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Court : Karnataka

Decided On : Jul-04-2017

Judge : The Honourable Chief Justice Mr. Subhro Kamal Mukherjee & P.S. Dinesh Kumar

Appeal No. : Writ Appeal No. 1366 of 2017 (LA-KIADB)

Appellant : Ramesh

Respondent : The State of Karnataka, Revenue Department, Represented by its Secretary and Others

Judgement :

(Prayer: This Appeal is filed under Section 4 of the Karnataka High Court Act praying to set aside the Order Passed in the Writ Petition No.34328/2012 Dated: 05.02.2013.)

ORDER ON I.A. NO.I OF 2017

1. The appeals are barred by limitation. The delay is of 1,432 days.
2. Mr.Vivek Holla, learned High Court Government Pleader, appears for the respondent no.1. Mr.Ashok N.Nayak, learned advocate, appears for the respondent nos.2 and 3.

3. After hearing the learned advocates for the parties, we are satisfied that the appellant was prevented by sufficient cause from presenting the memorandum of writ appeal in time.

4. Therefore, the delay in filing the appeals is condoned, and the application, being I.A. No.1 of 2017, stands allowed.

5. We make no order as to costs.

6. The writ petitioner is the appellant before us.

7. For the acquisition of the disputed property, a preliminary notification was issued on July 15, 1994, followed by the final notification on September 20, 1995.

8. The petitioner-appellant purchased the property on July 10, 2007. Therefore, he is a subsequent purchaser after the preliminary notification.

9. The Hon'ble Single Judge dismissed the writ petition, inter alia, on the ground that a subsequent purchaser could not challenge the acquisition.

10. Mr.Jayakumar S.Patil, learned senior advocate, in support of the appeal, submits that they are not challenging the acquisition in that sense, but their case is that the acquisition stood lapsed because of the delay and non-passing of the award.

11. Mr.Patil moves a memorandum seeking leave to withdraw the writ petition, inasmuch as the writ petitioner proposes to file a comprehensive writ petition for a declaration that the acquisition stood lapsed.

12. As prayed for by Mr.Jayakumar S.Patil, we dispose of this appeal by permitting him to withdraw Writ Petition No.34328 of 2012, with liberty to the writ petitioner to file a comprehensive writ petition, in accordance with law.

13. The order impugned stands modified as above.

14. We make no order as to costs.