

**HIGH COURT OF TRIPURA
AGARTALA**

LA App.35 of 2024

Nurul Islam

.....Appellant(s)

Versus

State of Tripura and another

.....Respondent(s)

For Appellant(s) : Mr. D. Bhattacharya, Sr. Advocate
Mr. Samar Das, Advocate

For Respondent(s) : Mr. B. Majumder, Dy. SGI
Mr. D. Sarma, Addl. G.A.

Date of delivery of judgment
and order : 07.08.2024

Whether fit for reporting : No.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

JUDGMENT & ORDER(ORAL)

This present appeal is filed under Section 54 of the Land Acquisition Act, 1894 read with Section 104, Order XLIII of the Code of Civil Procedure, 1908 against the judgment and order dated 05.09.2023 passed in C.M. (Condo) 09 of 2022 and order dated 06.08.2019 passed in Misc. LA 06 of 2018.

[2] It is the case of the appellant-claimant that he has some lands of his own where he resides and doing cultivation. For the purpose of railway line construction project, respondents needed land and accordingly, statutory notices of acquisition were made. It is contended that some plot of lands of the appellant were also acquired under the aforesaid project and the respondent(s) as per statutory norms, issued notice to the appellant and acquired the property by providing award. Since the value of the acquired lands awarded to the appellant was not appropriate, appellant submitted his objection for appropriate value.

[3] Respondent No.1 i.e. the L.A. Collector on receiving the objection of the appellant caused a reference under Section 18 of the Land Acquisition Act to the concerned LA Judge. Thereafter, learned L.A. Judge accordingly issued notice to the appellant which was received on 26.03.2019. Learned L.A. Judge, Bishalgarh dismissed the said reference as 'non prosecution' on 06.08.2019 in case No. Misc LA 06 of 2018. Subsequently, the appellant made an application for restoration of the L.A. Case by filing an application being MISC. (RESTORATION) 13 OF 2022 and an application under Section 5 of the Limitation Act, 1963 for condoning the delay of 1109 days in filing the restoration petition being CIVIL MISC. (CONDO) 09 OF 2022. Thereafter, learned Court upon hearing the petitioner (claimant), reject the application for condonation of delay on 05.09.2023 and consequent thereto, the restoration application also closed.

[4] Aggrieved thereby, the present appeal has been preferred by the appellant seeking following relief(s):

"(i) Admit this appeal

(ii) Call for the records

& (iii) After hearing the parties set a side Order dated 05/09/2023 passed in C.M. (Condo) 09 of 2022, and Order dated 06/08/2019 passed in Misc. LA 06 of 2018 and also pass such order / orders as deem fit and proper having regard to the circumstances of the case....."

[5] Heard Mr. D. Bhattacharya, learned senior counsel assisted by Mr. Samar Das, learned counsel appearing for the appellant. Also heard Mr. B. Majumder, learned Dy. SGI for respondent No.2 and Mr. D. Sarma, learned Addl. G.A. representing the State respondent (respondent No.1).

[6] Admittedly, as per beneficial legislation, where the lands of the legitimate owner have been acquired for any reason, the lawful owner of the

property should not be deprived of legitimate right of appropriate compensation by the acquiring authority.

[7] In view of the same, this Court is of the considered view that an opportunity of hearing needs to be given to the appellant. Accordingly, the present appeal is allowed and the matter is remanded back to the Court below for deciding the case as per procedure giving due opportunity of hearing to the appellant-claimant herein.

[8] However, in the event, if the court below decides compensation on merit of the case in favour of the claimant, it is made clear that for the delay period of 1109 days in filing the restoration petition against the order dated 06.08.2019 passed in Misc.(LA) 06 of 2018 which was dismissed for non prosecution, the claimant (appellant herein) shall not be entitled for any interest and other consequential amount on the aforesaid delay period.

With the above observation and direction, the present appeal is disposed of and as a sequel, miscellaneous application(s), pending if any, shall also stand closed.

JUDGE