THE HIGH COURT OF MADHYA PRADESH
PRINCIPAL SEAT AT JABALPUR

Writ Petition No.4633/2021

(Kirat Lodhi Vs State of Madhya Pradesh & others)

Writ Petition No.3626/2021

(Trilok Singh Vs The State of Madhya Pradesh & others)

Writ Petition No.3690/2021

(Ganesh Prasad Vs The State of Madhya Pradesh & others)

Writ Petition No.3693/2021

(Mahendra Kumar Vs The State of Madhya Pradesh & others)

Writ Petition No.4000/2021

(Jahar Singh Lodhi Vs The State of M.P. & others)

Writ Petition No.4066/2021

(Ram Din Vs The State of Madhya Pradesh & others)

Writ Petition No.4068/2021

(Dhan Singh Vs The State of Madhya Pradesh & others)

Writ Petition No.4069/2021

(Aannu Singh Vs The State of Madhya Pradesh & others)

Writ Petition No.4121/2021

(Prem Singh Vs The State of Madhya Pradesh & others)

Writ Petition No.4142/2021

(Laxman Singh Vs The State of Madhya Pradesh & others)

Writ Petition No.4145/2021

(Sheela Rani Vs The State of Madhya Pradesh & others)

Writ Petition No.4614/2021

(Kalu Singh Lodhi Vs The State of Madhya Pradesh & others)

Writ Petition No.4618/2021

(Jitendra Singh Vs The State of Madhya Pradesh & others)

Writ Petition No.4622/2021

(Khub Lal Vs The State of Madhya Pradesh & others)

Writ Petition No.4630/2021

(Jagat Singh Lodhi Vs The State of M.P. & others)

Writ Petition No.4638/2021

(Radhika Prasad Vs The State of Madhya Pradesh & others)

Writ Petition No.4642/2021

(Asha Ram Vs The State of Madhya Pradesh & others)

&

Writ Petition No.4646/2021

(Naval Singh Vs The State of Madhya Pradesh & others)

Date of Order	**22.09.2021**
Bench Constituted	Single Bench
Order delivered by	Hon'ble Mr. Justice Sanjay Dwivedi
Whether approved for reporting	**Yes**
Name of counsels for parties	For Petitioner: Mr. Varun Thakur, Advocate. For Respondents/State: Mr. A.P. Singh, Deputy Advocate General
Law laid down	**(1).** Writ Petition challenging the acquisition proceeding under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 cannot be entertained after lapse of sufficient time and can be dismissed on ground of delay and laches – Notification under Section 11 of the Act, 2013 was issued in the year 2018 and pursuant thereto, the award was passed on 05.03.2020, but challenging the said acquisition proceeding, the writ petition under Article 226 of the Constitution of India is filed in the month of August, 2021 with an inordinate delay and merely because some vague allegation regarding non-compliance of the mandatory provisions has been made, the petition cannot be entertained. **(2).** After passing the award under the provisions of the Act, 2013, the acquisition proceeding initiated cannot be challenged by filing a writ petition, unless it is established by the petitioner that mandatory provisions have been violated.
Significant Para Nos.	15, 16, 17, 18, 19, 20 and 21.

Reserved on : 31.08.2021

Delivered on :22.09.2021

(O R D E R)

(22.09.2021)

Since pleadings are complete and learned counsel for the parties are ready to argue the matter finally, therefore, looking to the issue involved in all these petitions, they are being heard concomitantly.

2. As in this batch of petitions similar relief is claimed, therefore, for the sake of convenience, facts of W.P. No.4633/2021 are being taken up. At the outset, it is necessary to reproduce the relief clause as sought by the petitioner, which is as follows:-

> "i) issue a Writ Order or Direction in the nature of Certiorari and quash the impugned award Dt.05.03.2020 (ANNEXURE P-2) passed by Respondent No.3 alongwith all proceedings in respect of Khasra No.152/2, total area measuring 1.23 Hectare situated at village Summer District Damoh, MP and;
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> ii) grant any other relief/s, order/s, direction/s which this Hon'ble Court deems fit and proper in the facts and circumstances of the case may kindly be granted to the petitioner including the cost of the petition."

