



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : WP(C) 359/2022

1: Michi Tayang and 93 Ors.
S/o Late Michi Pai,
Village Michi, PO Ziro, Lower Subansiri District, (AP)

2: Mihin Tajang
S/o Late Mihin Tajang

Village Tajang

PO Ziro
Lower Subansiri District
(AP)

3: Mihin Bida
S/o Shri Mihin Pugang

Village Tajang

PO Ziro
Lower Subansiri District
(AP)

4: Misso Radhe
S/o Sri Misso Rambo

Village Lempia (Tajang)
PO Ziro
Lower Subansiri District
(AP)

5: Mihin Tapa
S/o Shri Mihin Tagia
Village Tajang

PO Ziro
Lower Subansiri District
(AP)

6: Mihin Talley
S/o Sri Mihin Tagia
Village Tajang

PO Ziro
Lower Subansiri District
(AP)

7: Millo Tatung
S/o Late Millo Lailyang

Village Tajang

PO Ziro
Lower Subansiri District
(AP)

8: Millo Tath
S/o Late Millo Pyaro

Village Tajang

PO Ziro
Lower Subansiri District
(AP)

9: Mihin Punu
S/o Late Mihin Buda

Village Tajang
PO Ziro
Lower Subansiri District
(AP)

10: Rubu Haichang
S/o Late Rubu Hailyang

Village Tajang

PO Ziro

Lower Subansiri District
(AP)

11: Mihin Rika
S/o Sri Mihin Tagang
Village Lempia (Tajang)
PO Ziro
Lower Subansiri District
(AP)

12: Mihin Richo
S/o Mihin Tagang

Village Lempia (Tajang)
PO Ziro
Lower Subansiri District
(AP)

13: Mihin Deilyang
S/o Late Mihin Tasser
Village Tajang
PO Ziro
Lower Subansiri District
(AP)

14: Koj Yaching
W/o Late Koj Bida

Village Dutta

PO Ziro
Lower Subansiri District
(AP)

15: Koj Yanyi
W/o Late Koj Tamang

Village Dutta
PO Ziro
Lower Subansiri District
(AP)

16: Koj Bida
S/o Late Koj Talu

Village Dutta
PO Ziro
Lower Subansiri District
(AP)

17: Kago Lalyang
S/o Late Kago Hassang

Village Hija
PO Ziro
Lower Subansiri District
(AP)

18: Kago Tago
S/o Late Kago Hassang

Village Hija
PO Ziro
Lower Subansiri District
(AP)

19: Biku Talin
S/o Late Biku Taik

Resident Reserve Line
Hapoli
PO Ziro
Lower Subansiri District
(AP)

20: Pura Tajo
S/o Late Pura Tadu

Village Nenchalya

PO Ziro
Lower Subansiri District
(AP)

21: Mihin Yari
W/o Late Mihin Kaning

Village Lempia (Tajang)
PO Ziro

Lower Subansiri District
(AP)

22: Taku Tajo
S/o Late Taku Rido

Village Hija
PO Ziro
Lower Subansiri District
(AP)

23: Koj Talang
S/o Sri Koj Talo

Village Dutta

PO Ziro
Lower Subansiri District
(AP)

24: Mihin Yami
D/o Late Mihin Pilya

Village Tajang

PO Ziro
Lower Subansiri District
(AP)

25: Leegang Loder
S/o Late Leegang Doilyang
Village Mudang Tage
PO Ziro
Lower Subansiri District
(AP)

26: Yachang Rissang
S/o Late Yachang Lampung

Village Dutta

PO Ziro
Lower Subansiri District
(AP)

27: Yachang Yap
D/o Late Yachang Pillia

Village Dutta

PO Ziro
Lower Subansiri District
(AP)

28: Dani Maji
S/o Late Dani Tagang

Village Hija

PO Ziro
Lower Subansiri District
(AP)

29: Nending Dumi
W/o Late Nending Maji

Village Hija

PO Ziro
Lower Subansiri District
(AP)

30: Koj Taro
S/o Late Koj Ribya
Village Dutta
PO Ziro
Lower Subansiri District
(AP)

31: Yachang Tatang alias Koj Tatang
S/o Late Yachang Delyang alias Koj Delyang
Village Dutta
PO Ziro
Lower Subansiri District
(AP)

32: Koj Nobin
S/o Late Koj Tat

Village Dutta
PO Ziro
Lower Subansiri District
(AP)

33: Mobia Pugang
S/o Late Mobia Taki

Village Dutta

PO Ziro
Lower Subansiri District
(AP)

34: Koj Yaring
W/o Late Koj Tat.
Village Dutta

PO Ziro
Lower Subansiri District
(AP)

35: Koj Yagung
W/o Shri Koj Tadi

Village Dutta

PO Ziro
Lower Subansiri District
(AP)

36: Subu Habung
S/o Late Subu Tai

Village Kalung
PO Ziro
Lower Subansiri District
(AP)

37: Koj Tare
S/o Late Koj Tasso

Village Dutta

PO Ziro

Lower Subansiri District
(AP)

