

## **Smt. Gali Suvarna Rao, Vadla Bhoomaiah, Vadla Laxmaiah and Vadla Vijaya Vs Vadla Raghunandan and Others**

**Court:** Andhra Pradesh High Court

**Date of Decision:** March 23, 2011

**Acts Referred:** Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 " Section 10, 24, 24(1), 28, 3 Limitation Act, 1963 " Section 5

**Hon'ble Judges:** Vilas V. Afzulpurkar, J

**Bench:** Single Bench

**Advocate:** K. Laxman Rao, for the Appellant; M. Jagannatha Sarma, for Respondents 1 and 2 and Kiran Palakurthi, for the Respondent

**Final Decision:** Allowed

### **Judgement**

@JUDGMENTTAG-ORDER

Vilas V. Afzulpurkar, J.

This revision is preferred u/s 28 of the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 (for short

"the Act") questioning the order of the learned Joint Collector - II, Ranga Reddy District dismissing the Petitioner"s appeal being File No. F1/4364

of 2005 dated 20.09.2005, preferred u/s 24 of the Act, as time barred.

2. The facts, in brief, are as follows:

The land admeasuring Ac.0.19 guntas situated in Sy. No. 70, Ghanapur village, Medchal Mandal, Ranga Reddy District was an in arm land where

late Vadla Kistaiah was recorded as original pattadar/inamdar as on 01.11.1973. The Petitioners 2 to 4 and the third Respondent are the legal

representatives of the said Vadla Kistaiah and all of them together said to have sold the schedule property to the first Petitioner. It is alleged that

the first Respondent, grand son- of Vadla Kistaiah, approached the primary tribunal under the Act i.e. Revenue Divisional Officer, Ranga Reddy

District and obtained an occupancy certificate in his name, allegedly, without any enquiry, in File No. J/3461/1999 dated 09.12.1999 and without

notice and knowledge of other co-occupants in respect of the said land. It was also alleged that based on the said occupancy certificate, the

revenue entries were sought to be changed by showing the name of the first Respondent for the year 2003-2004 and that came to the notice of the

Petitioners on 20.12.2004 when the certified copies of the pahanies were obtained and thereupon, the certified copy of the order of the RDO

dated 09.12.1999 was obtained on 04.05.2005 and an appeal u/s 24 of the Act was preferred before the Joint Collector on 18.06.2005.

3. The impugned order shows that the appeal was taken on record and notices to both sides were issued. Later the appeal was heard, primarily,

on the question of limitation and the learned Joint Collector dismissed the appeal on the ground that it is barred by limitation in view of Section 24

of the Act. Hence, this revision.

4. Heard Mr. K. Laxman Rao, learned Counsel for the Petitioners and Mr. M. Jagannatha Sarma, learned Counsel for the Respondents.

5. As would be evident from the narration of facts, as above, the only question that needs consideration is whether the learned Joint Collector, as

an appellate authority, was right in thinking that the appeal was barred by limitation. The relevant provision being Section 24(1) of the Act, it is

appropriate to extract the same:

24. Appeals from orders u/s 10 to prescribed authority:

(1) Any person aggrieved by a decision of the Collector u/s 10 may, within thirty days from the date of decision, or such further time as the

prescribed authority may for sufficient cause allow, appeal to the prescribed authority and its decision shall be final.

(2) xxxxx

6. It would be noticed from the above that 30 days period prescribed is not inflexible and it is left to the discretion of the appellate authority to

entertain an appeal if it is satisfied that there is sufficient cause to extend the time further. This provision is unlike the other provisions generally

providing and prescribing limitation for filing of appeals. The entertainment of appeal being clearly at the discretion of the appellate authority subject

to satisfaction on extension of time, the strict rigour of Section 5 of the Limitation Act requiring each and every day's delay to be explained would

not be attracted to an appeal under this Act.

7. Both the learned Counsel referred to the following decisions of this Court interpreting Section 24 (1) of the Act and it would be profitable to

notice them at this juncture.

(a) In A. Nagaiah v. Collector, Ranga Reddy District 1998 (2) APLJ 454 it was observed as under:

...The appeal has to be filed within 30 days from the date of the decision or within such time, as the prescribed authority, viz., the Collector, may

for sufficient cause allow. It may be that the question may not be considered as one of limitation u/s 5 of the Limitation Act requiring explanation of

each day"s delay in the filing of the appeal. If an aggrieved person points out to the prescribed authority the circumstances under which the appeal

could not be filed within the period of thirty days, it is open to the prescribed authority to extend the time and that may be done for sufficient cause

shown...

(b) In *S. Mallesh, S. Raja and S. Janardhar Vs. The Government of A.P. and Others*, it was held as under:

87. Section 24 in terms enjoins that an appeal may be filed within thirty days from the date of decision, or such further time as the prescribed

authority may for sufficient cause allow. There being no textual ambiguity justifying dynamic or a strained construction, an appeal should be filed

within thirty days from the date of the decision of the Collector Under/Section 10, to the prescribed authority, so as to be within the specified time.