3. Facts of the case in short are that the land belonging to the petitioner situates at Village Summer, District Damoh proposed to be acquired under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short the 'Act, 2013'). As per the petitioner, the proposed land is an agricultural land and is being cultivated by the forefathers and then the petitioner. As per the petitioner, the said land is only source of his livelihood. Respondent No.5/Water Resources Department wanted to utilize the land for public purpose as they wanted to construct a canal under 'Sitanagar

Irrigation Scheme'. For the said purpose, not only the land of Village Summer but also the land of Villages Sitanagar, Bijori, Naringhgarh, Chainpura, Barkheda Nagar, Rangir, Madiya, Baroda Tahsil Pathria/Batigarh Distrcit Damoh was proposed to be acquired and in that regard, a notification under Section 11 of the Act, 2013 was published in the State Gazette on 05.10.2018. The said notice was also published in the local newspapers viz Deshbandhu and New Rashtra Bhraman on 28.12.2018 and 29.12.2018.

(3.1) As per the petitioner, the respondents deliberately did not publish the said notice as per the requirement of Section 11 of the Act, 2013 in a renowned newspaper, but got the same published in the newspapers which are not in circulation in the area where he resides.

(3.2) As per the petitioner, the remedy available under Section 15 of the Act, 2013 could not be availed because no such information about such hearing in which the petitioner could raise objection, was given to him.

(3.3) As per the petitioner, copy of notification issued under Section 19 of the Act, 2013 was also not given to him. The notification under Section 19 was issued on 15.03.2019 in two newspapers i.e. Dainik Bhaskar and New Rashtra Bhraman on 13.06.2019, but those newspapers have no proper circulation in the locality where the petitioner resides. Further, as per the petitioner, Section 21 notice though issued but not served upon him. In response to Section 19 notice, the land owners raised their objections, but those were considered and rejected without any reason.

(3.4) Thereafter, an award was passed on 05.03.2020 and without any intimation, all of a sudden, the respondents/Authority came to take possession of the agricultural land.

(3.5) Hence, this petition has been filed pointing out such irregularities asking relief therein that the acquisition proceeding initiated under the provisions of Act, 2013 in respect of the land belonging to Khasra No.152/2 total area 1.23 hectare be quashed.

4. The respondents have file their return seeking dismissal of the petition on the ground that after passing the award, writ petition is not maintainable. As per the respondents, the petitioner has suppressed the material fact and by mentioning the incorrect facts in the petition, misled the Court saying that mandatory requirements were not followed. On the contrary, the respondents have come-up with a case and filed the documents in their support that all the mandatory requirements as provided under the provisions of the Act, 2013 were fulfilled and then only the award was passed on 05.03.2020. It is also stated in the return that out of 708 villagers, whose land has been acquired, 361 villagers have given their account number and the amount of compensation to the tune of Rs.23,34,96,969/- has already been deposited in their account. It is also stated in the return that further proposal of 55 villagers has been forwarded to the Collector for paying their amount of compensation and that will be paid to them very soon. A document has also been filed by the respondents showing that some of the land owners namely Radhika and Prem Singh (petitioners in the connected petitions) although received their amount of compensation and, therefore, the petition on their behalf is otherwise not maintainable. The

respondents have also stated in the return that the Authorities are making all sincere endeavours for getting the account numbers of the villagers so that the amount of compensation could be deposited in their account. As per the return, the construction of the dam is completed by 60% to 70%. The acquisition of the land is purely for the public purpose and it is not done with a view to deprive the petitioner from his livelihood, but it is done considering the interest of public at large so as to make their land more irrigated which would definitely increase the productivity of the land. The respondents have also denied the allegations made by the petitioner that the acquisition of his land has been done without following the mandatory requirements and violating the provisions of the Act, 2013, on the contrary, the respondents have filed the documents showing that all the mandatory requirements have been followed while acquiring the petitioner's land.

5. Reiterating the same facts as have been mentioned in the petition, the petitioner has filed the rejoinder.

6. The respondents in their additional return have relied upon several judgments and also stated that the petition is liable to be dismissed on the grounds of suppression of material fact and also of delay because the award was passed on 05.03.2020 in pursuance to the notice of acquisition issued under Section 11 of the Act, 2013 in the month of September, 2018 and the petition filed in the year 2021, therefore, the same deserves to be dismissed on the ground of delay and laches.