38: Hiinyo Tai
So Late Hiinyo Tagur

Village Dutta
PO Ziro
Lower Subansiri District
(AP)

39: Koj Laliyang
S/o Late Koj Tatu

Village Dutta
PO Ziro
Lower Subansiri District
(AP)

40: Koj Tamang
S/o Late Koj Pilya

Village Dutta

PO Ziro
Lower Subansiri District
(AP)

41: Tage Tamang
S/o Late Tage Buda

Village Tajang
PO Ziro
Lower Subansiri District
(AP)

42: Koj Tade
S/o Late Koj Lalyang

Village Dutta
PO Ziro
Lower Subansiri District
(AP)

43: Kime Horming
S/o Late Kime Tadu
Village Hija
PO Ziro
Lower Subansiri District
(AP)

44: Radhe Puming
W/o Late Radhe Tapa

Village Tajang
PO Ziro
Lower Subansiri District
(AP)

45: Radhe Tani
S/o Late Radhe Tapa
Village Tajang
PO Ziro
Lower Subansiri District
(AP)

46: Radhe Mobin
S/o Late Radhe Tapa

Village Tajang
PO Ziro
Lower Subansiri District
(AP)

47: Tilling Monya
D/o Sri Tilling Gambo

Resident SSB Gate
Hapoli
PO Ziro
Lower Subansiri District
(AP)

48: Tilling Siira
S/o Sri Tilling Gambo

Resident SSB Gate
Hapoli
PO Ziro

Lower Subansiri District
(AP)

49: Tilling Diming
W/o Sri Tilling Gambo

Resident SSB Gate
Hapoli
PO Ziro
Lower Subansiri District
(AP)

50: Tilling Gambo
S/o Late Tilling Kacho

Resident SSB Gate
Hapoli
PO Ziro
Lower Subansiri District
(AP)

51: Rubu Gyati
S/o Late Rubu Habung

Village Lempia
PO Ziro
Lower Subansiri District
(AP)

52: Mobia Choku
W/o Late Mobia Tabin
Village Dutta
PO Ziro
Lower Subansiri District
(AP)

53: Hage Appo
S/o Late Hage Hailyang

Village Hari
PO Ziro
Lower Subansiri District
(AP)

54: Buru Mali
S/o Late Buru Gambo

Resident Old Ziro
PO Ziro
Lower Subansiri District
(AP)

55: Ngilyang Tajang
S/o Ngilyang Jarbo

Village Tajang
PO Ziro
Lower Subansiri District
(AP)

56: Ngilyang Yamang
W/o Late Ngilyang Tago

Village Tajang
PO Ziro
Lower Subansiri District
(AP)

57: Kago Buda
S/o Late Kago Halyang

Village Hija
PO Ziro
Lower Subansiri District
(AP)

58: Rubu Takii
S/o Late Rubu Dolo

Village Lempia
PO Ziro
Lower Subansiri District
(AP)

59: Koj Tade Gambo
S/o Late Koj Tade

Village Dutta
PO Ziro

Lower Subansiri District
(AP)

60: Nani Rinya
W/o Nani Chatung

Village Reru
PO Ziro
Lower Subansiri District
(AP)

61: Mihin Doilyang
S/o Late Mihin Chilyang

Village Tajang
PO Ziro
Lower Subansiri District
(AP)

62: Tania Tapuk
S/o Sri Tania Tayam

Village Tajgi

PO Ziro
Lower Subansiri District
(AP)

63: Khoda Bendu
S/o Late Khoda Talo

Village Raka
PO Ziro
Lower Subansiri District
(AP)

64: Dohu Taking
S/o Late Dohu Bel

Village Raka
PO Ziro
Lower Subansiri District
(AP)

65: Dora Tee
S/o Sri Dora Bui

Village Raka
PO Ziro
Lower Subansiri District
(AP)

66: Joram Tako
S/o Late Joram Teli

Village Sekh Jara
PO Joram
Lower Subansiri District
(AP)

67: Joram Tapak
S/o Late Joram Takir

Resident Peli
Joram Village
PO Joram
Lower Subansiri District
(AP)

68: Joram Yadi
W/o Shri Joram Tapak

Resident Peli
Joram Village
PO Joram
Lower Subansiri
(AP)

69: Khoda Bagang
S/o Late Khoda Tapuk

Village Tajgi
PO Ziro
Lower Subansiri District
(AP)

70: Taring Tagia
S/o Late Taring Tachak

Village Tajgi

PO Ziro
Lower Subansiri District
(AP)

71: Khoda Eyo
S/o Late Khoda Tamang

Village Raka
PO Ziro
Lower Subansiri District
(AP)

72: Joram Tajing
S/o Late Joram Tatam

Village Phu
Joram

PO Joram
Lower Subansiri District
(AP)

73: Joram Jumshi
W/o Shri Joram Tajing

Village Phu
Joram

PO Joram
Lower Subansiri District
(AP)

74: Joram Menia
W/o Late Joram Tam

Village Deli Happa
PO Joram
Lower Subansiri District
(AP)

