



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.7293 of 2025

Sadananda Naik* *Petitioner

Mr. G.P. Mohanty, Advocate

-versus-

***State of Odisha and* *Opp. Parties*
others**

Mr. Jateswar Nayak,
Addl. Government Advocate

CORAM:
THE HON'BLE MR. JUSTICE S.K. SAHOO
THE HON'BLE MISS JUSTICE SAVITRI RATHO

ORDER
18.03.2025

Order No.

01. This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner Sadananda Naik has filed this writ petition with a prayer for a direction to declare the forceful acquisition of the land as illegal, unconstitutional and violative of the Land Acquisition Act and the Rules and the possession and utilization of the land be declared in favour of the petitioner so that he can use the land according to his choice.

It appears from the notice dated 02.01.2006 under Annexure-3 issued by the Land Acquisition Collector,



Kalahandi that for a compensation amount of Rs.53,944/- (rupees fifty three thousand nine hundred forty four) was fixed for acquiring the land of the petitioner and that notice further specified that earlier notice was issued on 16.11.2005 inviting the petitioner to come and receive the compensation amount but the petitioner did not turn up. Accordingly, vide notice under Annexure-3, the petitioner was asked to appear before the Land Acquisition Collector, Kalahandi on 09.01.2006 to receive the compensation amount otherwise the amount would be deposited before the Revenue Authorities or in the Court.

Mr. Mohanty, learned counsel for the petitioner submits that the petitioner has received the compensation amount as mentioned under Annexure-3, but he is in possession of the land and has utilised the land for the purpose of construction of fly ash bricks. He further submits that the authorities are now trying to utilize the land in taking the water pipeline and laying cables which is not permissible.

It is argued by Mr. Mohanty, learned counsel for the petitioner that the provisions of the Land Acquisition Act, 1894 have not been followed by the authorities while acquiring the land for which the acquisition is illegal.

On perusal of the averments in the writ petition and the annexures, we find that the land was acquired in the year, 2005 for the proposed Vedanta Alumina Refinery Company and the petitioner has received the



compensation amount in the year, 2006. There is nothing on record that the impugned action of the authorities is patently illegal or affects fundamental rights of the petitioner. There is inordinate delay of nineteen years in filing the writ petition. Condonation of delay is a matter of judicial discretion, which must be exercised judiciously and reasonably in the facts and circumstances of a case.

Although the Limitation Act is not strictly applicable to a writ petition, but the principles apply. It is also the settled principle of law that delay defeats equity. While exercising discretionary powers under Article 226 of the Constitution of India, delay or laches is one of the factors which is to be kept in mind by the High Court as a party who is guilty of delay and laches cannot be granted any relief.

In the case of ***Chennai Metropolitan Water Supply & Sewerage Board -Vrs.- T.T. Murali Babu reported in (2014) 4 Supreme Court Cases 108***, the Hon'ble Supreme Court discussed the effect of laches in litigation and held as follows:

"16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his



own leisure or pleasure, the court would be under legal obligation to scrutinise whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the court. Delay reflects inactivity and inaction on the part of a litigant - a litigant who has forgotten the basic norms, namely, "procrastination is the greatest thief of time" and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis.

17. In the case at hand, though there has been four years' delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinise whether such enormous delay is to be ignored without any justification. That apart, in the present case, such belated approach gains more significance as the respondent employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the responsibility had remained unauthorisedly absent on the pretext of some kind of ill health. We repeat at the cost of repetition that remaining innocuously oblivious to such delay does not foster the cause of justice. On the contrary, it brings in injustice, for it is likely to affect others. Such delay may have impact on others' ripened rights and may unnecessarily drag others into litigation which in acceptable realm of probability, may have been treated to have attained finality. A court is not expected to give indulgence to such indolent persons - who compete with "Kumbhakarna"



or for that matter "Rip Van Winkle". In our considered opinion, such delay does not deserve any indulgence and on the said ground alone the writ court should have thrown the petition overboard at the very threshold."

In the case of **Mrinmoy Maity -vrs.- Chhanda Koley and others : A.I.R. 2024 S.C. 2717 : 2024 LiveLaw SC 318**, where an application under Article 226 had been filed by an applicant for grant of LPG distributorship after a delay of four years challenging the selection of a rival applicant, the Supreme Court has held as follows:-

"9. Having heard rival contentions raised and on perusal of the facts obtained in the present case, we are of the considered view that writ petitioner ought to have been nonsuited or in other words writ petition ought to have been dismissed on the ground of delay and laches itself. An applicant who approaches the court belatedly or in other words sleeps over his rights for a considerable period of time, wakes up from his deep slumber ought not to be granted the extraordinary relief by the writ courts. This Court time and again has held that delay defeats equity. Delay or laches is one of the factors which should be born in mind by the High Court while exercising discretionary powers under Article 226 of the Constitution of India. In a given case, the High Court may refuse to invoke its extraordinary powers if laxity on the part of the applicant to assert his right has allowed the cause of action to drift away and attempts are made subsequently to rekindle the lapsed cause of action.