7. Learned counsel for the petitioner has submitted a written submission relying upon the decision of the Supreme Court reported in **(2012) 1 SCC 792 [Raghbir Singh Sehrawat Vs. State of Haryana and others]** and submitted that in view of the law laid down by the Supreme Court in the

case of **Raghbir Singh Sehrawat** (supra), the acquisition proceeding can be challenged even after passing the award if the mandatory requirements for acquiring the land under the provisions of the Act, 2013 were not followed. He has also placed reliance upon a decision of the Supreme Court reported in **(2013) 1 SCC 353 [Tukaram Kana Joshi and others Vs. Maharashtra Industrial Development Corporation and others]** in which, following the decision of **Raghbir Singh Sehrawat Singh** (supra), the Supreme Court has observed that against the award passed in an acquisition proceeding, writ petition is maintainable ignoring the fact that the same suffers from delay and laches because for rendering substantial justice, there should not be any impediment exercising judicial discretion. According to learned counsel for the petitioner, while acquiring the land, the Authority not fulfilled the mandatory requirements of Sections 11 and 15 of the Act, 2013. He has also submitted that the land is means for livelihood of the petitioner and the same cannot be snatched away from him in the manner it has been snatched. He has further submitted that with the conduct of the respondents, it can be easily seen that they acted contrary to the requirement of Article 21 of the Constitution of India.

8. *Per contra*, learned Deputy Advocate General has opposed the submissions made by learned counsel for the petitioner and submitted that the petition suffers from delay and laches as after passing the award, writ petition is not maintainable. He has further submitted that the petitioner suppressed the material facts and by mentioning incorrect facts in the petition, misled the Court saying that mandatory requirements were not followed. In support of his contention, he has filed the documents showing that all the mandatory requirements as provided under the provisions of the Act, 2013

were fulfilled and then only the award was passed on 05.03.2020. As per the learned Deputy Advocate General, the construction of the dam is completed by 60% to 70%. He has submitted that the acquisition of the land is purely for the public purpose and it is not done with a view to deprive the petitioner from his livelihood, but it is done considering the interest of public at large so as to make their land more irrigated which would definitely increase the productivity of the land. In support of his contention, learned Deputy Advocate General has filed several judgments passed by the Supreme Court and claimed that the petition deserves to be dismissed on the ground of delay and laches.

9. Considering the rival submissions made by learned counsel for the parties and perusal of the record available, this Court has to see whether the acquisition proceeding initiated by the respondents under the provisions of the Act, 2013 suffers from material irregularity and illegality by not following the mandatory requirements and whether such proceeding can be said to be illegal depriving the petitioner from his right and as such, the same can be quashed or not?

10. This is not the first occasion when the land of the farmers is being acquired. The provisions of the Land Acquisition Act, 1894 (in short the ‘Act, 1894’) empower the Government to acquire the land for public purpose and after enforcement of the Act, 2013, the Act, 1894 has been repealed. The acquisition proceeding cannot be challenged by the petitioner or by the land owners on the ground that the acquired land was the only source of his/her livelihood. However, the provisions of the Act, 2013 provide that if the land is acquired for public purpose then an adequate amount of compensation in lieu thereof would be paid to the land owners. The State Government also formulates the policy whenever it

is required for rehabilitation of the land owners and to provide them employment etc. so as to make them comfortable for their livelihood. Since, the grievance of the petitioner that by depriving him from his livelihood, his land has been acquired, therefore, the acquisition proceeding should be quashed, cannot be considered to be a ground to challenge the acquisition proceeding. It is not in dispute that in lieu of acquisition of land, an award has been passed under the provisions of the Act, 2013 on 05.03.2020. It is also not in dispute that several farmers have already received the amount of compensation, but some of the farmers including the petitioner are agitating their grievance not allowing the respondents/Authority to carry out the work for which the land has been acquired and undoubtedly, the land has been acquired for public purpose as on the acquired land, a dam with several canals has to be constructed so as to provide adequate quantity of water for irrigation and to make the land more fertile so as to increase the production of agriculture produce.

11. In the case of **Raghbir Singh Sehrawat** (supra), massive acquisition of land was done by the State and its instrumentalities that too without complying with the mandate of the statute. In the said case, the Supreme Court has also observed that the law is well settled when there is inordinate delay in filing the writ petition and when all steps taken in the acquisition proceedings have become final, the Court should be loath to quash the notifications, but as per the Supreme Court, the acquisition proceeding can be challenged even after passing the award on the grounds of violation of mandatory provisions and also the mode in which the possession of the land has been taken. In **Raghbir Singh Sehrawat** (supra), the acquisition proceeding was assailed mainly on the grounds that the mode used by the Authority for taking possession of the land was