75: Dora Kari
S/o Late Dora Tamang

Village Tajgi

PO Ziro
Lower Subansiri District
(AP)

76: Khoda Tapu
S/o Shri Khoda Lelu

Village Tajgi

PO Ziro
Lower Subansiri District
(AP)

77: Khoda Malo
S/o Late Khoda Tapuk

Village Tajgi

PO Ziro
Lower Subansiri District
(AP)

78: Toko Kochi
S/o Sri Toko Rido

Village Yachuli
PO Yachuli
Lower Subansiri District
(AP)

79: Tania Tariam
S/o Late Tania Tali
Village Raka

PO Ziro
Lower Subansiri District
(AP)

80: Joram Tommy
S/o Joram Lalin
Village Yazali

PO Yazali

District Lower Subansiri
(AP)

81: Khoda Yadik
W/o Sri Khoda Bida

Village Tajgi
PO Ziro
Lower Subansiri District
(AP)

82: Khoda Lelu
S/o Late Khoda Tapuk

Village Tajgi

PO Ziro
Lower Subansiri District
(AP)

83: Tuk Tada
S/o Late Tuk Tam.
Village Tajgi

PO Ziro
Lower Subansiri District
(AP)

84: Dora Tago
S/o Late Dora Tad

Village Pith

PO Ziro
Lower Subansiri District
(AP)

85: Dora Abanti
W/o Sri Dora Tago

Village Pith

PO Ziro
Lower Subansiri District
(AP)

86: Tuk Renia
W/o Sri Tuk Tadam

Village Tajgi

PO Ziro
Lower Subansiri District
(AP)

87: Tania Tui
S/o Late Tania Talam

Village Tajgi

PO Ziro
Lower Subansiri District
(AP)

88: Duyu Chada
S/o Sri Duyu Gyute

Village Reru
PO Ziro
Lower Subansiri District
(AP)

89: Koj Tacho
S/o Late Koj Ribya

Village Dutta
PO Ziro
Lower Subansiri District
(AP)

90: Dani Khopi
S/o Sri Dani Kani
Village Hija

PO Ziro
Lower Subansiri District
(AP)

91: Khoda Taba

S/o Late Khoda Tapung

Village Tajgi

PO Ziro
Lower Subansiri District
(AP)

92: Khoda Mission
S/o Sri Khoda Taba

Village Tajgi

PO Ziro
Lower Subansiri District
(AP)

93: Khoda Bapu
S/o Sri Khoda Taba

Village Tajgi

PO Ziro
Lower Subansiri District
(AP)

94: Tania Kord
S/o Late Tania Talla

Village Tajgi

PO Ziro
Lower Subansiri District
(AP)
Contact No. 841592346

VERSUS

1:THE STATE OF AP and 5 Ors.
Represented by the Chief Secretary, Govt. of Arunachal Pradesh, Itanagar 791111

2:The Secretary
(Land Management)
Govt. of Arunachal Pradesh 791111

3:The Deputy Commissioner
Lower Subansiri District
Ziro
Arunachal Pradesh 791120

4:The Deputy Commissioner
Kamle District
Raga
Arunachal Pradesh 791120

5:The Chief Engineer (Highway)
Western Zone
PWD
Itanagar
Arunachal Pradesh 791111

6:The Union of India
Represented by the Secretary
Ministry of Road Transport and Highway
Govt. of India
Transport Bhawan
No. 1
Parliament Street
New Delhi 1100

Advocate for the Petitioner : Subu Koyang

Advocate for the Respondent : GA (AP)

:::BEFORE:::

HON'BLE MRS. JUSTICE MITALI THAKURIA

Date of hearing : 03.01.2023

Date of judgment & order : 22.03.2023

JUDGMENT & ORDER (CAV)

Heard Mr. S. Koyang, learned counsel for the petitioner. Also heard Mr. S. Tapin, learned Senior Government Advocate representing State respondent Nos. 1, 3, 4 & 5; Mr. D. Kamduk, learned Standing Counsel, Land Management Department, representing respondent No. 2 and Mr. M. Kato, learned DSGI representing respondent No. 6.

2. This is an application filed under Article 226 of the Constitution of India, praying for issuance of writ in the nature of certiorari/mandamus or any other appropriate writ, order or direction of like nature directing the respondent authorities for payment of solatium amount to the petitioners, at the rate of 100% of the compensation amount, under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

