

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 8043-8044 OF 2004

Present Trustee, Arulmigu -  
Lakshminarasimha Swami Temple

Appellant

VERSUS

Union of India and another

Respondents

O R D E R

Having failed to convince the learned Single Judge and the Division Judge of Madras High Court to accept its prayer for condonation of 1479 days' delay in filing appeal under Section 54 of the Land Acquisition Act, 1984 (for short, 'the Act') against order dated 30.8.1996 passed by Principal District Judge, Pondicherry (hereinafter referred to as "the Civil Court") in L.A.O.P. No.9 of 1996 and for grant of permission to file the appeal in forma pauperis, the appellant has filed these appeals.

Land measuring 1.67 hectares situated at Abishekapakkam, Pondicherry State was acquired in 1967 for expansion of the Government High School at Archivakpet, Pondicherry. The appellant challenged the acquisition in Writ Petition No. 14816 of 1993. The learned Single Judge

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rejected the appellant's prayer for quashing the acquisition proceedings but declared that appellant is the owner of the land. Writ Appeal No. 1358 of 1995 filed by respondent No.2 questioning the finding of the learned Single Judge on the issue of title of the acquired land was allowed by the Division Bench of the High Court vide judgment dated 30.1.1996. The Division Bench set aside the finding of the learned Single Judge and held that the issue of title can be decided by the Civil Court. The Division

Bench also gave certain directions in the matter of

utilisation of the compensation deposited by the Land Acquisition Officer in fixed deposit. The judgment of the

Division Bench was reversed by this Court in Civil Appeal No. 12001 of 1996 titled Arulmighu Lakshminarasimha Swamy Temple, Singirikudi v. Union of India and others.

The

operative portion of that order reads as under:

"The appeal is accordingly allowed. The orders passed by the learned Single Judge and the Division Bench stand set aside. The Land Acquisition Officer is directed to make a reference to the Court under Section 30. We are informed that the compensation has already been deposited in interest earning security. Therefore, if the parties so require, the reference Court may be approached in this behalf or the order of the learned Single Judge may continue in force till the reference is decided in accordance with law. The latter would be the appropriate course. No costs."

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It is not in dispute that during the pendency of the appeal before this Court, the competent authority had made reference under Section 30 of the Land Acquisition Act, 1894 and the same was finally disposed of on 30.8.1996. The appellant applied for certified copy of the order of the Civil Court on 4.9.1996, which was supplied to it on 19.11.1996.

After two years and about four months of the disposal of Civil Appeal No.12001 of 1996 by this Court, respondent No.2 filed I.A. No.1 of 1999 for clarification of order dated 2.9.1996 by pointing out that reference under Section 30 of the Act had already been made and disposed of by the Civil Court on 30.8.1996. By an order dated 11.10.1999, this Court recalled the direction contained in order dated 2.9.1996 for making reference under Section 30 of the Act.

Although, the appellant could have challenged order dated 30.8.1996 of the Civil Court by filing an appeal under Section 54 of the Act within 90 days, it chose to do so only in January, 2001. The appellant also filed two miscellaneous civil applications, one for condonation of

1479 days' delay and the other for grant of permission to file the appeal in forma pauperis.

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The learned Single Judge dismissed both the applications and the appeal. He ruled that the cause shown by the appellant for not filing the appeal within the prescribed period of limitation was not at all satisfactory. The learned Single Judge further held that the appellant had failed to make out a case for grant of leave to prosecute the appeal as a pauper. He noted the fact that the appellant owned 38.87 acres land and held that it could have paid the court fees by taking loan against the property.

The appellant challenged the order of the learned Single Judge in Letters Patent Appeal Nos. 97 and 98 of 2002. The Division Bench independently evaluated the factual matrix of the case and expressed its agreement with the learned Single Judge that the appellant has failed to show sufficient cause for condonation of 1479 days delay. The Division Bench noted that after disposal of Civil Appeal No.12001 of 1996 by this Court, the appellant had not taken any steps for reference of the dispute and even though that order was recalled on 11.10.1999, the appellant chose to file the appeal only in January 2001 and held that there was no valid reason to interfere with the discretion

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exercised by the learned Single Judge not to condone more than 4 years' delay in filing of the appeal. The Division Bench rejected the appellant's assertion that it could not file appeal within time due to paucity of funds by observing that the temple was under the control of Hindu Religious and Charitable Endowments Department of the Government of Tamil Nadu and was being administered by an Executive Officer, who could have arranged for the court

fee by raising loan against 38.87 acres of Nanja and Punja lands belonging to the temple.

We have heard Shri V. Prabhakar, learned counsel for the appellant, Shri R. Venkataramani, learned senior counsel for respondent No.1 and carefully scrutinized the record.

In our view, the impugned judgment does not suffer from any legal infirmity warranting interference by this Court. It is not in dispute that the appellant was a party to the reference which was registered as L.A.O.P. No.9 of 1996 and was decided on 30.8.1996, i.e, 3 days before disposal of C.A. No.12001 of 1999 by this Court. It was the duty of the parties to the appeal including the appellant to bring to the notice of the Court that

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reference made under Section 30 of the Act had already been decided on 30.8.1996. We have no doubt that if this Court had been apprised of the true state of facts, it would not have directed the Land Acquisition Officer to make reference under Section 30 of the Act.

Shri V. Prabhakar, learned counsel for the appellant submitted that during the course of hearing of C.A. No.12001 of 1999, he had informed the Court that reference made under Section 30 was pending but his assertion was ignored and order dated 2.9.1996 was passed. This assertion of the learned counsel cannot be made basis for overlooking the fact that the appellant had applied for copy of order dated 30.8.1996 passed in L.A.O.P. No.9 of 1996 and the same was supplied to it on 19.11.1996, but the appeal was filed after four years and two months.

That apart, even if the period between 19.11.1996 i.e., the date on which the appellant got certified copy of order dated 30.8.1996 and 11.10.1999 i.e., the date on

which this Court recalled the direction given earlier for making reference is ignored, it is not possible to find any fault with the discretion exercised by the learned Single Judge and the Division Bench of the High Court not to

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entertain the appellant's prayer for condonation of delay in filing the appeal because the appellant did not give any explanation for not filing the appeal in next one year and three months. Indeed, it is neither the pleaded case of the appellant nor Shri Prabhakar argued that his client was not aware that the period of limitation prescribed for filing an appeal against an order of Civil Court is only 90 days and the fact that the appeal was filed after more than four years.

We are also in agreement with the High Court that the appellant's prayer for permission to file appeal in forma pauperis was misconceived. Undisputedly, the temple owned 38.87 acres of Nanja and Punja lands which is said to be in the possession of the tenants from whom a sum of Rs.5 lakhs was due by way of rent. The appellant has not explained as to why steps were not taken for recovery of the rent or an application could not be filed before the Civil Court for withdrawal of a portion of the amount already deposited. The abject failure of the appellant to justify its action and omission in the matter of filing appeal by withdrawing the amount lying deposited in fixed deposit or by raising loan against 38.87 acres of land militates against the bonafides of its assertion that the appeal could not be

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filed due to paucity of funds.

In the result, the appeals are dismissed. The parties are left to bear their own costs.

.....J.  
(G.S. SINGVHI)

