

(2025) 06 OHC CK 0940

In the Orissa High Court

Case No : Writ Petition (C) No. 10677 Of 2025 along with Writ Petition (C)
No.11001 Of 2025

Basanti Banjara

APPELLANT

Vs

Spl. Land Acquisition Officer, Lower Indra Irrigation Project,
Khariar Vs

RESPONDENT

Date of Decision : 20-06-2025

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Code of Civil Procedure, 1908 — Section 151
Land Acquisition Act, 1894 — Section 18

Citation : (2025) 06 OHC CK 0940

Hon'ble Judges : Dr. S.K. Panigrahi, J

Bench : Single Bench

Advocate : Krushna Chandra Dash

Final Decision : Dismissed

Judgement

Dr. S.K. Panigrahi, J.

1. In both the Writ Petitions, the Petitioners seek a direction from this Court to set aside the orders dated 06.12.2023 and 17.05.2024 rejecting their restoration applications and to revive the land acquisition reference proceedings for adjudication on merits under Section 18 of the Land Acquisition Act, 1894.

I. FACTUAL MATRIX OF THE CASE:

2. The brief facts of the case are as follows:

(i) The present Writ Petitions arise from the acquisition of agricultural lands belonging to the petitioners' respective families in Mouza Konabira, District Nuapada, for construction of the Lower Indra Irrigation Project pursuant to a notification issued in 2001 by the Special Land Acquisition Officer, Khariar.

(ii) The petitioners were awarded compensation amounts of ₹ 3,32,981/-and

□ 4,50,256/- respectively, including solatium and interest, which were accepted under protest as being grossly inadequate and unreflective of the true market value and the potential of the acquired lands, including the value of fruit-bearing trees.

(iii) Dissatisfied with the quantum of compensation, the petitioners or their predecessors filed protest petitions, which were referred under Section 18 of the Land Acquisition Act, 1894 to the Court of the learned Senior Civil Judge, Nuapada, and registered as LAR Case Nos. 170 of 2010 and 196 of 2010.

(iv) The petitioners are legal heirs of the recorded tenants and were pursuing the reference proceedings after the demise of the original landowners, who were illiterate and unaware of legal procedures.

(v) Due to extreme financial hardship and lack of legal literacy, the petitioners could not appear in court regularly and had to migrate for labour work, while relying on their lawyers to manage the proceedings.

(vi) In LAR Case No. 196 of 2010, the petitioner's counsel had filed a time petition on 16.09.2014 seeking adjournment for adducing evidence, which was rejected by the court, and the reference was closed arbitrarily the same day without deciding the compensation claim, and the file was returned to the LAO.

(vii) In LAR Case No. 170 of 2010, the petitioner's counsel appeared on 19.12.2017 and sought a short adjournment which was similarly rejected, following which the court closed the case and returned the reference to the LAO without adjudication or notice to the petitioner.

(viii) The closure of the references was never communicated to the petitioners either by the court, the lawyers, or the LAO, leaving the petitioners completely unaware of the case status for a considerable period of time.

(ix) Upon learning of the closures from local sources and after verifying the same from the office of the LAO, the petitioners promptly filed restoration applications, CMA No. 279 of 2017 and CMA No. 01 of 2020, seeking revival of the LAR cases for adjudication.

(x) Despite the fact that the references were never answered on merits, both restoration petitions were dismissed solely on the ground of delay by orders dated 06.12.2023 and 17.05.2024, which are impugned in the present writ petitions.

II. SUBMISSIONS ON BEHALF OF THE PETITIONERS:

3. Learned counsel for the Petitioners earnestly made the following submissions in support of his contentions:

(i) Both petitioners argue that closing a reference case without deciding compensation violates their right to equality, life, and property. They stress that procedural technicalities (delay) should not override their substantive right to

just compensation.

(ii) In both cases, the reference was not adjudicated on merits but was closed due to non-appearance/time petitions. Such closure without adjudication is argued to be impermissible in law, especially when Section 18 of the L.A. Act imposes a duty on the referral court to determine compensation.

