

**\*THE HONOURABLE SRI JUSTICE P.NAVEEN RAO**

+W.P. No.15066 of 20201

%07.07.2021

# S.Surendhar Reddy, s/o. late Arjun Reddy,  
Aged about 50 years, occu: Business,  
r/o.9-6-129, Durga Nagar, Champapet,  
Hyderabad.

....petitioner

Vs.

\$ The State of Telangana, rep.by its  
Prl.Secretary, Revenue Department,  
Secretariat, Hyderabad and others.

.... Respondents

!Counsel for the petitioner : Sri.Rapolu Bhaskar

Counsel for the Respondents 1 to 4: Assistant Government Pleader for  
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>Head Note:

? Cases referred:

(2015) 3 SCC 695

**HONOURABLE SRI JUSTICE P.NAVEEN RAO**

**WRIT PETITION NO.15066 OF 2021**

**Date: 07.07.2021**

Between:

S.Surendhar Reddy, s/o. late Arjun Reddy,  
Aged about 50 years, occu: Business,  
r/o.9-6-129, Durga Nagar, Champapet,  
Hyderabad.

.....Petitioner

and

The State of Telangana, rep.by its  
Prl.Secretary, Revenue Department,  
Secretariat, Hyderabad and others.

.....Respondents

The Court made the following:

**HONOURABLE SRI JUSTICE P.NAVEEN RAO**

**WRIT PETITION NO.15066 OF 2021**

**ORDER:**

This writ petition is filed praying to grant the following relief:

“ .....to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus by declaring the action of respondent No.2 in passing the impugned order dated 01.02.2021 in Old Case No.F3/1325/2019, without conducting trial and without issuing prior notice and opportunity to prove the case of the petitioner, as illegal, arbitrary and against the principles of natural justice and violative of Articles 14, 19, and 21 of the Constitution of India and consequently to direct the respondent No.2 to conduct trial in Old Case No.F3/1325/2019 and pass such other orders as may deem fit and proper in the circumstances of the case.”

2. Heard Mr.Rapolu Bhaskar learned counsel for petitioner and the learned Assistant Government Pleader for Revenue for respondents 1 to 4.

3. This writ petition is filed challenging the decision of the Special Tribunal dated 01.02.2021. The Special Tribunal dismissed the revision filed under Section 9 of the Telangana Rights in Land and Pattadar Passbooks Act, 1971 (Act 26 of 1971) on the ground of inordinate delay.

4. The primary challenge to the decision of the Special Tribunal is on the ground that Special Tribunal passed orders without notice and opportunity of hearing.

5. The disposal of the cases by the Special Tribunals in this manner was considered by the Hon'ble Division Bench of this Court in W.P.(PIL),No.20 of 2021. By order, dated 18.03.2021, the learned Division Bench directed as under:

“4. It is therefore deemed appropriate to direct that in all cases that have been transferred from the revenue courts to the Special Tribunals notwithstanding any orders that may have been passed by the Special Tribunals, the respondents shall issue public notices calling upon parties to appear before the Special Tribunals in each district on a fixed date and time to enable them to make their submissions. Wherever a request for a personal hearing is received from parties, the orders passed by the Special Tribunals shall be deemed to be quashed and set aside. Fresh orders shall be passed by the Special Tribunals after granting a reasonable opportunity to the parties of being heard either in person or through their advocates. They shall also be afforded a chance to file written submissions, if not already filed. Only thereafter shall fresh orders be passed by the Special Tribunals. Adequate and wide spread publicity of this order shall be given by the State within three weeks to apprise all concerned parties of the same.”

6. Consequent to the directions issued by the Division Bench, the State Government issued general notification in Namasthe Telangana and The Hindu daily newspapers on 09.04.2021 calling upon the parties to appear before the Special Tribunal on 15<sup>th</sup> or 16<sup>th</sup> April, 2021, to request for fresh hearing of the matters.

7. In the affidavit filed in support of the writ petition, there is no averment of petitioner that he appeared before the Special Tribunal on the days specified in the notification and requesting for rehearing the case.

8. However, matter does not rest there. It is appropriate to note that Special Tribunal dismissed the revision on the ground that the claim was made after fifty years. Thus, the petitioner has to state clearly that there was no delay or there is sufficient justification in not availing the remedy of revision. Fifty years in prosecuting the litigation, even if there is merit in the contentions, cannot be appreciated, having regard to the settled principle of law.

9. In **Joint Collector, Ranga Reddy district and another Vs. D.Narsing Rao and others**<sup>1</sup>, the Hon'ble Supreme Court was considering inordinate delay in exercising revisional jurisdiction under Section 9 of the Act 26 of 1971. Deprecating the practice of availing revisional remedy after long lapse of time of arising of cause of action, even though Section 9 did not stipulate limitation period to avail the remedy, the Hon'ble Supreme Court held:

“31. To sum up, delayed exercise of revisional jurisdiction is frowned upon because if actions or transactions were to remain forever open to challenge, it will mean avoidable and endless uncertainty in human affairs, which is not the policy of law. Because, even when there is no period of limitation prescribed for exercise of such powers, the intervening delay, may have led to creation of third-party rights, that cannot be trampled by a belated exercise of a discretionary power especially when no cogent explanation for the delay is in sight. Rule of law it is said must run closely with the rule of life. Even in cases where the orders sought to be revised are fraudulent, the exercise of power must be within a reasonable period of the discovery of fraud. Simply describing an act or transaction to be fraudulent will not extend the time for its correction to infinity; for otherwise the exercise of revisional power would itself be tantamount to a fraud upon the statute that vests such power in an authority.”