contrary to the provisions of the Act, 1894 and also that there was clear violation of the provisions of Section 5-A(2) of the Act, 1894 as no opportunity was provided to the land owners for raising their objection or providing them hearing to meet out their grievance and as such, the Supreme Court has observed that it was a clear violation of the principle of natural justice and in such an event, when the State has sufficient land to fulfill the public purpose or to provide the same to any private organisation then the State has to use or provide its own land first and even thereafter, if the need does not fulfill then only the private land needs to be acquired. Merely because the Government wants development of infrastructure or industrialization, acquisition of private land despite having sufficient Government land, cannot be made. In **Raghbir Singh Sehrawat** (supra), the State Government issued a notification for acquiring the land for development of industrial section in Sonepat and thereafter, the land owners opposing the said acquisition proceeding, submitted their objection under Section 5-A(1) of the Act, 1894 saying that the land is for their livelihood as the same is being used by them for their agriculture purpose. The acquisition proceeding was also challenged on the ground that the notification issued under Section 4(1) was not as per the requirement of statute, no opportunity as per Section 5-A(2) was given, land of large number of persons had been excluded from the acquisition at the stage of Section 6 declaration and as such, it was clear cut discrimination on the part of the Authority while acquiring the land, no notice as per the provision of Section 9(3) and also no declaration was published as per the requirement of Section 6(3). After finding several irregularities, the Supreme Court has allowed the appeal of the land owners.

12. On perusal of return filed along with documents, it

is clear that the land was acquired for the purpose of constructing the dam and canals so as to provide water for irrigation to the land where there is no source of irrigation. The acquisition proceeding initiated under the provisions of the Act, 2013 and in that regard a notification under Section 11 of the Act, 2013 was issued in the State Gazette on 05.10.2018 showing that the land proposed to be acquired including the land of Village Sumeer, the village where land of the petitioner situates. Section 11 of the Act, 2013 reads as under:-

> "**11. Publication of preliminary notification and power of officers thereupon.**–(1) Whenever, it appears to the appropriate Government that land in any area is required or likely to be required for any public purpose, a notification (hereinafter referred to as preliminary notification) to that effect along with details of the land to be acquired in rural and urban areas shall be published in the following manner, namely:—
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> (a) in the Official Gazette;
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> (b) in two daily newspapers circulating in the locality of such area of which one shall be in the regional language;
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> (c) in the local language in the Panchayat, Municipality or Municipal Corporation, as the case may be and in the offices of the District Collector, the Sub-divisional Magistrate and the Tehsil;
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> (d) uploaded on the website of the appropriate Government;
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> (e) in the affected areas, in such manner as may be prescribed.
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> (2) Immediately after issuance of the notification under sub-section (1), the concerned Gram Sabha or Sabhas at the village level, municipalities in case of municipal areas and the Autonomous Councils in case of the areas referred to in the Sixth Schedule to the Constitution, shall be informed of the contents of the notification issued under the said sub-section in all cases of land acquisition at a meeting called especially for this purpose.
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> (3) The notification issued under sub-section (1) shall also contain a statement on the nature of the public purpose involved, reasons necessitating

> the displacement of affected persons, summary of the Social Impact Assessment Report and particulars of the Administrator appointed for the purposes of rehabilitation and resettlement under section 43.
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> (4) No person shall make any transaction or cause any transaction of land specified in the preliminary notification or create any encumbrances on such land from the date of publication of such notification till such time as the proceedings under this Chapter are completed:
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> Provided that the Collector may, on the application made by the owner of the land so notified, exempt in special circumstances to be recorded in writing, such owner from the operation of this subsection:
>
> Provided further that any loss or injury suffered by any person due to his wilful violation of this provision shall not be made up by the Collector.
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> (5) After issuance of notice under sub-section (1), the Collector shall, before the issue of a declaration under section 19, undertake and complete the exercise of updating of land records as prescribed within a period of two months."

Perusal of the State Gazette dated 05.10.2018, it is clear that the notice dated 29.09.2018 under Section 11 of the Act, 2013 was published in the regional language in two daily newspapers viz **'Deshbandhu and New Rashtra Bhraman'** on 28.12.2018 and 29.12.2018 and the same have been filed by the respondents in their reply showing that these two newspapers are in the circulation in the area where the land owners of the proposed land reside.

