

(2011) 09 MAD CK 0369

In the Madras High Court

Case No : C.R.P. (PD) No. 1119 of 2008 and M.P. No. 1 of 2008

Parvathi and Others

APPELLANT

Vs

The District Forest Officer and Others

RESPONDENT

Date of Decision : 22-09-2011

Acts Referred:

Constitution of India, 1950 — Article 261
Land Acquisition Act, 1894 — Section 10(2), 10(3), 9
Limitation Act, 1963 — Section 10, 10(2), 5
Tamil Nadu Forest Act, 1882 — Section 3, 4, 6

Citation : (2011) 09 MAD CK 0369

Hon'ble Judges : K. Venkataraman, J

Bench : Single Bench

Advocate : S. Anbazhagan, for the Appellant; Abdul Saleem, AGP (Forest) for R 1 and R 2, for the Respondent

Final Decision : Dismissed

Judgement

K. Venkataraman, J.—The present civil revision petition is directed against the order of the learned District Judge, Nilgiris District dated 21.11.2007 made in I.A. No. 66 of 2005 in CMA CFR No. 1372 of 2005.

2. Pursuant to the notification of the Government of Tamil Nadu in exercise of its power u/s 4 of the Tamil Nadu Forest Act, 1882, (herein after referred to as the Act) the land measuring 74.34.0 H.A. in R.S. No. 333/2 in Thattambarai Forest Block Bit v. Cherangode Village, Pandalur Taluk was declared as Reserve Forest in the official Gazette dated 13.5.1992. Thereafter, proclamation under Section 6 of the said Act was made and published in the Nilgiris District Gazette dated 1.1.2002. Pursuant to the same, the Forest Settlement Officer examined some of the claimants and admitted certain claims. Aggrieved over the order of the admitted claims, the District Forest Officer, Gudalur, on behalf of the Government has filed an appeal with a delay of 413 days.

3. In the affidavit in support of the application, it is stated that connected records

were misplaced and hence, there is a delay of 413 days in filing the appeal.

4. Counter affidavit was filed on behalf of the Petitioners wherein it was contended that Section 5 of the Limitation Act will not apply to the appeal preferred u/s 10(2) of the Act. It was also contended that the delay was not properly explained. Further, it was contended that the Court has no power to condone the delay beyond the period of 30 days.

5. I have heard the Learned Counsel appearing for the Petitioner and the learned Additional Government Pleader for Forest appearing for Respondents 1 and 2.

6. Section 10 of the Act deals with filing of an appeal by the claimants as well as by the Forest Officer on behalf of the Government. It would be useful to extract Section 10 of the Act, which is extracted hereunder:

10. Claims to rights of occupancy and ownership: In the case of a claim to a right in or over any land other than the following rights:

- (a) a right of way;
- (b) a right to a water course, or to use of water;
- (c) a right of pasture: or
- (d) a right to forest produce:

the Forest Settlement Officer shall pass an order specifying the particulars of such claim and admitting or rejecting the same wholly or in part.

(1) Admitted claims: If such claim is admitted wholly or in part, the Forest Settlement Officer may (1) come to an agreement with the claimant for the surrender of the right; or (2) exclude the land from the limits of the proposed forest; or (3) proceed to acquire such land in the manner provided by the Land Acquisition Act, 1870.

For the purpose of so acquiring such land -

(i) the Forest Settlement Officer shall be deemed to be a Collector of Proceeding under the Land Acquisition Act, 1870;

(ii) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given u/s 9 of that Act;

(iii) the provisions of the preceding Sections of that Act shall be deemed to have been complied with; and

(iv) the Forest Settlement Officer with the consent of the claimant, or the Court (as defined in the said Act) with the consent of the claimant and of the Collector of the district, may award compensation by the grant of right in or over land, or by the payment of money, or both.

(2) Rejected Claims Appeals: If such claim is rejected wholly or in part, the

claimant, may, within thirty days from the date of the order, prefer an appeal to the District Court in respect of such rejection only:

Provided that the Government, may, on just and reasonable cause for the same being shown, extend the period for such appeal within such further period as may seem proper, and an order or endorsement under the signature of one of the Secretaries to Government shall be sufficient authority for the said Court to entertain such appeal beyond the limit above specified. If the Court decides that the claim or such part thereof as has been rejected should be admitted, the Forest Settlement Officer shall proceed to deal with it in like manner as if it had been in the first instance admitted by himself.