3. The brief facts of the present writ petition is that the Government of Arunachal Pradesh, through the Secretary (Land Management), Government of Arunachal Pradesh, Itanagar, issued a public Notification, vide No. LM-14/2014, dated 17.02.2014, under Section 10 of the Balipara/Tirap/Sadiya Frontier Tract Jhum Land Regulation Act, 1947 (hereinafter referred to as 'Regulation of 1947'), expressing their intention to acquire land mentioned in the schedule of

the said Notification for construction of road from Potin to Bopi via Yazali, Yachuli, Ziro, Boasimla, Tamen and Raga under Trans Arunachal Highway (TAH). The lands of the petitioners have also been included in the schedule of the said Notification for acquisition of land. The Government of Arunachal Pradesh is, accordingly, paying compensation and solatium to the land affected people for acquisition of land as per aforesaid Notification. The Government of Arunachal Pradesh issued one Notification No. LM-134/2011(Pt), dated 28.09.2012, prescribing procedure and manner to be followed, as prescribed under Land Acquisition Act, 1894, for calculation of land compensation including land value, interest, solatium, establishment charge and contingency charge. Thereafter, the Government of Arunachal Pradesh, through the Secretary of Land Management, Itanagar, has issued another Notification, dated 22.01.2016, in suppression of the earlier Notification No. LM-134/2011 (Pt), dated 28.09.2012, wherein, it has been provided for payment of solatium and interest for all kinds of land acquisition. Therefore, the petitioners are entitled for payment of compensation and solatium for the land and properties acquired by the respondents.

4. It is to be mentioned here that the Ministry of Road, Transport & Highways, Government of India, has sanctioned a fund of Rs. 188 Crores vide fund sanction Order No. NH-12012/30/2014/Ar.Pkg/SARDPN-NE, dated 18.05.2017, for payment of compensation to the land affected persons for acquisition of land.

5. It is further stated that on 20.03.2014, the Secretary-cum-Revenue Commissioner, Land Management Department, Government of Arunachal Pradesh, had issued a Notification for extension of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act,

2013, (hereinafter referred to as 'Act of 2013') in the State of Arunachal Pradesh, where in the First Schedule of the said Act, the method of calculation of compensation has been provided, which includes solatium. But the respondent authorities have not applied the aforesaid Table of First Schedule at the time of calculation of compensation to be paid to the petitioners. The respondent authorities have arbitrarily omitted to apply Sl. No. 5 of the aforesaid Table at the time of calculation of compensation in order to deprive payment of solatium to the petitioners. It is further stated that the First Schedule and the Section 30 of the Act of 2013 is applicable in the case of the petitioners and they are entitled to get payment of solatium as provided under the said Act of 2013.

6. It is also stated that the Ministry of Road, Transport & Highways, Government of India, has issued a guideline, vide No. NH-11011/30/2015-LA, dated 28.12.2017, regarding payment of compensation and solatium, wherein, it has been provided for payment of solatium @ 100% of the compensation amount in addition to compensation. The method of calculation of solatium has been illustrated in the Annexure-IV of the said guideline. Solatium is included as component part of compensation in the method of calculation of compensation. Therefore, the petitioners are entitled for payment of solatium @ 100% of the compensation amount in addition to compensation.

7. It is the contention of the petitioners that though they have been paid compensation, yet they were not paid the solatium at the time of payment of compensation. Thereafter, the petitioners have served notices to the respondent authorities through their engaged counsel requesting for payment of solatium, but it was replied by the Deputy Commissioner, Lower Subansiri District, Ziro,

vide Letter No. LMZ/T/HIGHWAY/ REVERIFICATION-1/2018/798, dated 12.07.2018, that there is no provision for payment of solatium to the beneficiaries under Section 10 of the Regulation of 1947. But, the Division Bench of this Court, vide judgment & order dated 12.09.202, passed in WA No. 15/2022, has set aside the said communication dated 12.07.2018 of the Deputy Commissioner, Lower Subansiri District, Ziro, holding that the reasonable compensation is required to be computed by taking recourse to the relevant provision of law in force, which in the present case, would be the Act of 2013. Therefore, the petitioners are entitled to get the payment of solatium under Section 30 of the Act of 2013. Hence, the present writ petition has been filed claiming for payment of compensation.

8. It is further stated that in a similarly situated circumstances of land acquisition under Section 10 of Regulation of 1947, the respondent authorities have paid solatium amount at the rate 100% of the compensation amount to the land affected person, namely, Shri Takhe Taling, for acquisition of his land for construction of 33/11 KV Sub-Station at Khaw area, Ziro-I Circle, Lower Subansiri District.

9. It is also stated by the petitioners that they are not against the construction of road from Potin to Bopi via Yazali, Yachuli, Ziro, Boasimla, Tamen and Raga under Trans Arunachal Highway (TAH), but they are claiming for payment of solatium amount as provided under the law for the land looser in the acquisition of land. Section 63 of the Act of 2013 bars jurisdiction of the Civil Court other than the High Court under Article 226 or 227 of the Constitution of India or the Supreme Court to entertain dispute regarding the land acquisition. Therefore, having no other alternative, this writ petition has been filed seeking

direction for issuance of writ in the nature of certiorari/mandamus or any other appropriate writ, order or direction of like nature directing respondent authorities for payment of solatium amount to the petitioners, at the rate of 100% of the compensation amount.

