

**HIGH COURT OF TRIPURA
AGARTALA**

CRP No.3 of 2024

Himadri Debbarma

.....Petitioner(s)

Versus

The Managing Director, Tripura Industrial Development Corporation Limited and another

.....Respondent(s).

For Petitioner(s) : Mr. Samarjit Bhattacharjee, Advocate.

For Respondent(s) : None.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

11/01/2024

Heard learned counsel for the petitioner.

[2] The land acquisition case Misc. (LA) No.149 of 2015 instituted on the reference made under Section 18 of the Land Acquisition Act, 1894 at the instance of the petitioner was dismissed for non prosecution on 11.01.2022. By the impugned order dated 3rd October, 2023 the prayer for restoration made under Order IX Rule 9 of CPC accompanied with a petition for condonation of delay of 382 days counted from the date of dismissal under Section 5 of the Limitation Act, 1963 has been dismissed by the learned court of Land Acquisition Judge, Court No.2, West Tripura, Agartala. The learned court has discounted the period from 15.03.2020 to 28.02.2022 in view of the order of the Hon'ble Supreme Court in Suo Motu Writ Petition (Civil) No.3 of 2020 but even after such exclusion the delay of 330 days was not properly explained. He also took note of the fact that the petitioner

remained absent for 14(fourteen) consecutive dates including 4(four) consecutive dates before lock down period. The petitioner in his application for restoration contended that only on 19.11.2022, the petitioner met with his counsel and came to know that his case was dismissed on 11.01.2022. Thereafter, he met with another lawyer upon whose advice he obtained the certified copy of the order of dismissal. The restoration petition was filed on 27.01.2023.

[3] Learned counsel for the petitioner has submitted that there are no willful latches or negligence on the part of the petitioner. He may not be made to suffer on account of non representation on the part of his counsel.

[4] I have gone through the impugned order and relevant pleadings on record. On consideration of the submissions of the learned counsel for the petitioner and the pleadings on record and also on perusal of the impugned order, this Court is of the opinion that the order impugned does not suffer from any error; more so in the nature of jurisdictional error which warrants interference under Article 227 of the Constitution of India. Even discounting the period of Covid delays from 15th March 2020 to 28th February, 2022 in terms of the Hon'ble Supreme Court's order, the delay of 330 days would not be properly explained. From perusal of the impugned order and the order of dismissal at Annexure-1 it also appears that the case remained unrepresented for 14(fourteen) consecutive dates including 4(four) consecutive dates before the lock down period. The learned Court has dealt with the decisions of the Apex Court on this point and rightly arrived at a conclusion that no sufficient cause or bona fide has been shown by the petitioner for condonation of delay. As such, there is no infirmity in the impugned order.

[5] Accordingly, the instant petition is dismissed. Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH), CJ

