collector purporting to be one filed against the order dated January 22, 1975 passed by the Revenue Divisional Officer together with an application for condonation of delay under section 5 of the Limitation Act. That application and the appeal were opposed by the respondent herein. But his objections were overruled, the delay was condoned and the appeal was allowed by the Collector on October 24, 1977. The respondent-Tanaji thereupon moved the High Court by filing a revision petition under section 91 of the Act. By the judgment impugned in this appeal, the learned Single Judge of the High Court allowed that revision petition holding that the Collector had no jurisdiction to condone the delay in the filing of the appeal by invoking section 5 of the Limitation Act, following an earlier ruling of a Division Bench of the same High Court reported in K. Venkaiah and Others v. K. Venkateswara Rao (AIR 1978 AP 166 : (1977) 2 APLJ (HC) 382). In that decision the Division Bench of the High Court had taken the view that the Limitation Act applies only to proceedings before a Civil or Criminal Court and since the Collector before whom an appeal is filed under section 90 of the Act is not a Civil or Criminal Court, the provisions of the Limitation Act, 1963 have no application to the proceedings before him unless there is express provision in the special enactment whereunder the Collector is exercising appellate

jurisdiction, making any particular section of the Limitation Act specifically applicable to such proceedings. It was further held by the Division Bench that section 93 of the Act, as it then stood, made applicable to proceedings before the Collector only those provisions of the Limitation Act which related to the 'computation of the period of limitation' and since section 5 did not fall within the group of sections (sections 12 to 24 of the Limitation Act) dealing with computation of the period of limitation, the provisions of section 5 were not applicable to the proceedings before the Collector. The learned counsel for the appellant has canvassed before us the correctness of the view so taken by the Division Bench is Venkaiah case (AIR 1978 AP 166 : (1977) 2 APLJ (HC) 382).

3. After hearing both sides we have unhesitatingly come to the conclusion that there is no substance in this appeal and that the view taken by the Division Bench is Venkaiah case (AIR 1978 AP 166 : (1977) 2 APLJ (HC) 382). is perfectly correct and sound. It is well settled the decisions of this Court in *Town Municipal Council v. Presiding Officer, Labour Court* ((1970) 1 SCR 51 : (1969) 1 SCC 873), *Nityananda M. Joshi v. Life Insurance Corporation of India* ((1970) 1 SCR 396 : (1969) 2 SCC 199) and *Sushila Devi v. Ramanandan Prasad* ((1976) 2 SCR 845 : (1976) 1 SCC 361) that the provisions of the Limitation Act, 1963 apply only to proceedings in 'Courts' and not to appeals or applications before bodies other than Courts such as quasi-judicial Tribunals or executive authorities, notwithstanding the fact that such bodies or authorities may be vested with certain specified powers conferred on Courts under the Codes of Civil or Criminal procedure. The Collector before whom the appeal was preferred by the appellant herein under section 90 of the Act not being a Court, the Limitation Act, as such, had no applicability to the proceedings before him. But, even in such a situation the relevant special statute may contain an express provision conferring on the appellate authority, such as the Collector, the power to extend the prescribed period of limitation on sufficient cause being shown by laying down that the provisions of section 5 of the Limitation Act shall be applicable to such proceedings. Hence it becomes necessary to examine whether the Act contains any such provision entitling the Collector to invoke the provisions of section 5 of the Limitation Act for condonation of the delay in filing of the appeal. The only provision relied on by the appellant in this connection is Section 93 of the Act when, as it stood at the relevant time, was in the following terms :

"93. Limitations. - Every appeal and every application for revision under this Act shall be filed within sixty days from the date of the order against which the appeal or application is filed and the provisions of the Indian Limitation Act, 1908 shall apply for the purpose of the computation of the said period."

On a plain reading of the section it is absolutely clear that its effect is only to render applicable to the proceedings before the Collector, the provisions of the Limitation Act relating to "computation of the period of limitation". The provisions relating to computation of the period of limitation are contained in sections 12 to 24 included in Part III of the Limitation Act, 1963. Section 5 is not a provision dealing with 'computation of the period of limitation'. It is only after the process of computation is completed and it is found that an appeal or application has been filed after the expiry of the prescribed period that the question of extension of the period under section 5 can arise. We are, therefore, in complete agreement with the view expressed by the Division Bench of the High Court in Venkaiah case (AIR 1978 AP 166 : (1977) 2 APLJ (HC) 382). that section 93 of the Act did not have the effect of rendering the provisions of section 5 of the Limitation Act, 1963 applicable to the proceedings before the Collector.

4. Our attention was drawn to the fact that subsequent to the decision of the High Court, the State Legislature has enacted the Andhra Pradesh Tenancy Laws (Amendment) Act, 1979 - Act 2 of 1979, whereby section 93 of the Act has been amended and the provisions of section 5 of the Limitation Act, 1963 have now been expressly made applicable to appeals and revisions preferred under sections 90 and 91 of the Act. We see no force in the contention advanced on behalf of the appellant that the said amendment is clarificatory in nature. The provisions of section 93 as they stood prior to this amendment were free from any ambiguity and called for no clarification. The Legislature has also not given any indication of any intention to clarify but, on the other hand, what has been done by it is to amend the section with only prospective effect. The amended provisions of section 93 are, therefore, of no assistance to the appellant in this case which is governed by the Section as it was originally enacted.

5. The conclusion that emerges from the foregoing discussion is that this appeal is devoid of merits and has only to be dismissed. We accordingly dismiss this appeal but in the circumstances without any order as to costs.

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