10. Mr. S. Koyang, learned counsel for the petitioners, submitted that the order of compensation was passed on 18.05.2017 and thereafter several communications were made between the present petitioners and the respondent authorities for payment of solatium and interest, and it was replied by the Deputy Commissioner, Lower Subansiri District, Ziro, that there is no provision for payment of solatium to the beneficiaries under Section 10 of the Regulation of 1947, vide Letter dated 12.07.2018. But, the Division Bench of this Court has set aside the said communication dated 12.07.2018 of the Deputy Commissioner, Lower Subansiri District, Ziro, vide order dated 12.09.2022, passed in WA No. 15/2022 (State of AP & 2 Ors. Vs. Mihin Laling & Ors.) holding that reasonable compensation is required to be computed by taking recourse to the relevant provisions of law in force, which in the present case would be the Act of 2013. It is further submitted by the learned counsel for the petitioners that there is no such delay in filing the present writ petition seeking solatium and interest on the acquisition of land of the petitioners and in the same time, it is a settled position of law that the law of Limitation does not apply in the writ petition and there cannot be any specific time limit for computation of limitation in case of filing writ petition. More so, disbursing of the compensation was started since the year 2017 and continued till 2021. So, there is no laches or negligence on the part of the petitioners in filing the present writ petition. In the same time, as stated above, several notices were communicated to the respondent authorities seeking payment of solatium and interest and hence, there is no negligence or laches on the part of the petitioners seeking the

solatium and interest after the order of compensation was passed in the year 2017.

11. The learned counsel for the petitioners further relied upon following authorities in support of his submission:-

- (i) **Sudama Devi Vs. Commissioner & Ors.**, reported in **(1983) 2 SCC 1**;
- (ii) **Basanti Prasad Vs. Chairman, Bihar School Examination Board & Ors.** , reported in **(2009) 6 SCC 791**; and
- (iii) **Tukaram Kana Joshi & Ors. Vs. Maharashtra Industrial Development Corporation & Ors.**, reported in **(2013) 1 SCC 353**.

12. In **Tukaram Kana Joshi(supra)**, Hon'ble Supreme Court, in paragraph Nos. 12, 13, 14 & 15 thereof, has observed as under:

"12. The State, especially a welfare State which is governed by the Rule of Law, cannot arrogate itself to a status beyond one that is provided by the Constitution. Our Constitution is an organic and flexible one. Delay and laches is adopted as a mode of discretion to decline exercise of jurisdiction to grant relief. There is another facet. The Court is required to exercise judicial discretion. The said discretion is dependent on facts and circumstances of the cases. Delay and laches is one of the facets to deny exercise of discretion. It is not an absolute impediment. There can be mitigating factors, continuity of cause action, etc. That apart, if whole thing shocks the judicial conscience, then the Court should exercise the discretion more so, when no third party interest is involved. Thus analysed, the petition is not hit by the doctrine of delay and laches as the same is not a constitutional limitation, the cause of action is continuous and further the situation certainly shocks judicial conscience.

13. The question of condonation of delay is one of discretion and has to be decided on the basis of the facts of the case at hand, as the same vary from case to case. It will depend upon what the breach of fundamental right and the remedy claimed are and

when and how the delay arose. It is not that there is any period of limitation for the Courts to exercise their powers under [Article 226](#), nor is it that there can never be a case where the Courts cannot interfere in a matter, after the passage of a certain length of time. There may be a case where the demand for justice is so compelling, that the High Court would be inclined to interfere in spite of delay. Ultimately, it would be a matter within the discretion of the Court and such discretion, must be exercised fairly and justly so as to promote justice and not to defeat it. The validity of the party's defence must be tried upon principles substantially equitable. (Vide: [P.S. Sadasivaswamy v. State of T.N.](#) AIR 1974 SC 2271; [State of M.P. & Ors. v. Nandlal Jaiswal & Ors.](#), AIR 1987 SC 251; and [Tridip Kumar Dingal & Ors. v. State of West Bengal & Ors.](#), (2009) 1 SCC 768;)

14. No hard and fast rule can be laid down as to when the High Court should refuse to exercise its jurisdiction in favour of a party who moves it after considerable delay and is otherwise guilty of laches. Discretion must be exercised judiciously and reasonably. In the event that the claim made by the applicant is legally sustainable, delay should be condoned. In other words, where circumstances justifying the conduct exist, the illegality which is manifest, cannot be sustained on the sole ground of laches. When substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred, for the other side cannot claim to have a vested right in the injustice being done, because of a non- deliberate delay. The court should not harm innocent parties if their rights have in fact emerged, by delay on the part of the Petitioners. (Vide: [Durga Prasad v. Chief Controller of Imports and Exports & Ors.](#), AIR 1970 SC 769; [Collector, Land Acquisition, Anantnag & Anr. v. Mst. Katiji & Ors.](#), AIR 1987 SC 1353; [Dehri Rohtas Light Railway Company Ltd. v. District Board, Bhojpur & Ors.](#), AIR 1993 SC 802; [Dayal Singh & Ors. v. Union of India & Ors.](#), AIR 2003 SC 1140; and [Shankara Co-op Housing Society Ltd. v. M. Prabhakar & Ors.](#), AIR 2011 SC 2161)

15. In the case of [H.D Vora v. State of Maharashtra & Ors.](#), AIR 1984 SC 866, this Court condoned a 30 year delay in approaching the court where it found violation of substantive legal rights of the applicant. In that case, the requisition of premises made by the State was assailed."

