

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (C) NOS.30404-30442/2017

**Baljeet Singh (Dead) through Lrs.
and others etc. etc.**

...Petitioners

versus

State of U.P. and others

...Respondents

WITH

SPECIAL LEAVE PETITION (C) NOS.30455-30460/2017

SPECIAL LEAVE PETITION (C) NOS.23522-23530/2018

J U D G M E N T

M.R. SHAH, J.

Delay of 193, 224 and 142 days respectively in refiling the special leave petitions is condoned.

2. Feeling aggrieved and dissatisfied with the common impugned judgment and order dated 2.4.1996 passed by the

High Court of Judicature at Allahabad in First Appeal No. 919/1993 and other allied first appeals, the respective original claimants – land owners have preferred the present special leave petitions.

3. At the outset, it is required to be noted that there is an inordinate delay of 7534, 7542 and 7886 days respectively (approximately 21 years) in preferring the special leave petitions before this Court challenging the impugned common judgment and order passed by the High Court. There is a further delay of 193, 224 and 142 days respectively in refiling the special leave petitions.

3.1. The application/applications for condonation of delay is/are vehemently opposed by the respondents herein. Therefore, this Court is first required to consider and decide the application/applications submitted by the petitioners/applicants praying to condone the huge delay of 7534, 7542 and 7886 days respectively in preferring the special leave petitions.

4. Shri Rishi Malhotra, learned Advocate appearing on behalf of the respective petitioners has vehemently submitted that the lands of the respective petitioners have been compulsorily

acquired under the provisions of the Land Acquisition Act, and therefore, they are entitled to the fair compensation for the lands acquired. It is submitted that the dispute is with respect to the lands acquired of village Gulsitapur and Tilpta which are only 4 kms. away from village Kasna. It is submitted that the location wise the lands of village Gulsitapur and Tilpta were better located and were abutting the national highway, i.e, Noida – Dadri Road. It is submitted that village Kasna is 4 kms. behind village Gulsitapur. It is submitted that for the lands acquired of village Kasna, Section 4 notification was issued on 1.3.1989 and the compensation was awarded @ Rs.65/- per square yard, which has been confirmed by this Court vide order dated 05.12.2016. It is submitted that therefore the respective petitioners are entitled to the fair compensation for the lands acquired of village Gulsitapur and Tilpta at par with the land owners of village Kasna, i.e., at Rs.65/- per square yard. It is submitted that therefore the agriculturists/farmers are entitled to the fair compensation for the lands acquired. It is submitted that for the lands compulsorily acquired, the delay should not defeat the valuable rights of the petitioners to get fair compensation. It is submitted that the petitioners may not be awarded the interest

and other statutory benefits under the Land Acquisition Act for the period of delay.

4.1 Making the above submissions and relying upon the decisions of this Court in the cases of *Market Committee, Hodal v. Krishan Murari reported in (1996) 1 SCC 311*; *Dhiraj Singh v. State of Haryana reported in (2014) 14 SCC 127*; and *K. Subbarayudu v. Special Deputy Collector (Land Acquisition) reported in (2017) 12 SCC 840*, it is prayed to condone the delay and consider the special leave petitions on merits.

5. All these applications are vehemently opposed by the learned Advocates appearing on behalf of respondent no.3 – Uttar Pradesh State Industrial Development Corporation (UPSIDC) and on behalf of respondent no.4 – Greater Noida Industrial Development Authority. Counter affidavits are filed on behalf of respondent nos. 3 and 4 opposing the present applications for condonation of delay.

5.1 It is vehemently submitted by the learned counsel appearing on behalf of the respondents that there is an inordinate delay of approximately 21 years in preferring the special leave petitions. It is submitted that at no point of time earlier the respective

petitioners made any grievance with respect to inadequacy of the compensation as awarded by the High Court.

5.2 It is further submitted by the learned counsel appearing on behalf of the respondents that as such no sufficient cause has been shown explaining the huge delay of approximately 21 years. It is submitted that merely because in view of the subsequent decision in the case of lands acquired of another village, relying upon which the petitioners have preferred the present petitions, huge delay of approximately 21 years may not be condoned.