(iii) Petitioners cite poverty, illiteracy, out-migration, and lack of legal awareness as reasons for the delay in seeking restoration. They claim they were not intentionally negligent, and had no knowledge of the closure due to communication gaps with lawyers.

(iv) Since no adjudication was done and no enhanced compensation was awarded, the cause of action continues. They argue that law of limitation should not bar such cases involving fundamental and statutory rights.

III. SUBMISSIONS ON BEHALF OF THE OPPOSITE PARTIES:

4. The Learned Counsel for the Opposite Parties earnestly made the following submissions in support of his contentions:

(i) The Government Pleader, representing the State, opposed both restoration petitions without filing any written objection. It was contended that the petitioners had been afforded multiple opportunities by the referral court to lead evidence and substantiate their claim for enhanced compensation. However, despite repeated adjournments, they failed to prosecute the cases, which led the court to reasonably conclude that the petitioners were satisfied with the compensation awarded by the Land Acquisition Officer. Consequently, the references were closed after due consideration. Accordingly, it was contended that the restoration pleas lacked merit and were not maintainable either before the referral court or in writ jurisdiction.

IV. FINDINGS OF THE CIVIL JUDGE- CMA NO. 279 OF 2017 (LAR NO. 196/2010) AND CMA NO. 01 OF 2020 (LAR NO. 170/2010)

5. The Court held in both cases that the petitioners were granted sufficient opportunities to prosecute their reference cases and lead evidence. However, they repeatedly failed to do so.

6. In LAR Case No. 196/2010, the Court noted that the petitioner's counsel filed a time petition citing illness (fever) on 16.09.2014, while in the restoration application, the excuse was migration for livelihood, a contradiction that, according to the Court, undermined their credibility.

7. In LAR Case No. 170/2010, the Court found that the petitioner had claimed prolonged illness, joint pain, and rheumatism as reasons for absence on 19.12.2013 but failed to substantiate this with evidence.

8. In both matters, the Court held that non-prosecution and repeated absence indicated that the claimants were "satisfied with the award."

9. The Court further held that the restoration petitions were filed beyond the prescribed period of limitation and the petitioners failed to provide any sufficient cause to justify the delay. It observed that no credible evidence was led to substantiate the claims of illness or genuine inability to appear on the relevant hearing dates. The Court clarified that the reference cases were not dismissed for default, but were closed after a judicial assessment of the petitioners' repeated failure to prosecute the matters despite being granted ample opportunities.

10. Consequently, the Court ruled that the petitions were not maintainable under Section 151 CPC, and refused to exercise inherent powers to restore the reference cases.

V. COURT'S REASONING AND ANALYSIS:

11. Heard Learned Counsel for parties and perused the documents placed before this Court.

12. The petitioners seek restoration of land acquisition reference proceedings under Section 18 of the Land Acquisition Act, 1894, which were closed without adjudication by the referral court on 16.09.2014 and 19.12.2013 respectively. Their writ petitions challenge the dismissal of restoration applications (CMA Nos. 279/2017 and 01/2020) solely on the ground of delay. While the petitioners invoke constitutional rights and the doctrine of continuous cause of action, a close reading of the record, the conduct of the petitioners, and the findings of the Civil Court shows that the referral court acted within the bounds of judicial discretion.

13. The Civil Judge rightly recorded that both petitioners were given ample opportunity over multiple years to prosecute their respective LAR cases, yet consistently failed to adduce any evidence despite repeated adjournments granted at their request. This sustained pattern of inaction goes beyond mere procedural lapse and reflects a clear abdication of prosecutorial responsibility. In LAR 196/2010, the petitioner's counsel filed a time petition on 16.09.2014 citing illness (fever), yet in the restoration petition, the explanation offered was that the family had migrated out of the locality for labour, two mutually exclusive narratives that materially undermine the credibility of the petitioner's case. In LAR 170/2010, the petitioner claimed prolonged illness, rheumatism, and old age as reasons for his absence on 19.12.2013, yet brought forth neither medical certificates, witness testimony, nor any cogent material on record to substantiate those claims.

