(2014) 10 MAN CK 0003

In the Manipur High Court

Case No : CRP (CRP Art. 227) No. 1 of 2014

Lourembam Jugindro Singh — APPELLANT

Vs

Huirongbam Pakpa Singh — RESPONDENT

Date of Decision : 28-10-2014

Acts Referred:
Constitution of India, 1950 — Article 227

Citation : (2014) 10 MAN CK 0003

Hon'ble Judges : Laxmi Kanta Mohapatra, C.J

Bench : Single Bench

Advocate : Ajit, Advocate for the Appellant; Ch. Robinchandra, Advocate for the Respondent

Judgement

Laxmi Kanta Mohapatra, C.J.—Heard the learned counsel for the parties.

2. The subject matter of challenge is the order dated 9.10.2013 passed by the Revenue Tribunal, Manipur in Rev. Misc. Case No. 85 of 2013 condoning the delay in filing the revision.

3. The revision has been filed before the Revenue Tribunal u/s. 98 of the Manipur Land Revenue and Land Reform Act, 1960 (hereinafter refers to as the MLR & LR Act) challenging the legality and propriety of the order dated 17.5.2008 passed by the Dy. Commissioner, Imphal East in Rev. Misc. Case No. 8 of 2007.

From the order dt. 17.6.2008 passed by the Dy. Commissioner in Rev. Misc. Case No. 8 of 2007, it appears that an application was filed by the petitioner u/s. 41 read with Section 81(2) of MLR & LR Act, 1960 for correction of mistake in the area indicated in the survey map. The application was allowed by the Dy. Commissioner on 17.5.2008. The said order of the Dy. Commissioner was challenged in revision before the Revenue Tribunal after a long delay. An application was filed for condoning the delay in filing the revision and the said application having been allowed, the present revision under Art. 227 of the Constitution of India has been filed by the applicant before this Court.

4. The learned counsel for the petitioner submitted that the respondent was aware of the order passed by the Dy. Commissioner but preferred not to file a revision before the Tribunal within the prescribed time and the revision was filed almost more than 4 (four) years after the impugned order was passed. It was further contended that in O.S. No. 20 of 2008 where the present respondent is a party, documents had been supplied along with the copy of the order passed by the Dy. Commissioner and therefore it is no more open for the respondent to say that he was not aware of the order passed by the Dy. Commissioner. According to the learned counsel for the petitioner, even though the respondent was aware of the order passed by the Dy. Commissioner dt. 17.5.2008, he did not prefer the revision within time and therefore the long delay in preferring the revision should not have been condoned by the Tribunal.

The learned counsel for the respondent, in reply to such submission, submitted that the order passed by the Dy. Commissioner is illegal and the Tribunal having found merit in the revision, decided to condone the delay, and observed that substantive right of the respondent cannot be taken away merely because there has been delay in filing the revision.

5. I have perused the impugned order passed by the Revenue Tribunal carefully. While deciding the question of condonation of delay, the Tribunal also looked into the records of the Revenue Misc. Case No. 8/07 and was satisfied that the revision deserves to be examined on merit. Therefore, in the impugned order, he made an observation that substantive right of the respondent cannot be defeated merely because there is long delay in filing the revision before the Tribunal.

Since the Tribunal looked into the records of Revenue Misc. Case and thought it proper to examine it on merit again, I examined the records of the Revenue Misc. Case No. 8/07. The Dy. Commissioner has relied on an enquiry report and in paragraph 13 of the said order, observed that the enquiry report shows that the area of 0.62 acres had reduced in the survey operation of 1960 in the patta of the petitioner by increasing the area of Dag No. 404, 424, 425, 426, 428, 429, 445 and 394. Therefore, he was of the view that the excess area needed to be corrected at the time of correction of land records of the petitioner. Though the Dy. Commissioner passed the order solely on the basis of the said inquiry report, I find from the records that there was no such report. From the records, it appears that a report has been submitted on 14.2.2008 on the basis of an enquiry conducted on 13.1.2008. Though the report shows that all the parties were present, the last line of the said report clearly shows that the Officer conducting the enquiry was unable to conduct/take up field measurement. Therefore, such a report could not have been relied upon by the Dy. Commissioner while disposing of the Revenue Misc. Case No. 8 of 2007. When this matter was brought to the notice of the learned counsel for the parties, the learned counsel for the petitioner submitted that he had not seen the report dt. 14.2.2008 on the basis of which the Dy. Commissioner passed the order. Though I agree with the learned counsel for the petitioner that there has been long delay in preferring the revision before the Tribunal, considering the fact that the order passed by the Dy. Commissioner, which is impugned before the Tribunal in the revision case is unsustainable, I feel it will be appropriate to set aside the order passed by the Deputy Commissioner and remit the matter back to him for disposal afresh in accordance with law.

6. I therefore dispose of this Revision setting aside the order dated 17.5.2008 passed by the Dy. Commissioner, Imphal East in Revenue Misc. Case No. 8/07 and remit the matter back to the Dy. Commissioner to dispose of the said Revenue Misc Case afresh after giving opportunity of hearing to both the parties and in case of necessity after obtaining a fresh report. Consequently, the revision case No. 85/13 pending before the Revenue Tribunal stands disposed of. Both the parties are directed to appear before the Dy. Commissioner, Manipur East in the said Revenue Misc. Case No. 8/07 on 17.11.2014. On their appearance, the Deputy Commissioner shall call for a report and proceed to decide the said Revenue Misc. Case on merit in accordance with law within three months from the date of appearance of the parties.