13. Although, as per learned counsel for the petitioner since the aforesaid newspapers are not very renowned, therefore, the publication for acquisition of the land should not be considered in consonance with the requirement of Section 11 of the Act, 2013. However, I am not satisfied with the submission made by learned counsel for the petitioner because it was not a requirement of the statute that the news should be published in a renowned newspaper. It is also difficult to

determine as in the area where the land situates which newspaper is in circulation. Sometimes, a newspaper which is very popular in the urban locality does not have wide circulation in the rural locality, on the contrary, the newspaper which does not have proper circulation in urban locality, has very wide circulation in the rural locality. As per the respondents, the aforesaid two newspapers are in the wide circulation where the land owners reside, therefore, the State has decided to get the notification published in these newspapers.

Likewise, Annexure-R/2 is a notification issued under Section 19 of the Act, 2013 which got published in the State Gazette dated 15.03.2019 and also in two daily newspapers i.e. **'New Rashtra Bhraman and Dainik Bhaskar'** and the same fulfilled the requirement of Section 19. Thereafter, notice dated 28.06.2019 (Annexure-R/3) issued under Section 21 of the Act, 2013 and got published to the individuals including the petitioner. As per Section 21, it was a notice to an individual with certain requirements and for the purpose of convenience, Section 21 is being reproduced hereinbelow:-

> "**21. Notice to persons interested.**–(1) The Collector shall publish the public notice on his website and cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensations and rehabilitation and resettlement for all interests in such land may be made to him.
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> (2) The public notice referred to in sub-section (1) shall state the particulars of the land so needed, and require all persons interested in the land to appear personally or by agent or advocate before the Collector at a time and place mentioned in the public notice not being less than thirty days and not more than six months after the date of publication of the notice, and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, their claims to rehabilitation and resettlement along

> with their objections, if any, to the measurements made under section 20.
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> (3) The Collector may in any case require such statement referred to in sub-section (2) to be made in writing and signed by the party or his agent.
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> (4) The Collector shall also serve notice to the same effect on the occupier, if any, of such land and on all such persons known or believed to be interested therein, be entitled to act for persons so interested, as reside or have agents authorised to receive service on their behalf, within the revenue district in which the land is situated.
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> (5) In case any person so interested resides elsewhere, and has no such agent, the Collector shall ensure that the notice shall be sent to him by post in letter addressed to him at his last known residence, address of place or business and also publish the same in at least two national daily newspapers and also on his website."

The respondents have filed the order-sheets to substantiate that even the land owners of the Village Sumeer were also appeared before the Authority, participated in the proceeding and in fact given consent for acquisition of land. The letters of the officers of the respondent/Department have also been placed on record to indicate that the land owners were apprised about the tentative amount of compensation which is to be awarded in lieu of acquisition of the land and the villagers had also noted down the said fact and thereafter, the award was passed on 05.03.2020 (Annexure-P/2). It has also been stated by the respondents that maximum villagers whose land acquired, have received the amount of compensation. However, the petitioner is not satisfied, therefore, he has raised objection in accepting the amount of compensation. Although, as per the stand taken by the respondents, the petitioner had also participated in the proceeding initiated by the respondents whereby he had been given an opportunity of public hearing.

14. In view of the stand taken by the respondents and the documents filed thereof, it is clear that the instant case is

not in which material illegality has been committed by the Authority while acquiring the land. It is also not a case in which the petitioner has taken a stand that the Government itself has sufficient land for constructing the dam or canals and the Government should first use its own land and then the land of the private person should be acquired. In fact, the dam is constructed after searching the land where maximum water which comes from the natural sources can be stored and thereafter, the same can be distributed through canals in maximum areas with minimum efforts so as to make the maximum land irrigated. It is the work of skilled team and technical experts which are the master in their field and after their decision, the land is identified where the dam can be constructed. It is not a case where the land has been acquired for the purpose of industrialization or for any private organisation, but the land has been acquired by the State for their own so as to make the agricultural land more fertile. It is a settled principle of law that in the matter of public policy, the preference is to be given to the interest of public at large excluding the interest of an individual.

15. The Supreme Court in the case reported in **(1998) 4 SCC 387 [Larsen & Toubro Ltd. Vs. State of Gujarat and others]** in paragraph 21 has observed as under:-

> "**21.** This Court has repeatedly held that writ petition challenging the notifications issued under Sections 4 and 6 of the Act is liable to be dismissed on the ground of delay and laches if challenge is not made within a reasonable time. This Court has said that the petitioner cannot sit on the fence and allow the State to complete the acquisition proceedings on the basis that notification under Section 4 and the declaration under Section 6 were valid and then to attack the notifications on the grounds which were available to him at the time when these were published as otherwise it would be putting a premium on dilatory tactics. Writ petition (SCA No. 5149 of 1989) is thus barred by laches as well."