13. Relying on those decisions, it is submitted by the learned counsel for the petitioners that there is no such limitation prescribed in respect of the petitions filed under Article 226 of the Constitution of India and it is appropriate to construe any unexplained delay in the filing of the writ petition after the expiry of the period of limitation prescribed for filing a suit as unreasonable.

14. On the other hand, the learned counsels appearing on behalf of the respondent authorities, namely, Mr. S. Tapin, learned Senior Government Advocate, and Mr. D. Kamduk, learned Standing Counsel, Land Management Department, mainly stressed on the point that the law of Limitation may not be directly applied in the case of writ petition, but principle of laches will be applied and here in the instant case, it is seen that the petitioners could not properly explain the delay, which otherwise establishes that there was laches on the part of the petitioners in preferring the present writ petition and accordingly, the learned counsels appearing on behalf of the respondent authorities raised objections that on the principle of law of Limitation, the writ petition is not maintainable.

15. Further, Mr. S. Tapin, learned Senior Government Advocate representing State respondents, submitted that the Hon'ble Supreme Court, in the judgment relied by the petitioners in **Sudama Devi(supra)**, expressed the view that the principle of limitation may not be applicable in case of the writ petition but general rule of laches alone can be applied and this must be necessarily depend on the facts and circumstances of each case. In the said judgment, it is also held by the Hon'ble Apex Court that "there is no period of limitation prescribed by any law for filing a writ petition under [Article 226](#) of the Constitution. It is in fact doubtful whether any such period of limitation can be prescribed by law. In any event, one thing is clear and beyond doubt, that no such period of limitation can be laid down either under rules made by the High Court or by practice. In every case it would have to be decided on the facts and circumstances, whether the petitioner is guilty of laches and that would have to be done without taking into account any specific period as a period of limitation. There may be cases where even short delay may be fatal while there may be cases where even a long delay may not be evidence of laches on the part of the petitioner."

16. The learned Senior Government Advocate also relied on the following judgments of the Hon'ble Supreme Court in support of his submissions:

- (i) **State of Uttar Pradesh & Ors. Vs. Arvind Kumar Srivastava & Ors. (Civil Appeal No. 9849 of 2014);**
- (ii) **Northern Indian Glass Industries Vs. Jaswant Singh & Ors. [2002 Supp(3) SCR 534];**
- (iii) **Municipal Corporation of Greater Bombay Vs. Industrial Development Investment Co. Pvt. Ltd. & Ors. [(1996) 11 SCC 501].**

17. The learned Senior Government Advocate further stressed on paragraph No. 11 of the judgment of **Arvind Kumar Srivastava (supra)**, which reads as under:

"In Govt. of W.B. v. Tarun K. Roy, (1997) 3 SCC 395, their Lordships considered delay as serious factor and have not granted relief. Therein it was observed as follows: (SCC pp. 359-60, para 34) "34. The respondents furthermore are not even entitled to any relief on the ground of gross delay and laches on their part in filing the writ petition. The first two writ petitions were filed in the year 1976 wherein the respondents herein approached the High Court in 1992. In between 1976 and 1992 not only two writ petitions had been decided, but one way or the other, even the matter had been considered by this Court in State of W.B. v. Debdas Kumari, 1991 Supp (1) SCC 138. The plea of delay, which Mr. Krishnamani states, should be a ground for denying the relief to the other persons similarly situated would operate against the respondents. Furthermore, the other employees not being before this Court although they are ventilating their grievances before appropriate courts of law, no order should be passed which would prejudice their cause. In such a situation, we are not prepared to make any observation only for the purpose of grant of some relief to the respondents to which they are not legally entitled to so as to deprive others therefrom who may be

found to be entitled thereto by a court of law."

18. Further, the learned Senior Government Advocate submitted that the Hon'ble Supreme Court in the case of **Municipal Corporation of Greater Bombay (supra)** has held that "*Delay and laches – Once acquisition proceeding is complete and land vests in the State free from all encumbrances, proceeding becomes final and not open to challenge under Article 226 on ground of non-compliance with any statutory requirement such as non-existence of public purpose - Therefore, a person aggrieved must approach the court before completion of the proceedings – It is not the function of Land Acquisition Officer to see whether the notified public purpose existing – Constitution of India, Article 226 – Delay and laches.*"

19. After hearing the submissions of learned counsel of both sides, it is seen that the main issue to be decided in the present writ petition as to whether the petitioners are entitled for the solatium and interest at the rate 100% of the compensation amount, as prayed for, under the provision of Section 30 of the Act of 2013 and also to be decided as to whether the present writ petition is barred by law of Limitation.