10. Thus, petitioner has to, *prima facie*, explain that if an opportunity was afforded by the Special Tribunal, he could have satisfied the Special Tribunal that there was no delay in prosecuting the revision and the revision is maintainable.

11. The Special Tribunal noted the contentions of petitioners. It has recorded that among the 48 names recorded as tenants in the pahani for the year 1959-60, the name of late E.Krishna Reddy found place in respect of land admeasuring Acs.400.00 guntas, that after his death, his sons and daughters are entitled to

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<sup>1</sup> (2015) 3 SCC 695

Acs.80.00 guntas each for one standard family holdings under the provision of Tenancy Act, 1950 (Act, 1950) till the Government published the acquisition proceedings. Further case of the petitioners therein was that 48 persons were shown in the provisional register and final P.T. register and their names continued till 2014-15 and subsequently they were issued Section 38-E certificates. The name of Sri E.Krishna Reddy was found in pahani for the year 1959-60, but subsequently his name was removed. Petitioners before the Special Tribunal prayed to restore the name of Sri E.Krishna Reddy @ Kista Reddy from 1960 onwards as protected tenant and to grant consequential benefits to them.

12. The Special Tribunal found that in the Khasra pahani for the year 1954-55, Chessala pahani for the years 1955-58 and pahani 1958-59, some persons names were found in possession, in which name of Sri E.Krishna Reddy @ Kista Reddy was not found, that only in the year 1959-60 the name of Sri E.Kista Reddy was found in possession column as last entry. It was observed that except in the year 1959-60, his name was not found in other pahanies. In other words, the prayer before the Special Tribunal was to restore the name of Sri E.Krishna Reddy @ Kista Reddy as protected tenant relating back to the year 1960-61 onwards i.e., more than 60 years. Assuming that he was protected tenant and was entitled to all the benefits of protected tenants, having regard to the claim to restore name of Krishna Reddy @ Kista Reddy dating back to pahani for the year 1960-61, the Tribunal held that there was inordinate delay in prosecuting the claim.

13. In the affidavit filed in support of the writ petition, no explanation is set forth as to whether petitioner or his ancestors agitated the grievance earlier and that there was no delay or laches on their part in prosecuting the claim for recognizing them as protected tenants and that erroneously Sri E.Krishna Reddy @ Kista Reddy name was deleted after 1959-60 and it should be restored with all consequential benefits.

14. Learned counsel for the petitioner sought to contend that the order of Special Tribunal is not sustainable on the sole ground that the Special Tribunal order was not preceded by notice and opportunity. In the normal circumstance, the said stand of the petitioner warrants acceptance and matter should go back to Special Tribunal. Opportunity of hearing is one of the basic requirements of a fair decision by a quasi-judicial Tribunal affecting right and/or interest in agricultural land. Non-compliance thereof may vitiate the decision. But, in a given facts of the case writ Court need not grant the relief only on this ground, if other circumstances, overwhelmingly go to show, on the face of it, the claim of petitioner is not valid and opportunity of hearing is an empty formality. In other words, it does not change the character of the decision *per se*. Further, Court need not grant relief on the ground of lack of opportunity of hearing, if it turns out to be an empty formality. In the facts of this case, when there is no semblance of explanation for inordinate delay and laches and the prayer, if accepted, will result in upsetting settled position dating back to the year 1960, the burden is heavy on petitioner to explain more vividly how he prosecuted the grievance all along and why the issue should be reopened after 60 years. The Hindu calendar

has 60 years and after every sixty years a new cycle begins. In Hinduism completion of 60 years is an important milestone for a person, called as 'Shasti Purthi'. Petitioner completed 'Shasti Purthi' of his claim. There is inordinate and unexplained delay in prosecuting the grievance. Thus, in the facts of this case, opportunity of hearing is an empty formality. Petitioner cannot improve his case to invalidate the decision of the Special Tribunal even if an opportunity is afforded to him by the Special Tribunal.

15. As no satisfactory explanation is offered on delay in prosecuting the grievance, no useful purpose would be served in remanding the matter to the Special Tribunal only on the ground that Tribunal did not afford opportunity of hearing, more so when petitioner has not availed the opportunity provided by the Government as per the directions of the Division Bench of this Court in W.P.(PIL) No.20 of 2021, dated 18.03.2021. Writ Petition is accordingly dismissed. Pending miscellaneous petitions shall stand closed.

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**JUSTICE P.NAVEEN RAO**

Date: 07.07.2021  
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**HONOURABLE SRI JUSTICE P.NAVEEN RAO**

**WRIT PETITION NO.15066 OF 2021**

**Date: 07.07.2021**

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