



**HIGH COURT OF TRIPURA
AGARTALA**

CRP No.18 of 2026

I.A. No.01/2026 in CRP No.18/2026

The Deputy Chief Engineer (Con-2), N.F. Railway, Badharghat, Agartala,
West Tripura, Pin-799003.

..... Petitioner(s).

V E R S U S

1. Sri Jaharlal Chowdhury, Son of Late Mati Lal Chowdhury, Resident of
A.D. Nagar, Road no.6, P.O. & P.S.-A.D. Nagar, Agartala, District-West
Tripura, Pin-799003.

2. Land Acquisition Collector, West Tripura, Agartala, P.O.-Agartala, P.S.-
West Agartala, District-West Tripura, Pin-799001.

..... Respondent(s).

Along with

FAO No.03 of 2025

The Deputy Chief Engineer (Con-2), N.F. Railway, Badharghat, Agartala,
West Tripura, Pin-799003.

..... Appellant(s).

V E R S U S

1. Sri Jaharlal Chowdhury, Son of Late Mati Lal Chowdhury, Resident of
A.D. Nagar, Road no.6, P.O. & P.S.-A.D. Nagar, Agartala, District-West
Tripura, Pin-799003.

2. Land Acquisition Collector, West Tripura, Agartala, P.O.-Agartala, P.S.-
West Agartala, District-West Tripura, Pin-799001.

..... Respondent(s).

For Petitioner/Appellant(s) : Mr. Bidyut Majumder, Dy. S.G.I.

For Respondent(s) : Mr. P. Gautam, Sr. G.A.,
Mr. Samrat Sarkar, Advocate.

HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO

Date of hearing & judgment : 24.04.2026.

Whether fit for reporting : YES.

COMMON JUDGMENT & ORDER (ORAL)

I.A. No.01/2026 in CRP No.18/2026:

This application is filed to condone the delay of 227 days in
preferring a Revision Petition challenging the order dt.02.04.2025 passed in



Civil Misc. (Condo) No.01 of 2025 of the Land Acquisition Judge, Court No.1, West Tripura, Agartala.

There was some ambiguity in the legal position on the aspect as to whether there was a necessity to file a separate Revision against such orders or whether it can be challenged in the RSA filed against the main order in the First Appeal under Section 96 CPC which had been clarified by this Court in the case of *Askir Ali v. Mabaswir Ali & others* [RSA No.44/2025 a/w CRP No.01/2026].

As per the said clarification, it was incumbent on the part of the applicant to also challenge by way of Revision separately, the order passed in the delay condonation application.

In the instant case, it was pointed out to the petitioner that since the order in an application under or. 9 Rule 13 CPC is appealable, and he had already filed an FAO against it, he should also file a CRP against the order in the application for condonation of delay. So the instant CRP came to be filed.

Both the counsel for the respondents do not oppose the condonation of delay.

Therefore, this application is allowed. The delay in filing the Revision is condoned.

I.A. No.01 of 2026 stands disposed of.

CRP No.18/2026 along with FAO No.03/2025:

Heard Mr. Bidyut Majumder, Deputy S.G.I. appearing for the petitioner/appellant and Mr. Samrat Sarkar, counsel for respondent No.1 as well as Mr. P. Gautam, Sr. G.A. appearing for the respondent No.2-L.A. Collector.



2. The petitioner in the Revision as well as the appellant in the appeal, is the Deputy Chief Engineer (Con-2), Northeast Frontier Railway, Badharghat, Agartala, West Tripura.
3. The land of the respondent No.1 had been acquired under the provision of the Land Acquisition Act, 1894 (*for short, L.A. Act*) through a notification issued on 16.07.2009 for construction of new Railway Line from Agartala to Sabroom.
4. After the award was passed, an application under Section 18 of the L.A. Act was made by the respondent No.1 before the respondent No.2. The respondent No.2 then made the reference under Section 18 of the Act to the Court of the Land Acquisition Judge, West Tripura, Agartala and the said reference was numbered as Misc. (L.A.) 01 of 2020.
5. The Court then issued notice to the petitioner/appellant and also to the respondent No.2 and fixed 02.04.2020 as the next date of hearing.
6. The notice issued by the Court was served on the petitioner/appellant, but the petitioner/appellant did not appear before the said Court and contest the case; and on 17.03.2022, an order was passed stating that the case will proceed *ex parte* against him.
7. Thereafter, issues were framed on the said date and judgment was delivered on 14.12.2023 in the Misc.(L.A.) No.01 of 2020 enhancing the compensation.
8. The petitioner/appellant filed Civil Misc.(Condo) No.01 of 2025 under Section 5 of the Limitation Act, 1963 for condonation of delay of 156 days in filing the Civil Misc. application for setting aside the *ex parte* judgment dt.14.12.2023 in the Misc.(L.A.) No.01 of 2020.



