
(1989) 11 MAD CK 0032
In the Madras High Court

K. Mohammedkutty by Power Agent

APPELLANT

Vs

State of Tamil Nadu and Others

RESPONDENT

Date of Decision : 18-11-1989

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1989) 2 MLJ 445

Hon'ble Judges : A.S. Anand, C.J

Bench : Single Bench

Judgement

A.S. Anand, C.J.—This appeal is directed against the order of the learned single Judge in W.P.No. 5393 of 1983 decided on 11.7.1983.

2. The claim of the petitioner-appellant to the effect that the land in dispute was forest land was examined on merits by the Assistant Settlement Officer, Gudalur in S.R. No. 7 of 1978 on 25.5.1978 and further in appeal by the Director of Survey and Settlement, Madras in A. I No. 5 of 1980 on 8.12.1980 and rejected. The appellant filed a revision petition before the Commissioner of Land Administration, Madras on 23.1.1982. The Commissioner, Land Administration found that the revision petition was barred by 315 days. He also found that the appellant has failed to adduce convincing reasons for condoning the inordinate delay of 315 days. Consequently, the revision petition was rejected by him as time barred on 22.1.1982. Subsequently, it transpires from the record that the appellant filed yet another revision petition before the Government, for which admittedly no provision is made either in the Tamil Nadu Gudalur Janmam Estates (Abolition and Conversion into Ryotwari) Act 1969 (Tamil Nadu Act 24 of 1969) herein after referred to as the Act) or in the Gudalur Janmam Estates (Abolition and Conversion into Ryotwari) Rules, 1974 (hereinafter referred to as the Rules). That revision petition was also rejected by the Government, the rejection of the Revision Petition was challenged through the writ petition. The appellant had, however, not called in question the earlier orders of the assistant Settlement Officer, Director of Survey and Settlement and the commissioner of

Land Administration. The appellant filed a writ petition challenging the rejection of his revision petition on the ground that the basis for rejection of the same, viz., that it was barred by limitation was erroneous. The plea was rejected and the writ petition was dismissed.

3. Learned Counsel for the appellant submits that Commissioner of Land Administration fell in error in holding that the revision petition was barred by 315 days; delay. According to the learned Counsel, no time limit has been prescribed in the Act viz., Tamil Nadu Act 24 of 1969 and therefore the question of the same being barred by time was bad. In support of the submission, reliance is placed in Section 53 of the Act which reads as follows:

Section 53L: If any question arises whether any land in a janmam estate is a forest or is situated in a forest, or as to the limits of a forest, it shall be determined by the Settlement Officer, subject to an appeal to the Director, within such time as may be prescribed and also to revision by the Board of Revenue.

4. It is argued that the section lays down that an appeal has to be filed within the prescribed period; but that no such limitation has been placed for filing the revision petition. We cannot agree. A bare reading of Section 53(supra) shows that it deals with the determination of the question of the nature of the land and nothing more. The period for filing the appeal or revision is provided in the rules. The right to file a revision is dealt with in Section 6 of the Act which states that the Board of Revenue shall have the power to cancel or revise any of the orders, acts or proceedings of the Director including those passed, done or taken in the exercise of revisional powers. Again, Section 57 of the Act deal with the manner of computation of the period of limitation in respect of appeal or application for revision against any decision or order under the Act. u/s 60 of the Act, the Government has the power to make rules and in Clause(d) of Sub-section (2) of Section 60, it is provided that the rules to be framed by the government may provide for the time within which appeals and applications for revision may be presented under the Act in cases in which no specific provision in that behalf has been made. Thus, to find out the period of limitation for filing an appeal or revision under the Act, recourse shall have to be made to the Rules. Rules have been framed u/s 60 of the Act in 1974 and Rule 39 of the Gudalur Janmam Estates (Abolition and Conversion into Ryotwari) Rules, 1974 provides as follows:

Rule 39 Revision by the Commissioner Land Administration:

(1) Every revision against the orders of the Director of Settlements u/s 53 shall be preferred to the Commissioner, Land Administration within thirty days from the date of receipt of the order." The above rules thus, prescribed the period of limitation as thirty days for filing a revision petition against the order of the Director of Settlements and the Commissioner, Land Administration. The learned Counsel for the appellant, therefore, is not right in contending that no period of limitation has been prescribed for filling a revision petition. The argument ignores the obvious.

5. The Commissioner had found no reason to interfere with the findings of fact recorded by the authorities below and also that no justification was provided to condone the delay of 315 days in filing the revision petition. The learned single Judge was therefore justified in not interfering with the impugned order in exercise of the jurisdiction under Article 226 of the Constitution.

6. Thus, for what we have said above, we hold that the revision petition filed before the Commissioner by the appellant was barred by limitation as prescribed under the Rules and the view of the learned single Judge, in the facts and circumstances of the case, does not call for any interference. The appeal, therefore, fails and is dismissed. There shall, however, be no order as to costs.