

**HIGH COURT OF TRIPURA
AGARTALA**

CRP No.122 of 2024

1. Smt. Shilpi Das (40), W/o. Lt. Nimai Chandra Das,
2. Sri Bijoy Das (25),
3. Sri Joy Das (17),

Both are sons of Lt. Nimai Chandra Das, All are residents of Dukli, PO-
Madhuban Dukli, Mahesh Khala Gram Panchayet, West Tripura, Pin-799003.

(Petitioner No.3 being minor is represented by his mother i.e. Petitioner No.1)
.....Petitioner(s);

Versus

1. The State of Tripura, Govt. of Tripura, Represented by the Chief Secretary,
New Secretariat Complex, PO - Secretariat, Agartala, West Tripura-799010.
2. The Land Acquisition Collector, Office of the DM & Collector, Sadar,
Agartala, West Tripura-799001.
3. The Officer-Commanding, 78 RCC (GREF), C/o.99 APO, Shalbagan, REER
EX - SETUK, Kunjaban, Agartala.

.....Respondent(s);

4. Sri Kajal Kanti Das,
5. Sri Dipak Das,
6. Sri Swapan Das,
7. Sri Chandan Das,
8. Smt. Kalpana Rani Das,

(4 to 8) All are legal heirs of Late Chinu Bala Das and all are residents of
Dukli, PO - Madhuban Dukli, Mahesh Khala Gram Panchayet, West Tripura,
Pin-799003.

.....Proforma respondent(s).

For Petitioner(s) : Mr. D. Debnath, Advocate.

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

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

08/01/2025

Petitioners are the widow and two major sons of the deceased
Nimai Chandra Das who was an applicant in Misc. (L.A.) 23 of 2012 made on
reference under Section 18 of the Land Acquisition Act, 1894 for enhancement
of compensation awarded in course of acquisition of certain lands of the
petitioners for purposes of "Construction of By-pass Road from Khayerpur to
Amtali" vide notification dated 16.03.2004. The land loser was awarded a sum

of Rs.60,956/- vide award dated 09.12.2005. Before the Land Acquisition Judge the claimant, in spite of several opportunities, did not take any steps to prosecute the matter for reasons best known to him. The learned L.A. Court, therefore, presumed that the claimant had lost interest to proceed with the case or was satisfied with the award given by the L.A. Collector, West Tripura. Accordingly, the Court recorded satisfaction that the award given by the L.A. Collector was adequate and sufficient. The referring claimant was not entitled to get any enhanced award from that Court. The award of L.A. Collector was confirmed vide impugned order dated 07.09.2017. The petitioners have challenged it after 8(eight) years in the present revision petition instituted under Article 227 of the Constitution of India.

2. Mr. D. Debnath, learned counsel for the petitioners, submits that the actual owner Smt. Chinu Bala Das expired on 12.02.2012 leaving behind seven survivors including Nimai Chandra Das. During that period, the Misc. (L.A.) 23 of 2012 was pending before the learned L.A. Court, West Tripura, Agartala. The said Nimai Chandra Das expired on 28.01.2018 without informing anything to the present petitioners who are his legal heirs. At the time of death, petitioners No.2 & 3, who are the sons of late Nimai Chandra Das, were studying in Class 12 & Class 9 respectively. They had to leave studies due to financial crisis. Thereafter, COVID-19 intervened in March, 2020 and petitioner No.3 also suffered accident due to fall. It was only thereafter that they came to know that the adjacent land owners had received an enhanced amount of compensation from the LA Court. Thereafter, they chose to challenge the order dated 07.09.2017 passed by the learned L.A. Court in

Misc. (L.A.) 23 of 2012. Learned counsel for the petitioners has placed reliance on a decision of the Apex Court in the case of *Vidya Devi v. State of Himachal Pradesh & Others* reported in (2020) 2 SCC 569 in support of his submission that in matters of acquisition of property, delay and laches cannot be raised as it is a case of continuing cause of action since there is no period of limitation for the Court to exercise constitutional jurisdiction to do substantial justice.

3. However on perusal of the decision in the case of *Vidya Devi* (supra), it is apparent that the appellant was an illiterate widow from rural area whereas her private property was forcibly expropriated without following any lawful procedure of compensation. In those circumstances, the Apex Court held in exercise of extraordinary jurisdiction under Article 136 and 142 of the Constitution, that the State should pay compensation to the appellant based on compensation paid in acquisition of adjoining land along with all statutory benefits including solatium, interest, etc. within a period of 8 weeks, treating it as a case of deemed acquisition.

4. Mr. Karnajit De, learned Additional Government Advocate for the respondents-State, has strongly opposed the prayer since there was a valid acquisition proceeding against the land looser which culminated in award in their favour by the level of LA Collector. He submits that even on reference under Section 18 of the Land Acquisition Act, 1894 despite several opportunities granted to the claimant, no evidence of comparable sale deeds of adjacent lands were produced in evidence. Therefore, the reference case was closed affirming the Award by the impugned order passed on 07.09.2017. After about eight years the same has been assailed. As such, the petition is barred by

gross delay and laches. The decision in the case of *Vidya Devi* (supra) does not apply to the facts of the present case as there is no forcible expropriation of the property of the petitioners who are the dependants of the deceased.

5. I have considered the submission of learned counsel for the petitioners and learned Additional Government Advocate appearing for the respondents-State and taken note of the relevant materials placed from record.

From the conspectus of facts and list of dates, it is apparent that the impugned order was passed before the death of the said Nimai Chandra Das on 28.01.2018 i.e. on 07.09.2017. During that period, the claimant, despite several opportunities, failed to produce evidence to substantiate the case for enhancement of the award granted in his favour. In those circumstances, the LA Court was left with no other option than to close the case presuming that the claimant had lost his interest or was satisfied with the award given by the LA Collector. The sequence of dates provided by the petitioners to explain the huge and inordinate delay of eight years does not satisfy this Court. On the one hand, the land looser was himself alive when the LA proceedings were closed after several opportunities to the claimant. On the other hand, the contention of the petitioner No.1 in particular, widow of the deceased Nimai Chandra Das, cannot be accepted that she was totally unaware of the proceedings of the LA case. The main plank for revival of the reference case is for the reason that the petitioners have come to know that adjacent land owners have received an enhanced amount of compensation. This plea, therefore, runs contradictory to the explanations given by them for approaching the Court after such a huge delay.

6. In those circumstances in exercise of powers under Article 227 of the Constitution of India, this Court is not inclined to interfere in the impugned order on the ground of delay and laches. The proceedings have attained finality. It would be ill advised to reopen the reference case at the behest of a party who was not diligent enough in prosecuting the same. The instant petition is accordingly dismissed.

7. Pending application(s), if any, shall stand disposed of.

(APARESH KUMAR SINGH), CJ



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