20. It is the admitted fact that the present petitioners are the land owners whose lands have already been acquired by the government for the construction of road from Potin to Bopi via Yazali, Yachuli, Ziro, Boasimla, Tamen and Raga under Trans Arunachal Highway (TAH). It is also the admitted fact that after the acquisition of the land, the order of compensation was also issued by the respondent authorities and some of the petitioners have already received the compensation to that effect. But, the present writ petition has been filed by the petitioners seeking solatium and interest on the acquisitioned land under the Act

of 2013. Further, from the materials available in the record and also from the correspondence made to the respondent authority concerned, it is seen that the order of payment of compensation was passed in the year 2017 and thereafter the amount was disbursed by the authority concerned to the petitioners. But, it reveals that since 2018 onwards, the petitioners made several communications with the Deputy Commissioner, Lower Subansiri District, Ziro, seeking payment of solatium and interest on the acquisitioned land. It also reveals from the records that several notices were issued to the respondent authorities in the year 2018 through their engaged counsel for payment of interest and solatium. Further, it is also seen that vide communication dated 12.07.2018, the Deputy Commissioner, Lower Subansiri District, Ziro, replied to the engaged counsel that their clients are not entitled for the payment of solatium and interest on the acquisitioned land.

21. Thus, it is seen that there may not be proper explanation for some period. But from the materials in the record and also from the notices annexed by the petitioners, it appears that several correspondence were made with the Deputy Commissioner seeking solatium and interest after the award of compensation of the acquisitioned land.

22. So, considering the submissions advanced by the learned counsels appearing for the parties and also considering the entire facts and circumstances of the case, it is seen that though the order of compensation was passed in the year 2017, but it is seen that there were several correspondence and reply from the authority concerned till 2022 and the compensation was also disbursed since 2017 till 2021. Thus, it is seen that there may not be any explanation of day to day delay in preferring the present writ petition, but

considering the entire facts and circumstances of this case, it is seen that there is no such laches or negligence on the part of the petitioners in preferring the present writ petition seeking solatium and interest at the rate of 100% compensation amount under the provision of Act of 2013.

23. Now, it is to be decided as to whether the present petitioners are entitled for receiving the interest and solatium as per the government notification under the Act of 2013.

24. In this context, the learned counsel for the petitioner has submitted that, in a similarly situated circumstance, the Hon'ble Supreme Court, in the case of **Sunder Vs. Union of India** reported in **(2001) 7 SCC 211**, has held that the solatium is an integral and statutory part of compensation awarded to the land owners. Section 10 of Regulation of 1947 provides for payment of reasonable compensation for the land acquired, which includes solatium. In view of the aforesaid judgment of the Hon'ble Supreme Court, it is submitted that the petitioners are also entitled for payment of interest on solatium.

25. The learned counsel for the petitioner also relied on another decision of Hon'ble Supreme Court in **P. C. Goswami Vs. Collector of Darrang**, reported in **AIR 1982 SC 1214**, wherein also, the Hon'ble Supreme Court has held that no discrimination can be made between acquisitions under one Act and those made under another Act in the matter of payment of solatium.

26. The learned counsel for the petitioner further submitted that similar view is also expressed by the Hon'ble Apex Court in **Nagain Das Jain (Since Deceased) by LRS Vs. Agra Nagar Mahapalika, Agra**, reported in **(1991)**

4 SCC 212, wherein, in paragraph No. 7 of the said judgment, it has been held that *"the importance of award of solatium cannot be undermine by any procedural blockades. It follows automatically the market value of the land acquired, as a shadow would to a man. It springs up spontaneously as a part of the statutory growth on the determination and emergence of market value of the land acquired. It follows as a matter of course without any impediment. That it falls to be awarded by the court "in every case" leaves no discretion with the court in not awarding it in some cases and awarding on others. Since, the award of Solatium is in consideration of the compulsory nature of acquisition, it is a hanging mandate for the Court to award and supply the omission at any stage where the Court gets occasion to amend or rectify. This is the spirit of the provision, wherever made."*

27. Further it is submitted by the learned counsel for the petitioner that the Coordinate Benches of this Court in **WP(C)/280/2020 (Mihin Laling Vs. State of Arunachal Pradesh & 7 Anr.)**, **WP(C)/29/2021 (Gopi Meto & 84 Ors. Vs. State of AP & 2 Ors.)** & **WP(C)/345/2022 (Likha Taj & Anr. Vs. State of AP & 4 Ors.)**, also decided the similarly situated issues and considering the settled position of law, the petitioners of those cases were granted with the similar relief and granted the solatium and interest as per the Act of 2013.

28. In this context, the learned Senior Government Advocate, Mr. S. Tapin, as well as the learned Standing Counsel for the Land Management Department, Mr. D. Kamduk, also submitted that the Notification for and order for compensation was passed in the year 2017, but the petitioners never approached the authority concerned seeking any solatium and interest and hence, at this stage after lapse

of almost 4-5 years, the petitioners are not at all entitled for solatium and interest. The respondent authority concerned has already disbursed the amount of compensation to the petitioners and hence they are not entitled for any further interest on solatium, as prayed for by the present petitioners. But, the learned Standing Counsel, Land Management Department, as well as the learned Senior Government Advocate have not disputed that the petitioners, whose lands have been acquired for construction of road from Potin to Bopi via Yazali, Yachuli, Ziro, Boasimla, Tamen and Raga under Trans Arunachal Highway (TAH), are entitled to receive solatium as provided under the Act of 2013, as already held by the Hon'ble Division Bench of this Court in WA/15(AP)/2022. But the only issue raised by the learned Standing Counsel, Land Management Department, as well as the learned Senior Government Advocate that the petitioners are not entitled to interest on solatium under the said Act of 2013 due to laches and negligence on their part in seeking the solatium and interest on their acquisitioned land.