It is clear form the above enunciation of law that in the present case, notifications under Sections 11 and 19 were issued following the mandatory requirements, but even though the said notifications and the acquisition proceeding were not assailed by the petitioner in time and he waited till passing the award and after passing the same, he challenged the award by filing the writ petition. In such a case, the delay matters and the writ petition, in my opinion, suffers from delay and laches. It is also not a case in which the acquisition took place behind the back of the petitioner or he was not aware of the acquisition proceeding because the order-sheets filed by the respondents clearly reveal that the farmers were participating in the proceeding and not only that number of farmers have already received the amount of compensation in pursuance to the award passed in their favour, but only some of the farmers like the petitioner are still agitating the grievance.

16. The Supreme Court further in the case reported in **(2000) 2 SCC 48 [Municipal Council, Ahmednagar and another Vs. Shah Hyder Beig and others]** in paragraph 14 has held as under:-

> "**14.** The High Court has thus misplaced the factual details and misread the same. It is now a well-settled principle of law and we need not dilate on this score to the effect that while no period of limitation is fixed but in the normal course of events, the period the party is required for filing a civil proceeding ought to be the guiding factor. While it is true that this extraordinary jurisdiction is available to mitigate the sufferings of the people in general but it is not out of place to mention that this extraordinary jurisdiction has been conferred on to the law courts under Article 226 of the Constitution on a very sound equitable principle. Hence, the equitable doctrine, namely, "delay defeats equity" has its fullest application in the matter of grant of relief under Article 226 of the Constitution. The discretionary relief can be had provided one has not by his act or conduct given a go-by to his rights. Equity favours a vigilant rather than an indolent litigant and this being

> the basic tenet of law, the question of grant of an order as has been passed in the matter as regards restoration of possession upon cancellation of the notification does not and cannot arise. The High Court as a matter of fact lost sight of the fact that since the year 1952, the land was specifically reserved for public purposes of a school playground and roads in the development plan and by reason therefor, the notification to acquire the land has, therefore, been issued under the provisions of the Act as stated above."
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> (emphasis supplied)

The Supreme Court in the aforesaid case in paragraph 17 has also observed that in a matter of acquisition, if award is passed, writ petition is not maintainable. Paragraph 17 reads thus:-

> "**17.** In any event, after the award is passed no writ petition can be filed challenging the acquisition notice or against any proceeding thereunder. This has been the consistent view taken by this Court and in one of the recent cases (*C. Padma* v. *Dy. Secy. to the Govt. of T.N.* [(1997) 2 SCC 627]) this Court observed as below: (SCC p. 628, para 4)
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> > "4. The admitted position is that pursuant to the notification published under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') in GOR No. 1392 Industries dated 17-10-1962, total extent of 6 acres 41 cents of land in Madhavaram Village, Saidapet Taluk, Chengalpattu District in Tamil Nadu was acquired under Chapter VII of the Act for the manufacture of Synthetic Rasina by Tvl. Reichold Chemicals India Ltd., Madras. The acquisition proceedings had become final and possession of the land was taken on 30-4-1964. Pursuant to the agreement executed by the company, it was handed over to Tvl. Simpson and General Finance Co. which is a subsidiary of Reichold Chemicals India Ltd. It would appear that at a request made by the said company, 66 cents of land out of one acre 37 cents in respect of which the appellants originally had ownership, was transferred in GOMs No. 816 Industries dated 24-3-1971 in favour of another subsidiary company. Shri Rama Vilas Service Ltd., the 5th respondent which is also another subsidiary of the Company had requested for two acres 75 cents

> of land; the same came to be assigned on leasehold basis by the Government after resumption in terms of the agreement in GOMs No. 439 Industries dated 10-5-1985. In GOMs No. 546 Industries dated 30-3-1986, the same came to be approved of. Then the appellants challenged the original GOMs No. 1392 Industries dated 17-10-1962 contending that since the original purpose for which the land was acquired had ceased to be in operation, the appellants are entitled to restitution of the possession taken from them. The learned Single Judge and the Division Bench have held that the acquired land having already vested in the State, after receipt of the compensation by the predecessor-in-title of the appellants, they have no right to challenge the notification. Thus the writ petition and the writ appeal came to be dismissed."
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> (emphasis supplied)

17. The Supreme Court in the case reported in **(2011) 5 SCC 394 [Banda Development Authority, Banda Vs. Moti Lal Agarwal and others]** in paragraphs 15 to 27 has observed as under:-