10. The discretion to be exercised would be with care and caution. If the delay which has occasioned in approaching the writ court is explained which would appeal to the conscience of the court, in such circumstances it cannot be gainsaid by the contesting party that for all times to come the delay is not to be condoned. There may be myriad circumstances which gives rise to the invoking of the extraordinary jurisdiction and it all depends on facts and circumstances of each case, same cannot be described in a straight jacket formula with mathematical precision. The ultimate discretion to be exercised by the writ court depends upon the facts that it has to travel or the terrain in which the facts have travelled.

11. For filing of a writ petition, there is no doubt that no fixed period of limitation is prescribed. However, when the extraordinary jurisdiction of the writ court is invoked, it has to be seen as to whether within a reasonable time same has been invoked and even submitting of memorials would not revive the dead cause of action or resurrect the cause of action which has had a natural death. In such circumstances on the ground of delay and laches alone, the appeal ought to be dismissed or the applicant ought to be nonsuited. If it is found that the writ Petitioner is guilty of delay and laches, the High Court ought to dismiss the petition on that sole ground itself, in as much as the writ courts are not to indulge in permitting such indolent litigant to take advantage of his own wrong. It is true that there cannot be any waiver of fundamental right but while exercising discretionary jurisdiction under Article 226, the High Court will have to necessarily take into consideration the delay and laches on the part of the



applicant in approaching a writ court. This Court in the case of **Tridip Kumar Dingal and others -vrs.- State of W.B and others reported in (2009) 1 S.C.C. 768** has held to the following effect:

"56. We are unable to uphold the contention. It is no doubt true that there can be no waiver of fundamental right. But while exercising discretionary jurisdiction under Articles 32, 226, 227 or 136 of the Constitution, this Court takes into account certain factors and one of such considerations is delay and laches on the part of the applicant in approaching a writ court. It is well settled that power to issue a writ is discretionary. One of the grounds for refusing reliefs under Article 32 or 226 of the Constitution is that the petitioner is guilty of delay and laches.

57. If the petitioner wants to invoke jurisdiction of a writ court, he should come to the Court at the earliest reasonably possible opportunity. Inordinate delay in making the motion for a writ will indeed be a good ground for refusing to exercise such discretionary jurisdiction. The underlying object of this principle is not to encourage agitation of stale claims and exhumed matters which have already been disposed of or settled or where the rights of third parties have accrued in the meantime (vide **State of M.P. v. Bhailal Bhai [AIR 1964 SC 1006 : (1964) 6 SCR 261]**, **Moon Mills**



Ltd. v. Industrial Court [AIR 1967 SC 1450] and Bhoop Singh v. Union of India [(1992) 3 SCC 136 : (1992) 21 ATC 675 : (1992) 2 SCR 969]. This principle applies even in case of an infringement of fundamental right (vide **Tilokchand Motichand v. H.B. Munshi [(1969) 1 SCC 110], Durga Prashad v. Chief Controller of Imports & Exports [(1969) 1 SCC 185] and Rabindranath Bose v. Union of India [(1970) 1 SCC 84].**

58. There is no upper limit and there is no lower limit as to when a person can approach a court. The question is one of discretion and has to be decided on the basis of facts before the court depending on and varying from case to case. It will depend upon what the breach of fundamental right and the remedy claimed are and when and how the delay arose."

We find that not only there is inordinate delay in approaching this Court, but if the petitioner while receiving the compensation amount in the year 2006, as per notice under Annexure-3 was dissatisfied with the quantum of compensation for which he could have approached the appropriate authority for enhancement of the compensation amount in accordance with law which he has not done. After the petitioner has received the compensation amount in the year, 2006, merely because he claims to be in possession of the land, when the company is now utilizing the land for the purpose of taking



water pipeline and cables, it cannot be allowed to challenge the acquisition.

Accordingly, the writ petition being devoid of merits, stands dismissed.

Urgent certified copy of this order be granted as per rules.

(S.K. Sahoo)
Judge

RKM

(Savitri Ratho)
Judge

Signature Not Verified

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Signed by: RABINDRA KUMAR MISHRA
Reason: Authentication
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 19-Mar-2025 19:13:15