(3) When a claim has been admitted in the first instance wholly or in part, a like appeal may be preferred

on behalf of Government by the Forest Officer appointed u/s 4, or other persons generally or specially empowered by the Government in this behalf.

7. As far as the appeal by the claimants are concerned, it has to be filed within 30 days from the date of the order. However, if there is a delay in preferring the appeal, the Government may extend the period as contemplated under proviso to Section 10(2) of the Act which was extracted above.

8. As far as the appeal by the Forest Officer on behalf of the Government is concerned, Section 10(3) of the Act does not prescribe any limitation. However, Learned Counsel appearing for the Petitioner contended that the words used in Section 10(3) of the Act viz., "a like appeal may be preferred on behalf of the Government by the Forest Officer" would denote that appeal has to be preferred by the Forest Officer on behalf of the Government as in the case of the appeal by the claimants within 30 days from the date of order. However, I am unable to agree with the said contention of the Learned Counsel appearing for the Petitioner. Had the legislature thought that even the appeal filed by the Forest Officer on behalf of the Government shall be 8 filed within 30 days, it would have been explicitly said so in the above referred provision. The words "a like appeal" do not mean that the appeal has to be preferred within 30 days as contemplated u/s 10(2), an appeal by the claimant. The language employed in a statute if unambiguous, cannot be interpreted by the Court. Interpretation will require only if the language in a provision is ambiguous. In the present case on hand, I am of the considered view that the framers of the Act thought it fit that the Forest Officer on behalf of the Government could file an appeal within the time as in the case of the appeal by the claimants.

9. In the unreported judgment made in W.P.(MD) No. 4239 of 2010, in paragraph 9, I have held as follows:

9. The Learned Counsel appearing for the Petitioner in this connection relied on the decision reported in National Insurance Co. Ltd. Vs. Laxmi Narain Dhut, . The said judgment may not be of use to the Petitioner since when there is an

ambiguity in the provision the same can be interrupted by the Courts. But however if there is no ambiguity there need be no necessity to interrupt the statute.

10. In this connection, it would be useful to refer the decision of the Apex Court reported in Govindlal Chhaganlal Patel Vs. The Agricultural Produce Market Committee, Godhra and Others, . A portion of paragraph 13 of the said judgment is usefully extracted here under:

Crawford on Statutory Construction" (Edn.1940, Article 261 p.516) sets out the following passage from an American case approvingly:

...One of the fundamental rules of interpretation is that if the words of a statute are themselves precise and unambiguous, no more is necessary than to expound those words in their natural and ordinary sense, the words themselves in such case best declaring the intention of the legislature.

11. The Courts are normally bound to give effect to the plain meaning of the words used in the statute, unless and otherwise such an interpretation leads to some absurd or illogical consequence or is in variance with the intention of the legislature. In this connection, the judgement reported in Commissioner of Income Tax, Mumbai Vs. Anjum M.H. Ghaswala and Others, more so para 29 of the said judgement is usefully extracted here under:

29. Nextly, the Commission has elaborately discussed the object of introduction of Chapter XIX-A in the Act, the history behind the introduction and schematic rationalisation of the provisions of Chapter XIX-A brought about through the Finance Act, 1987 to hold that in exercising its power under Chapter XIX-A it has almost an unbridled power to arrive at a settlement. This exercise of purposive interpretation by looking into the object and scheme of the Act and legislative intendment would arise, in our opinion, if the language of the statute is either ambiguous or conflicting or gives a meaning leading to absurdity. We do not find any such problem in the provisions of the Act to which we have already referred to....

12. That apart, the learned Judge exercised his discretion in allowing the application preferred by the Respondents to condone the delay of 413 days, even though such application is not necessary. The said discretion exercised by the Court cannot normally be interfered with by the High Court as was held by the Hon'ble Apex Court in the decision reported in N. Balakrishnan Vs. M. Krishnamurthy, .

13. Considering the overall circumstances referred to above, I am of the considered view that there exists no necessity to interfere with the order of the Court below.

14. In fine, the order of the learned District Judge of the Nilgiris District dated 21.11.2007 made in I.A. No. 66 of 2005 in CMA CFR No. 1372 of 2005 is confirmed and the civil revision petition stands dismissed. However, there is no

order as to costs. Consequently, connected miscellaneous petition is closed.