

**HIGH COURT OF TRIPURA
AGARTALA**

**IA No.01/2024 in WA No.105 of 2024
WA No.105 of 2024**

Sri Ranjit Kumar Paul @ Ranjit Paul, S/o Late Rashik Chandra Paul, resident of Churaibari, P.O & P.S Churaibari, Dharmanagar, District – North Tripura.

.....Applicant/Appellant(s);

Versus

1. The State of Tripura, represented by the Secretary to the Department of Land Revenue, Government of Tripura, New Secretariat Complex, Agartala, Tripura West.

2. The Land Acquisition Collector, Dharmanagar, North Tripura.

.....Respondent(s).

**IA No.01/2024 in WA No.106 of 2024
WA No.106 of 2024**

Sri Jahar Chandra Paul, S/o Late Jatindra Chandra Paul @Jatindra Paul, resident of Churaibari, P.O & P.S Churaibari, Dharmanagar, District – North Tripura.

.....Applicant/Appellant(s);

Versus

1. The State of Tripura, represented by the Secretary to the Department of Land Revenue, Government of Tripura, New Secretariat Complex, Agartala, Tripura West.

2. The Land Acquisition Collector, Dharmanagar, North Tripura.

.....Respondent(s).

For Applicant(s) : Mr. A. Dey, Advocate.

For Respondent(s) : Mr. K. De, Addl. G.A.

**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE ARINDAM LODH**

Order

14/11/2024

WA No.106/2024 is taken up along with the instant WA No.105/2024 as they both relate to same issue in respect of land acquisition proceedings which culminated in the year 2008 by publication of an award by

the Land Acquisition Collector. Since facts are identical, they have been heard together and is being disposed of by this common judgment.

2. Heard Mr. A. Dey, learned counsel together for the applicant/appellant and Mr. K. De, learned Additional Government Advocate for the State-respondents.

3. Writ petitioner-Sri Jahar Chandra Paul approached the learned writ Court in WP(C) No.242/2023 with a prayer to make reference of the case being LA Case No.01/D of 2008 for proper assessment of the compensation of the acquired land and damage of the property to the Ld. L.A. Judge, Dharmanagar, North Tripura under Section 18 of the Land Acquisition Act, 1894. The learned writ Court vide order dated 19.04.2023 taking note of the submission of the writ petitioner directed the respondents to consider the request of the petitioner in accordance with law within a period of three months from the date of receipt of the copy of the order. That claim for making reference was rejected by the L.A. Collector on 05.07.2023 which in effect was sought to be assailed in WP(C) No.537/2023 from which WA No.106/2024 arises.

4. Similar prayer for making reference was also made by the writ petitioner- Sri Ranjit Kumar Paul in respect of an acquisition proceeding concluded in the year 2008. Learned writ Court in WP(C) No.540/2023 vide impugned judgment dated 08.04.2024 dismissed the same as it was covered by the order dated 05.04.2024 passed in WP(C) No.537/2023 from which WA No.105/2024 arises.

5. Both the appeals [WA No.105/2024 and WA No.106/2024] suffer from a delay of 137 and 140 days respectively for condonation of which interlocutory applications have been preferred.

6. On hearing learned counsel for the parties, and on being satisfied with the explanation urged, delay in preferring the connected interlocutory applications are condoned without any objection.

7. We have heard learned counsel for the writ petitioner and learned Additional Government Advocate on the main memo of appeal. It appears on perusal of the records and the impugned judgment rendered by the learned writ Court in WP(C) No.537/2023 that the basis for seeking a reference under Section 18 before the L.A. Court is an application which was filed on 14.03.2008 prior to the declaration of the award on 27.03.2008.

8. Section 18 of the Land Acquisition Act, 1894 reads as under:

“18. Reference to Court. -

(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made,-

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire."

9. As per proviso to Sub-section (2) thereof, if the person making the application was present or represented before the Collector at the time when he made his award, such application should be made within six weeks from the date of the Collector's award. Sub clause (b) of the proviso, however, also provides that in other cases, such application could be made within six weeks of the receipt of the notice from the Collector under Section 12, Sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.

10. The right of an aggrieved land loser to raise to make an application for reference is provided under the L.A. Act, 1894 with a prescription of time specifically provided under Section 18(2) proviso thereof. The provisions of the Land Acquisition Act and the limitation provided thereunder are in substance a statute of repose as has been held by the Apex Court in case of *State of Karnataka Versus Laxuman*, reported in (2005) 8 SCC 709. Paragraph 19 of the judgment is reproduced hereunder:

"19. Extinguishment of a right can be expressly provided for or it can arise by implication from the statute. Section 18 of the Act as in Karnataka sets out a scheme. Having made an application for reference within time before the Deputy Commissioner, the claimant may lose his right by not enforcing the right available to him within the time prescribed by law. Section 18(3)(a) and Section 18(3)(b) read in harmony, cast an obligation on the claimant to enforce his

claim within the period available for it. The scheme brings about a repose. It is based on a public policy that a right should not be allowed to remain a right indefinitely to be used against another at the will and pleasure of the holder of the right by approaching the court whenever he chooses to do so. When the right of the Deputy Commissioner to make the reference on the application of the claimant under Section 18(1) of the Act stands extinguished on the expiry of 3 years and 90 days from the date of application for reference, and the right of the claimant to move the court for compelling a reference also stands extinguished, the right itself loses its enforceability and thus comes to an end as a result. This is the scheme of Section 18 of the Act as adopted in the State of Karnataka. The High Court is, therefore, not correct in searching for a specific provision bringing about an extinguishment of the right to have a reference and, on not finding it, postulating that the right would survive forever”.

11. Limitation prescribed under the statute like this cannot be extended or delay cannot be condoned unless provided under the statute. Be that as it may, the petitioner made an application even before the declaration of the award. The statutory pre-requisite for making a reference by the Collector to the L.A. Court under Section 18 of the Act of 1894, therefore, did not arise at all. As such, no legally enforceable right to seek reference could be claimed by the petitioner. Apart from that it is but obvious that petitioner was sleeping over the matter and has approached the Court for the first time in the year 2023 after 15 years of the award. Remedy before the writ Court though not proscribed by any limitation period is left to the discretion of the Court and can be condoned if the delay and laches in approaching the Court is properly explained. In view of the aforesaid reasons, we do not find any ground made out on the part of the

petitioner to interfere in the impugned judgment whereby the writ petition was dismissed.

12. Accordingly, both the appeals [WA No.105/2024 and WA No.106/2024] are dismissed. Pending application(s), if any, shall stand disposed of.

(ARINDAM LODH), J

(APARESH KUMAR SINGH), CJ

