
(2011) 07 UK CK 0188

In the Uttarakhand High Court

Case No : Writ Petition No. 1144 of 2006 (M/B)

Abrar Hussain and Another

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 07-07-2011

Acts Referred:

Land Acquisition Act, 1894 — Section 28A

Citation : (2011) 07 UK CK 0188

Hon'ble Judges : Barin Ghosh, C.J.;Serves Kumar Gupta, J

Bench : Division Bench

Judgement

Barin Ghosh, C.J.—Restoration Application No. 361 of 2011 & Delay Condonation Application No. 5331 of 2011 In the writ petition, Petitioners have sought for a mandamus directing the Respondents to decide the application of the Petitioners for re-determination of compensation of their land, in the light of the order dated 11th October, 2004 of this Court and the order dated 10th August, 1990 passed in reference, expeditiously. Time and again, Petitioners sought for time to file supplementary affidavit. Such time was granted. Despite grant of such time, no supplementary affidavit was filed. On 9th April, 2007, an order was passed granting 10 days" more time to file supplementary affidavit as a last opportunity, with a direction that, in default, the writ petition will stand dismissed without reference to the Court. No such supplementary affidavit was filed and, accordingly, in terms of the said order, the writ petition stood dismissed.

An application for restoration has been filed only on 2nd June, 2011. In that, it has been stated that, as the Petitioners could not contact the counsel in time, the supplementary affidavit could not be filed within the stipulated time and, as such, on 7th May, 2007, an order came to be passed for consigning the record of the case to the Record Room. The said state of affair clearly indicates how irresponsible the Petitioners are, as also their legal advisor. Inasmuch as, there has been considerable delay in filing the restoration application, an application for condonation of delay has also been filed. In that, too, similar untruth has

been stated. There is, therefore, no ground, far less any cogent ground, either to restore the writ petition or to condone the delay in filing the restoration application. However, taking into account that the Petitioners are agriculturists, whose land had been acquired, and that they had to heavily depend upon their legal advisor, who misled them for his inefficiency; we proceed on the basis that it was the laches on the part of the Advocate engaged by the Petitioners, for which the writ petition was dismissed. We, accordingly, condone the delay in filing the restoration application and allow the restoration application subject to the Advocate, engaged by the Petitioners, paying cost of Rs. 2,000/- from his own resources with the High Court Legal Services Committee within 15 days from today, as a condition precedent. In default, the application for condonation of delay in filing the restoration application as well as the restoration application shall stand dismissed.

Writ Petition No. 1144 of 2006 (M/B):

Heard learned Counsel for the parties on the merits of the writ petition.

2. Since the subject matter of dispute in the present writ petition is identical to the one dealt with by us in Writ Petition No. 1139 of 2006 (M/B), for the reasons recorded in our judgment rendered today while disposing of the said writ petition, we direct the Collector to dispose of the application of the Petitioners in terms of Section 28A of The Land Acquisition Act, 1894.

3. The writ petition is, accordingly, disposed of.