9. The plea raised in the said application was that the petitioner/appellant was prevented from appearing before the Court on the fixed dates, as he had no knowledge regarding the proceedings in the said case and that notice was not served by the Court upon him for appearance on the previously fixed dates prior to him being set *ex parte* on 17.03.2022. It was contended that the Court, without serving any notice upon him for appearance on fixed dates, completed the entire proceedings and delivered judgment on 14.12.2023 and, therefore, the Court committed an error. Therefore, it is prayed that the delay of 156 days in filing the application under Order IX Rule 13 of CPC be condoned.

10. A separate application under Order IX Rule 13 petition was also filed by the petitioner/appellant along with the application for condonation of delay.

11. This application was opposed by the respondent No.1, who pointed out that the delay in filing the application under Order IX Rule 13 CPC is not 156 days, as was contended, but was in fact 355 days; and no sufficient cause was shown for condoning it. It was also pointed out that the respondent No.2's counsel had appeared without any special notice being served upon him, but the petitioner/appellant's counsel had not appeared in the case.

12. The Court below rejected the Civil Misc. (Condo) No.01 of 2025 by a reasoned order dt.02.04.2025 stating that the petitioner/appellant failed to explain as to how both the respondents had taken appropriate steps on every one of hearing dates in Misc. (L.A.) No.01 of 2020 though they had also faced the same problem due to Covid 19 Pandemic situation. It also recorded that



the petitioner/appellant had not taken part in the preliminary hearing even before the respondent No.2 at the time of determination of the value of the land. It noted that the respondent No.2 had contested the case of the respondent No.1 in the reference and had adduced oral and documentary evidence to substantiate the value of the acquired land determined by him. It also held that under the Act, the requisitioning department like the petitioner/appellant could also have appeared before the Collector or the Court and presented evidence to determine the compensation, but the petitioner/appellant, which is the requisitioning department, had not taken part in the proceedings before the Collector at the time of determination of the value of the land.

13. It, therefore, dismissed the application under Section 5 of the Limitation Act as also the application under Order IX Rule 13 of CPC.

14. Challenging the order dismissing the application for condonation of delay, the petitioner/appellant has filed CRP No.18 of 2026.

15. Challenging the dismissal of the application under Order IX Rule 13 of CPC being Civil Misc. (Resto) No.01 of 2025, the petitioner/appellant filed FAO No.03 of 2025.

16. Counsel for the petitioner/appellant contended that because of Covid 19, the petitioner could not keep track of the proceedings in the Section 18 reference(being Misc.(L.A.) No.01 of 2020). Therefore, the delay in filing the application under Order IX Rule 13 of CPC be condoned on the above ground. He also contended that the Court below was not correct in dismissing the application for condonation of delay on the pretext that the other parties in the reference had participated in the proceedings.



17. I may point out that the first date of appearance in the Section 18 reference was fixed on 02.04.2020, a date after the lockdown on account of Covid 19 commenced.

18. Admittedly, the lockdown concluded by 28.02.2022.

19. Though the Courts might not have been physically working before the said date, the dates of hearing of the matters were being uploaded on the websites of the respective Courts; and after the lockdown ended, when the Courts started working normally, it was incumbent on the petitioner/appellant to checkup what happened to the Section 18 reference since admittedly the notice in the reference had been served on the petitioner/appellant.

20. Obviously, the petitioner/appellant believed that a fresh notice would be issued by the Court to it and then only it would participate in the proceedings, which belief has no legal basis.

21. The petitioner/appellant had been admittedly set *ex parte* only on 17.03.2022 in the Section 18 reference, after the lockdown ended, and the final judgment in the Section 18 reference was itself pronounced much later on 14.12.2023.