14. Courts have repeatedly held that a vague or unsubstantiated plea does not constitute "sufficient cause" under law, especially where the conduct of the party reflects indifference or procedural abuse. Specifically, the Supreme Court in the case of *Basawaraj and Anr. vs. Special Land Acquisition Officer* (2013) 14 SCC 81 holding that the discretion to condone the delay has to be exercised judiciously based upon the facts and circumstances of each case, stated the following:

"The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bonafide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature."

15. The consistent inaction of the petitioners, despite the court granting multiple opportunities, cannot be trivialized as mere inadvertence. Judicial time and process cannot be indefinitely held hostage to a litigant's procedural indifference. While the right to fair compensation under Section 18 of the Land Acquisition Act is indeed a substantive entitlement, it does not exempt a claimant from prosecuting the reference with reasonable diligence. Once a reference is made, the burden to lead evidence lies squarely on the claimant, and repeated adjournments, without justifiable cause or substantive progress, frustrate the very object of the reference proceedings. Courts are not obligated to accommodate delay as a matter of right. Procedural indulgences, if abused, become counterproductive to judicial efficiency and fairness to the opposite party.

16. The law is clear that while discretion exists to grant adjournments, it must be exercised judiciously and not in a manner that allows a litigant to subvert process by passive conduct. Any further indulgence in such circumstances would render court proceedings vulnerable to procedural abuse and undermine the finality of adjudication. In fact, the Supreme Court, in the case of *Ishwarlal Mali Rathod v. Gopal* (2021) 12 SCC 612, while dealing with a litigant's repeated misuse of adjournments and failure to cross-examine despite multiple final opportunities, held as follows:

"Therefore, the court shall be very slow in granting adjournments and as observed hereinabove they shall not grant repeated adjournments in routine manner. Time has now come to change the work culture and get out of the adjournment culture so that confidence and trust put by the litigants in the Justice delivery system is not shaken and Rule of Law is maintained."

17. In this context, the court cannot be faulted for exercising restraint in restoring reference proceedings that were allowed to languish for years without any demonstrable effort on part of the petitioners to advance their claim. The consistent disregard for court directions, coupled with unsubstantiated and conflicting excuses, defeats the very rationale of invoking equitable jurisdiction

under Article 226. Courts are bound not only by a duty to ensure access to justice, but also by a parallel responsibility to safeguard the integrity and efficiency of adjudicatory processes. Litigants cannot claim equity while remaining in breach of procedural discipline.

18. Thus, while the petitioners may rightly feel aggrieved at being denied higher compensation, the referral court's orders cannot be faulted for declining to restore references that were closed after years of inactivity and contradiction in pleadings. The judicial conscience of the court was exercised; the failure lies in the petitioners' procedural conduct, not in the court's decision-making.

VI. CONCLUSION:

19. Though this Court is unable to grant the reliefs prayed for in the present Writ Petitions, it cannot remain unmindful of the structural disadvantages faced by the petitioners. The record indicates that they are agricultural labourers and small landholders who, owing to financial distress, were compelled to migrate for subsistence work. With limited education, legal literacy, and economic means, they were ill-equipped to engage meaningfully with formal legal systems that presuppose sustained access, procedural familiarity, and continuity. Their prolonged absence from the proceedings, though procedurally fatal, appears less a result of willful neglect and more a consequence of economic compulsion and systemic vulnerability, potentially compounded by inadequate legal guidance. It is unclear whether they were ever properly informed of the legal consequences of non-prosecution or whether their legal representation acted with the diligence expected in such circumstances.

20. Accordingly, while dismissing both the Writ Petitions, this Court deems it appropriate to direct the District Legal Services Authority, Nuapada, to examine whether the Petitioners were provided effective legal assistance during the reference proceedings and to extend necessary legal counselling or support henceforth. The Collector, Nuapada, is also at liberty to consider the Petitioners' grievance administratively in light of their economic and social circumstances, without this order being treated as binding on the merits.

21. Interim order, if any, passed earlier stands vacated.

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