

GAHC010114082022



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

Case No. : WP(C)/4050/2022

DR. PRITISH KUMAR CHOWDHURY
S/O- LATE A.K CHOWDHURY,
R/O- BASISTHAPUR, BYE LANE- 3, GUWAHATI-781028, ASSAM

VERSUS

JORHAT DEVELOPMENT AUTHORITY AND ANR (B)
REP. BY ITS SECRETARY , JORHAT ASSAM

2:THE CHAIRMAN
JORHAT DEVELOPMENT AUTHORITY
JORHAT
ASSAM

B E F O R E

HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI

Advocates for the petitioner : Ms. P. Agarwal, Advocate.

Advocates for the respondents : xxx

Date of hearing : **20.04.2024**

Date of Judgment : **20.04.2024**

JUDGMENT & ORDER

Heard Ms. P. Agarwal, learned counsel for the petitioner.

2. The petitioner has impleaded only the Jorhat Development Authority and its Chairman as party and the State is not a party. Be that as it may, the facts projected are that pursuant to an advertisement dated 17.04.2002 by the Jorhat Development Authority, the petitioner had applied for a plot of land and also claims to have deposited an amount of Rs.35,000/- (Rupees Thirty Five Thousand). However, the land was not allotted and neither the amount has been refunded. It is the case of the petitioner that immediately thereafter on 20.05.2002, another advertisement was issued by the Jorhat Development Authority. It is also contended that the Authority had issued receipt against the amount deposited. The petitioner claims to have submitted representations in the years 2016, 2009 and 2011 followed by a legal notice on 13.05.2001.

3. Ms. Agarwal, the learned counsel for the petitioner has submitted that the respondent no. 1-Authority being a State within the meaning of Article 12 of the Constitution of India, appropriate directions be issued for refund of the money with interest.

4. What however intrigues this Court is the inordinate and unexplained delay of about 20 years till the date of filing of this petition. In fact, this Court in its order dated 24.07.2003 had noticed the said delay and the learned counsel for the petitioner was given an opportunity to explain the same.

5. As indicated above, the learned counsel for the petitioner has submitted that representations were filed from time to time more specifically in the years

2006, 2009 and 2011 followed by a legal notice on 13.05.2001.

6. It is a settled law that submission of representation would not, *per se*, extend the period of limitation. Though the ***Limitation Act, 1963***, as such, may not be held to be applicable in a writ proceedings, the issue of laches would definitely be applicable. When a suit before the Civil Court is barred by limitation in a matters of this nature wherein the time prescribed is 3 years, in absence of any plausible and cogent explanations, this Court, being a Court of Equity cannot exercise the said jurisdiction. A Constitutional Bench of the Hon'ble Supreme Court in the case of ***State of MP Vs Bhailal Bhai*** reported in ***1964 0 AIR SC 1006*** has laid down as follows:-

“21. ... Learned counsel is right in his submission that the provisions of the Limitation Act do not as such apply to the granting of relief under Art 226. It appears to us however that the maximum period fixed by the legislature as the time within which the relief by a suit in a Civil Court must be brought may ordinarily be taken to be a reasonable standard by which delay in seeking remedy under Article 226 can be measured. The court may consider the delay unreasonable even if it is less than the period of limitation prescribed for a civil action for the remedy but where the delay is more than this period, it will almost always be proper for the court to hold that it is unreasonable ...”

7. This Court is therefore of the considered opinion that the claim made in this petition after about 20 years cannot be entertained on the ground of delay and laches.

8. Accordingly, the writ petition is dismissed.

JUDGE

Comparing Assistant