5.3 It is further submitted by the learned counsel appearing for the respondents that even otherwise the reliance placed upon the decisions of the High Court and this Court is with respect to entirely different village, i.e., village Kasna and that too in respect of the land which was acquired after about four years of acquisition of the petitioners' land. It is submitted that therefore the lands acquired of village Kasna are not comparable at all with respect to the lands acquired of village Gulsitapur and Tilpta.

5.4 It is further submitted that so far as the impugned common judgment and order dated 2.4.1996 is concerned, as such, the same has attained finality. It is submitted that not only the

petitioners accepted the compensation but after the said judgment was delivered by the High Court no special leave petition has been filed by the present petitioners all these years. It is submitted that therefore they have acquiesced with the impugned common judgment and order of the High Court.

5.5 It is further submitted by the learned counsel appearing on behalf of the respondents that any attempt by the present petitioners to reopen the judgment shall lead to a cascading effect where every one whose land has been acquired by the said notification with respect to the land acquired at village Gulsitapur and Tilpta would start demanding enhanced compensation @ Rs.65/- per square yard. It is submitted that similarly the other land owners whose land has been acquired though at different villages between the years 1985-1989, too start demanding the same rate of compensation.

5.6 It is further submitted by the learned counsel appearing on behalf of the respondents that after the acquisition, the land is developed, infrastructure and amenities are laid. They are maintained. The developed land has been allotted decades ago. It is submitted that the rate of allotment is based on the cost of

acquisition and the amounts spent on development, laying out the infrastructure. It is submitted that if the cost of acquisition is increased, then how this cost would now be recovered from the allottees after decades of allotment. It is submitted therefore that to entertain the present petitions now after a period of approximately 21 years and to increase the amount of compensation would have a cascading effect.

5.7 It is further submitted that it is disputed and denied that the land in village Gulsitapur is superior to the land in village Kasna. It is submitted that the correct fact is that village Kasna is located on the main road, which connects Greater Noida to Sikanderabad, District Bulandshar, unlike the land of village Gulsitapur which is in the interiors.

5.8 Now so far as the reliance placed upon the decisions of this Court by the learned Advocate appearing on behalf of the petitioners, referred to hereinabove, is concerned, it is vehemently submitted by the learned counsel appearing on behalf of the respondents that none of the aforesaid decisions of this Court shall be applicable to the facts of the case on hand. It is submitted that in the present case there is an inordinate delay

of approximately 21 years. It is submitted that in the present case the petitioners have failed to make out a sufficient cause to condone the huge delay of approximately 21 years in preferring the special leave petitions. It is submitted that in the relied upon cases this Court was satisfied on the sufficient cause for delay. It is submitted that in the relied upon cases the parity was claimed with respect to the land acquired under the very notification and it was pointed out that due to poverty and financial difficulty some of the land owners whose land was acquired under the same notification could not prefer the appeals earlier and they preferred the appeals subsequently and claimed parity of compensation at par with the lands acquired under the very notification. It is submitted that in the present case the petitioners are claiming the parity in compensation with respect to the land acquired of another village and that too the land in the said village was acquired after a period of four years and location wise etc. the lands are different. It is submitted that therefore on facts the same shall not be applicable to the facts of the case on hand.

5.9 Making the above submissions, it is prayed to dismiss the present applications for condonation of delay and consequently dismiss the special leave petitions as barred by limitation.

6. We have heard the learned counsel appearing for the respective parties at length.

6.1 At the outset, it is required to be noted that as such there is an inordinate delay of approximately 21 years in preferring the special leave petitions before this Court challenging the impugned common judgment and order passed by the High Court which has been passed in the year 1996. It is required to be noted that the notification under Section 4 of the Land Acquisition Act with respect to the land situated in village Gulsitapur and Tilpta was issued in the year 1985; possession was taken over in the month of January, 1987; the Land Acquisition Officer declared the award in the year 1988 awarding compensation at the rate of Rs.8-10 per square yard. At the instance of the petitioners herein - the original land owners, reference under Section 18 of the Land Acquisition Act was made to the reference Court. By judgment and award dated 22.3.1993, the reference Court enhanced the compensation to Rs.30/- per