> "**15.** The above extracted portions of the plaint unmistakably show that Respondent 1 had no complaint against the acquisition of land or taking of possession by the State Government and delivery thereof to BDA and the only prayer made by him was that the defendants be directed to undertake fresh acquisition proceedings after sub-dividing Plot No. 795 so that he may get his share of compensation. He filed writ petition questioning the acquisition proceedings after almost 9 years of publication of the declaration issued under Section 6(1) and about six years of the pronouncement of award by the Special Land Acquisition Officer. During this interregnum, BDA took possession of the acquired land after depositing 80% of the compensation in terms of Section 17(3-A), prepared the layout, developed the acquired land, carved out plots, constructed flats for economically weaker sections of the society, invited applications and allotted plots and flats to the eligible persons belonging to economically weaker sections as also LIG, MIG and HIG categories. Unfortunately, the High Court ignored all this and allowed the writ

petition on the specious ground that the acquired land did not vest in the State Government because physical possession of the land belonging to Respondent 1 was not taken till 31-7-2002 and the award was not passed within two years as per the mandate of Section 11-A.

16. In our view, even if the objection of delay and laches had not been raised in the affidavits filed on behalf of BDA and the State Government, the High Court was duty-bound to take cognizance of the long time gap of nine years between the issue of declaration under Section 6(1) and filing of the writ petition, and declined relief to Respondent 1 on the ground that he was guilty of laches because the acquired land had been utilised for implementing the residential scheme and third-party rights had been created. The unexplained delay of about six years between the passing of award and filing of the writ petition was also sufficient for refusing to entertain the prayer made in the writ petition.

17. It is true that no limitation has been prescribed for filing a petition under Article 226 of the Constitution but one of the several rules of self-imposed restraint evolved by the superior courts is that the High Court will not entertain petitions filed after long lapse of time because that may adversely affect the settled/crystallised rights of the parties. If the writ petition is filed beyond the period of limitation prescribed for filing a civil suit for similar cause, the High Court will treat the delay unreasonable and decline to entertain the grievance of the petitioner on merits.

18. In State of M.P. v. Bhailal Bhai [AIR 1964 SC 1006] the Constitution Bench considered the effect of delay in filing writ petition under Article 226 of the Constitution and held: (AIR pp. 1011-12, paras 17 & 21)

> "*17.* … It has been made clear more than once that the power to give relief under Article 226 is a discretionary power. This is specially true in the case of power to issue writs in the nature of mandamus. Among the several matters which the High Courts rightly take into consideration in the exercise of that discretion is the delay made by the aggrieved party in seeking this special remedy and what excuse there is for it.

> … It is not easy nor is it desirable to lay down any rule for universal application. It may however be stated as a general rule that if there has been unreasonable delay the court ought not ordinarily to lend its aid to a party by this extraordinary remedy of mandamus.
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> *21*. … The learned counsel is right in his submission that the provisions of the Limitation Act do not as such apply to the granting of relief under Article 226. It appears to us however that the maximum period fixed by the legislature as the time within which the relief by a suit in a civil court must be brought may ordinarily be taken to be a reasonable standard by which delay in seeking remedy under Article 226 can be measured. This Court may consider the delay unreasonable even if it is less than the period of limitation prescribed for a civil action for the remedy but where the delay is more than this period, it will almost always be proper for the court to hold that it is unreasonable."

19. In matters involving challenge to the acquisition of land for public purpose, this Court has consistently held that delay in filing the writ petition should be viewed seriously and relief denied to the petitioner if he fails to offer plausible explanation for the delay. The Court has also held that the delay of even few years would be fatal to the cause of the petitioner, if the acquired land has been partly or wholly utilised for the public purpose.

20. In Ajodhya Bhagat v. State of Bihar [(1974) 2 SCC 501] this Court approved dismissal by the High Court of the writ petition filed by the appellant for quashing the acquisition of his land and observed: (SCC p. 506, para 23)

> "23. The High Court held that the appellants were guilty of delay and laches. The High Court relied on two important facts. First, that there was delivery of possession. The appellants alleged that it was a paper transaction. The High Court rightly rejected that contention. *Secondly, the High Court said that the Trust invested several lakhs of rupees for the construction of roads*