22. The petitioner/appellant cannot plead ignorance of the proceedings for the period from March, 2022 to 14.12.2023 to which proceeding he is a party as the notice has already been received by him. Why the petitioner did not check about the status of the reference from 28.2.2022 till 14.12.2023 is incomprehensible and no explanation is offered about it by petitioner.



23. In our opinion, the petitioner/appellant has been negligent in taking steps to seek setting aside of the *ex parte* judgment dt.14.12.2023 in the Land Acquisition reference case and had moved the application under Order IX Rule 13 as well as under Section 5 of the Limitation Act, much later in the year 2025.

24. In ***Postmaster General and others v. Living Media India Limited and another***¹, the Supreme Court held:

“25. We have already extracted the reasons as mentioned in the “better affidavit” sworn by Mr Aparajeet Pattanayak, SSRM, Air Mail Sorting Division, New Delhi. It is relevant to note that in the said affidavit, the Department has itself mentioned and is aware of the date of the judgment of the Division Bench of the High Court in Office of the Chief Postmaster v. Living Media India Ltd. as 11-9-2009. Even according to the deponent, their counsel had applied for the certified copy of the said judgment only on 8-1-2010 and the same was received by the Department on the very same day. There is no explanation for not applying for the certified copy of the impugned judgment on 11-9-2009 or at least within a reasonable time. The fact remains that the certified copy was applied for only on 8-1-2010 i.e. after a period of nearly four months.

26. In spite of affording another opportunity to file better affidavit by placing adequate material, neither the Department nor the person-in-charge has filed any explanation for not applying the certified copy within the prescribed period. The other dates mentioned in the affidavit which we have already extracted, clearly show that there was delay at every stage and except mentioning the dates of receipt of the file and the decision taken, there is no explanation as to why such delay had occasioned. Though it was stated by the Department that the

¹ (2012) 3 SCC 563



delay was due to unavoidable circumstances and genuine difficulties, the fact remains that from day one the Department or the person/persons concerned have not evinced diligence in prosecuting the matter to this Court by taking appropriate steps.

27. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us.

28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fides, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody, including the Government.”

(Emphasis supplied)

25. The said judgment has been followed by the Supreme Court in several cases such as **Commissioner of Customs, Chennai v. Volex Interconnect (India) Private Limited**², **Principal Commissioner Central Excise Delhi-I v. Design Dialogues India Pvt. Ltd.**³, **Union of India v.**

² (2022) 3 SCC 159

³ (2022) 2 SCC 327



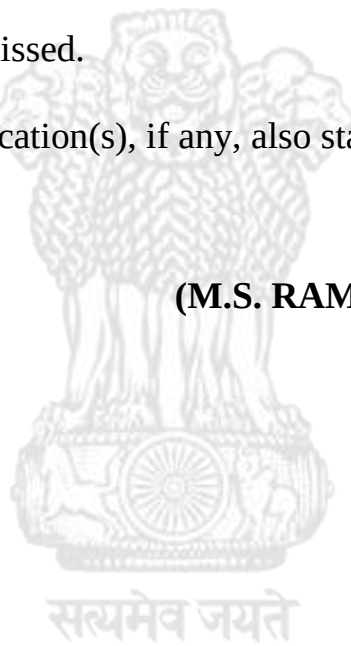
*Central Tibetan Schools Administration & Others*⁴, *Union of India & Others v. Vishnu Aroma Pouching Private Limited and another*⁵, and *State of Uttar Pradesh & Others v. Sabha Narain & Others*⁶.

26. For the aforesaid reasons, I do not find any valid reason for condoning the delay of 355 days on the part of the petitioner/appellant in filing the application under Order IX Rule 13 of the CPC and I hold that sufficient cause has not been shown by the petitioner/appellant in that regard.

27. Therefore, CRP No.18 of 2026 is dismissed. Consequently, FAO No.03 of 2025 is also dismissed.

Pending application(s), if any, also stands disposed of.

(M.S. RAMACHANDRA RAO, CJ)



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⁴ (2021) 11 SCC 557

⁵ (2022) 9 SCC 263

⁶ (2022) 9 SCC 266