29. Thus, from the submissions made by the learned counsels of both sides as well as from the entire discussions made hereinabove, it is seen that admittedly there is a delay in filing the writ petition seeking direction to the concerned authority for payment of interest and solatium. However, considering the entire facts and circumstances of the case and also in view of the various correspondences made from the respondent side, as discussed above, it is seen that there is no such laches and negligence on the part of the present petitioners in filing the present writ petition for payment of solatium and interest. Further, the Act of 2013 is very much clear that the object of the said Act is for protection and the benefits of the land owners whose lands have been acquired for any industrialization or construction of highways or any essential infrastructure facilities etc.

30. Be it noted here that the Division Bench of this Court, in WA/15(AP)/2022, vide judgment and order dated 12.09.2022, in paragraph No. 63 thereof, has held as under:

"63. In view of the conclusions arrived that both the Regulations of 1947 and the Act of 2013 would be applicable in the State of Arunachal Pradesh, where the Regulations of 1947 is for the dominant purpose of regulating, safeguarding and protection of the tribes indigenous over the Jhum lands, where Section 10 provides for an enabling provision to also acquire Jhum lands by carving out an exception, and Section 10 of the Regulations of 1947 providing for a reasonable compensation to be paid to the 'required lands' upon being acquired, where the reasonable compensation is to be computed by taking recourse to the relevant provisions of law in force, which in the present case would be the Act of 2013, we accordingly set aside the communication dated 12.07.2018 of the Deputy Commissioner, Lower Subansiri District, by which the Lawyer of the petitioners was informed that as the acquisition was done under Section 10 of the Regulations of 1947 therefore, no solatium is required to be paid under the law."

31. Further it is seen that the Coordinate Benches of this Court in WP(C)/280(AP)/2020 and WP(C)/29(AP)/2021 had already granted reliefs on the solatium as well as the interest and this Court is also of the opinion that the issue in the present case is also relating to right of the persons to the benefit of 100% of solatium and 12% interest, whose lands have already been acquired for the purpose of construction of road from Potin to Bopi via Yazali, Yachuli, Ziro, Boasimla, Tamen and Raga under Trans Arunachal Highway (TAH).

32. In another judgment of a Coordinate Bench of this Court in **Young Lai Association & Anr. Vs. State of Mizoram & Ors.**, reported in **(2017) 4 GLR 134**, it has been held that the solatium cannot be undermine by any procedural blockades and also held that writ petition is maintainable even in the absence of reference. Paragraph Nos. 17 & 19 of the said judgment reads as

under:

"17. In the case of Narain Das Jain v. Agra Nagar Mahapalika, Agra, (1991) 4 SCC 212, Supreme Court while referring to section 23(2) of the LA Act, 1894 had defined the expression "solatium" to mean "money comfort", quantified by the statute, and given as a conciliatory measure for the compulsory acquisition of the land of the citizen, by a welfare State such as ours. The importance of the award of solatium cannot be undermined by any procedural blockades. It follows automatically the market value of the land acquired, as a shadow would to a man. It springs up spontaneously as a part of the statutory growth on the determination and emergence of market value of the land acquired. It follows as a matter of course without any impediment and is to be awarded "in every case" leaving no room for any discretion.

19. Now coming to the next question as to whether such a claim can also be maintained in a writ petition, as already discussed above, claim of interest and solatium is a statutory right of the person interested and non-payment of such interest and solatium would be a failure on the part of the Collector to discharge statutory duty vested on him. If there is such failure on the part of the public authority in the discharge of statutory duty, certainly a writ court would be well within its jurisdiction to issue a writ of mandamus to compel the public authority to discharge his statutory duty. The fact that alternative remedy is available under sections 13A and 18 of the LA Act, 1894 would not debar the writ court from exercising such jurisdiction in an appropriate case."

33. Accordingly, in view of the already settled position of this matter, this Court is of the view that the petitioners of the present writ petition are also entitled for compensation and solatium and interest in terms of the Act of 2013. At the same time, it is the admitted position that the petitioners have already received their compensation from the concerned respondent authority. In addition to the said compensation of their acquisitioned land, the petitioners are also entitled to solatium and interest and hence, by a mandamus of this Court, the State respondents are directed to take steps for payment of solatium and interest to the petitioners as provided under the Act of 2013 and the concerned authority will make payment of the same after proper calculation within a period of 6 (six)

months from the date of receipt of the certified copy of this order.

34. With the above observation and direction, this writ petition stands disposed of.

JUDGE

Comparing Assistant