square yard. However, on appeals and considering the material on record, by the impugned common judgment and order, the High Court reduced the amount of compensation to Rs. 22-20 per square yard. That thereafter, after a period of approximately 21 years, now the petitioners have preferred the present petitions claiming compensation at par with the compensation awarded for the land owners of another village Kasna. It is required to be noted that so far as the land acquisition of village Kasna is concerned, notification under Section 4 of the Land Acquisition Act was issued in the year 1989, i.e., after a gap of four years and it appears that in between certain developments have also taken place.

7. Having considered the averments made in the application/applications for condonation of delay, we are of the opinion that as such the petitioners have miserably failed to make out a case to condone the huge delay of approximately 21 years. No sufficient cause has been shown to condone the huge delay of approximately 21 years. It is required to be noted that as such in the application itself it is submitted by the petitioners that there is an inordinate delay in approaching this Court. The

only explanation in approaching this Court after about 21 years is given in paragraph 3 of the application, which reads as under:

“That the primary reason in not approaching this Hon’ble Court in time was the fact that it was only in December, 2016, the claimants pertaining to village Kasana got the enhanced compensation from this Hon’ble Court to the tune of Rs.65/- per sq. yard. The petitioners herein came to know about the said fact in the month of January, 2017 causing not only lots of heartburn but spelling miseries over them. It took not only lots of courage in mustering support from number of affected families but also it took time for the petitioners to collectively file the instant special leave petition claiming not only the enhanced compensation but also parity with regard to the compensation awarded to their co-villagers at village Kasana.”

7.1 That thereafter the petitioners have stated that though there is a reasonable case made out by the petitioners to get the enhanced compensation to the tune of Rs.65/- per square yard, but fairly enough in order to balance the equity, this Court may not grant interest from the date of the judgment of the High Court i.e., 2.4.1996 till the filing of the special leave petitions before this Court. Except the explanation in paragraph 3, reproduced hereinabove, there is no other explanation whatsoever explaining the huge delay of approximately 21 years. Neither any poverty is pleaded nor any financial difficulty is pleaded. Nothing is on

record that after the impugned common judgment and order is passed by the High Court, the petitioners made any grievance/objection with respect to inadequacy of the compensation determined by the High Court. On the contrary, all the petitioners have accepted the compensation as per the judgment and award passed by the reference Court determining the compensation at the rate of Rs.30/- per square yard. It appears that with respect to some of the land owners even the execution petitions are pending with respect to recovery of the differential amount of compensation, determined by the reference Court and the High Court as by the impugned common judgment and order the High Court has reduced the compensation from Rs.30/- per sq. yard to Rs.22/- per sq. yard. Be that as it may, the fact remains that after the impugned common judgment and order is passed by the High Court, no grievance at all is made by the petitioners with respect to inadequacy of the compensation determined by the High Court. Thus, it can be said that for a period of approximately 21 years no grievance was made by the petitioners. Therefore, considering the terms of doctrine of acquiescence, the petitioners lose their right to complain. This principle is based on the doctrine of acquiescence implying that

in such a case the party who did not make any objection acquiesced into the alleged wrongful act of the other party and therefore has no right to complain against that alleged wrong.

8. The matter requires examination from another aspect, viz., laches and delay. It is a very recognised principle of jurisprudence that a right not exercised for a long time is non-existent. Even when there is no limitation period prescribed by any statute relating to certain proceedings, in such cases, courts have coined the doctrine of laches and delay as well as doctrine of acquiescence and non-suited the litigants who approached the court belatedly without any justifiable explanation for bringing the action after unreasonable delay. In those cases, where the period of limitation is prescribed within which the action is to be brought before the court, if the action is not brought within that prescribed period, the aggrieved party loses remedy and cannot enforce his legal right after the period of limitation is over, however, subject to the prayer for condonation of delay and if there is a justifiable explanation for bringing the action after the prescribed period of limitation is over and sufficient cause is shown, the court may condone the delay. Therefore, in a case