On appropriate construction of the legislative phraseology there appears no warrant to hold that an appeal filed beyond thirty days from the date of

receipt of the order of the Collector by an aggrieved person would be within time. The language of the provision excludes such a construction. It

must however be noticed that a discretion is conferred on the appellate authority to consider an appeal filed beyond thirty days, for sufficient cause

shown for the delay.

91. Though the reasoning of the appellate (impugned) order in dealing with the objection as to the appeal being time barred is not as clinically

precise as may be expected in a judicial order, the exercise of discretion and the satisfaction of the appellate authority is clearly inferable. The

appellate authority accepted the contention of the 4th Respondent-Appellant that the appeal is filed within a month from the date of knowledge of

the primary authority"s (R3"s) order. The contention of Sri Sanghi that the delay could not be condoned without an application in that behalf by the

Appellant is too technical to merit consideration. The 2nd Respondent -the prescribed authority u/s 24(1) of the Inams Abolition Act is a quasi

judicial tribunal not strictly governed by the technical rules of CPC and may follow a reasonable procedure so long as such procedure is fair and

conduces speed and efficiency in the discharge of the quasi judicial appellate functions. The technical procedure of filing an application for

condonation of delay and on such application being filed, recording elaborate reasons for allowing such application is not mandated by the scheme

of the Inams Abolition Act nor on general principles applicable to the procedure requirements of a quasi judicial tribunal.

(c) In *A. Balaiah v. The District Collector, Hyderabad District 1983 (1) ALT (NRC) 7* it was held as follows:

A perusal of Section 24 discloses that a wide discretion was given to the authority to entertain the appeal under its discretion. The 30 days" time,

prescribed u/s 24 of the said Act is enlarged at the discretion of the appellate authority. Thus it is seen it is a case of discretion inhered in the

appellate authority to extend the period of limitation but not excusing the delay for not filing the appeal within time. The appellate authority has

misdirected itself in thinking that an application u/s 5 of the Limitation Act is necessary when the test applicable under the said provision has to be

applied and issued the order. Further the proceedings under the Inams Abolition Act are intended to convert the Inam land into ordinary tenure

under the direct control of the State. u/s 3 with effect from the date of vesting, the inam land shall stand abolished and vest in the State. The

proceedings under Sections 6 and 8 are in the nature of public deliberations and the conversion of tenure of inam into ordinary tenure has to take

place in the public interest. The ordinary test of sufficient cause would not apply in the case of an aggrieved party showing sufficient cause for every

days delay in filing the appeal. The appellate authority had applied wholly inadmissible and wrong test and refused to excuse the delay as if the

delay has to be excused u/s 5 of the Limitation Act...

8. The impugned order, however, shows that the learned Joint Collector had applied the rigour of Section 5 of the Limitation Act and after

discussing the decisions dealing with the interpretation and manner of applying Section 5 of the Limitation Act came to dismiss the appeal as time

barred. It is also noteworthy that the impugned order itself shows that the appeal was entertained and was taken on record and notices to both

parties were issued. In other words, as contended by the learned Counsel for the Petitioners, the entertainment of appeal itself may amount to the

appellate authority being satisfied with reasons shown u/s 24(1) of the Act and that the Appellant has sufficiently explained as to why he could not

file the appeal within thirty days. The grounds of appeal elaborately set out the reasons, as it is stated that when the occupancy certificate was

issued to the first Respondent, no notice was given either by RDO or by MRO and based on the said occupancy certificate issued on 09.12.1999,

the MRO under his proceedings dated 27.02.2002 issued orders to record the name of the occupant by making changes in the revenue record. It

was also-stated that the Petitioners came to know of it when they obtained the certified copies of pahanies for the years 2002-2003 and 2003-

2004 on 20.12.2004. Petitioners also state that they have thereafter obtained the certified copy of the occupancy certificate from the RDO's office

on 04.05.2005 and appeal was presented on 18.06.2005.

9. The Joint Collector, unfortunately, has not appreciated any of these aspects as to whether Petitioners are entitled to the benefit of discretion of

extension of time u/s 24(1) of the Act in their favour. The Petitioners 2 to 4 and the third Respondent are said to be the legal representatives of said

late Vadla Kistaiah and if the said Vadla Kistaiah was entitled to occupancy certificate on the basis of his possession as on the crucial date of

01.11.1973, the legality of grant of certificate to one of the legal representatives to the exclusion of others was, prima facie, the question involved in

the appeal. Learned Joint Collector, therefore, ought to have applied his mind to all these aspects before considering whether discretion u/s 24(1)

of the Act deserves to be exercised in favour of the Petitioners or not. On the contrary, the impugned order shows that the learned Joint Collector

was completely swayed by the legal possession with respect to Section 5 of the Limitation Act and on finding that the delay, as required, is not

explained by the Petitioners, he rejected the appeal as time barred. Since the approach adopted by the learned Joint Collector is not in conformity

with the plain reading of Section 24(1) of the Act coupled with the decisions, referred to above, I am constrained to set aside the impugned order

and remit the appeal to the learned Joint Collector for fresh consideration in accordance with law. It is made clear that the learned Joint Collector

shall consider the aspect of maintainability of the appeal afresh and if satisfied, consider the appeal on merits and pass appropriate orders in

accordance with law.

The civil revision petition is accordingly allowed. There shall be no order as to costs.