where the period of limitation is prescribed and the action is not brought within the period of limitation and subsequently proceedings are initiated after the period of limitation along with the prayer for condonation of delay, in that case, the applicant has to make out a sufficient cause and justify the cause for delay with a proper explanation. It is not that in each and every case despite the sufficient cause is not shown and the delay is not properly explained, the court may condone the delay. To make out a case for condonation of delay, the applicant has to make out a sufficient cause/reason which prevented him in initiating the proceedings within the period of limitation. Otherwise, he will be accused of gross negligence. If the aggrieved party does not initiate the proceedings within the period of limitation without any sufficient cause, he can be denied the relief on the ground of unexplained laches and delay and on the presumption that such person has waived his right or acquiesced with the order. These principles are based on the principles relatable to sound public policy that if a person does not exercise his right for a long time then such right is non-existent.

9. Now so far as the reliance placed upon the decisions of this Court in the cases of *Market Committee, Hodal (supra)*; *Dhiraj Singh (supra)*; and *K. Subbarayudu (supra)*, relied upon by the learned Advocate appearing on behalf of the petitioners is concerned, having gone through the said decisions, we are of the opinion that none of the said decisions shall be applicable to the facts of the case on hand and/or the said decisions shall be of any assistance to the petitioners. First of all, in the relied upon cases, there was no such inordinate delay of approximately 21 years. In the relied upon cases, this Court was satisfied on the sufficient cause for delay. In the relied upon cases, parity was claimed with respect to the land acquired under the very notification and it was pointed out that due to poverty and financial difficulty some of the land owners whose land was acquired under the same notification could not prefer the appeals earlier and thereafter they preferred the appeals subsequently and claimed parity of compensation at par with the land acquired under the same notification. It is also required to be noted that as such in none of the aforesaid decisions, this Court had dealt with and/or considered the adverse impact/effect on the State/acquiring body if after inordinate delay/laches the

State/acquiring body is directed to pay the enhanced amount of compensation. In the present case, lands were acquired as far back as in the year 1985 and the award by the Special Land Acquisition Officer was declared in the year 1988. The reference Court enhanced the amount of compensation to Rs.30/- per square yard, which came to be reduced by the High Court by the impugned common judgment and order in the year 1996. It is required to be noted that the lands were acquired for Industrial development purposes. That after the acquisition, the land has been developed, infrastructure and amenities are laid and the developed land has been allotted approximately before 30 years. It is the specific case on behalf of the respondents that the rate of allotment was based on the cost of acquisition and the amount spent on development, laying out the infrastructure. Therefore, if the cost of acquisition is increased now and the State/acquiring body is directed to pay enhanced compensation, in that case, it would be very difficult to recover the difference of amount of compensation from the allottees after decades of allotment. The acquiring body will have to make additional budgetary provision and as observed hereinabove it would be very difficult for the acquiring body to recover the difference of compensation from the

allottees after so many years. All these aspects and the cascading effect on the State/acquiring body if they are directed to pay the additional compensation after number of years, have not been considered by this Court in the aforesaid decisions relied upon by the learned Advocate for the petitioners. Even if the petitioners are denied the interest and/or the other statutory benefits for the delayed period as requested by the learned counsel for the petitioners, in that case also, to direct the State/acquiring body to pay the enhanced amount of compensation after number of years (21 years) would be unreasonable and would have a financial burden upon them and as observed hereinabove it would be very difficult for the State/acquiring body to recover the same from the allottees. Under the circumstances, none of the aforesaid decisions shall be applicable to the facts of the case on hand and/or the same shall not be of any assistance to the petitioners.

10. In view of the above and for the reasons stated above, we refuse to condone the huge delay of 7534, 7542 and 7886 days respectively in filing the special leave petitions. Accordingly, the applications for condonation of delay stand dismissed. Consequently, all these special leave petitions are dismissed on

the ground of limitation. However, in the facts and circumstances of the case, there shall be no order as to costs.

.....J.
[ARUN MISHRA]

.....J.
[S. ABDUL NAZEER]

**NEW DELHI;
AUGUST 08, 2019.**

.....J.
[M.R. SHAH]