> *and material for development purposes. The appellants were in full knowledge of the same. The appellants did not take any steps. The High Court rightly said that to allow this type of challenge to an acquisition of large block of land piecemeal by the owners of some of the plots in succession would not be proper.* If this type of challenge is encouraged the various owners of small plots will come up with writ petitions and hold up the acquisition proceedings for more than a generation. The High Court rightly exercised discretion against the appellants. We do not see any reason to take a contrary view to the discretion exercised by the High Court."
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> (emphasis supplied)

21. In State of Rajasthan v. D.R. Laxmi [(1996) 6 SCC 445] this Court referred to Administrative Law by H.W.R. Wade (7th Edn.) at pp. 342-43 and observed: (SCC p. 453, para 10)

> "10. The order or action, if ultra vires the power, becomes void and it does not confer any right. But the action need not necessarily be set at naught in all events. Though the order may be void, if the party does not approach the Court within reasonable time, which is always a question of fact and have the order invalidated or acquiesced or waived, the discretion of the Court has to be exercised in a reasonable manner. When the discretion has been conferred on the Court, the Court may in appropriate case decline to grant the relief, even if it holds that the order was void. The net result is that extraordinary jurisdiction of the Court may not be exercised in such circumstances."

22. In Girdharan Prasad Missir v. State of Bihar [(1980) 2 SCC 83], the delay of 17 months was considered as a good ground for declining relief to the petitioner. In Municipal Corpn. of Greater Bombay v. Industrial Development Investment Co. (P) Ltd. [(1996) 11 SCC 501] this Court held: (SCC p. 452, para 9)

> "9. … It is thus, well-settled law that when there is inordinate delay in filing the writ petition and when all steps taken in the acquisition proceedings have

> become final, the Court should be loathe to quash the notifications. The High Court has, no doubt, discretionary powers under Article 226 of the Constitution to quash the notification under Section 4(1) and declaration under Section 6. But it should be exercised taking all relevant factors into pragmatic consideration. When the award was passed and possession was taken, the Court should not have exercised its power to quash the award which is a material factor to be taken into consideration before exercising the power under Article 226. The fact that no third-party rights were created in the case, is hardly a ground for interference. The Division Bench of the High Court was not right in interfering with the discretion exercised by the learned Single Judge dismissing the writ petition on the ground of laches."

23. In Urban Improvement Trust v. Bheru Lal [(2002) 7 SCC 712] this Court reversed the order of the Rajasthan High Court and held that the writ petition filed for quashing of acquisition of land for a residential scheme framed by the appellant Urban Improvement Trust was liable to be dismissed on the ground that the same was filed after two years.

24. In Ganpatibai v. State of M.P. [(2006) 7 SCC 508], the delay of 5 years was considered unreasonable and the order passed by the High Court refusing to entertain the writ petition was confirmed. In that case also the petitioner had initially filed a suit challenging the acquisition of land. The suit was dismissed in 2001. Thereafter, the writ petition was filed. This Court referred to an earlier judgment in State of Bihar v. Dhirendra Kumar [(1995) 4 SCC 229] and observed: (Ganpatibai case [(2006) 7 SCC 508] , SCC p. 510, para 9)

> "9. In State of Bihar v. Dhirendra Kumar [(1995) 4 SCC 229] this Court had observed that the civil suit was not maintainable and the remedy to question notification under Section 4 and the declaration under Section 6 of the Act was by filing a writ petition. Even thereafter the appellant, as noted above, pursued the suit in the civil court. The stand that five years after the filing of the suit, the decision was

> rendered does not in any way help the appellant. Even after the decision of this Court, the appellant continued to prosecute the suit till 2001, when the decision of this Court in 1995 had held that suit was not maintainable."

25. In Sawaran Lata v. State of Haryana [(2010) 4 SCC 532 : (2010) 2 SCC (Civ) 220] the dismissal of writ petition filed after seven years of the publication of declaration and five years of the award passed by the Collector was upheld by the Court and it was observed: (SCC p. 535, para 11)

> "11. In the instant case, it is not the case of the petitioners that they had not been aware of the acquisition proceedings as the only ground taken in the writ petition has been that substance of the notification under Section 4 and declaration under Section 6 of the 1894 Act had been published in the newspapers having no wide circulation. Even if the submission made by the petitioners is accepted, it cannot be presumed that they could not be aware of the acquisition proceedings for the reason that a very huge chunk of land belonging to a large number of tenure-holders had been notified for acquisition. Therefore, it should have been the talk of the town. Thus, it cannot be presumed that the petitioners could not have knowledge of the acquisition proceedings."

26. In the instant case, the acquired land was utilised for implementing Tulsi Nagar Residential Scheme inasmuch as after carrying out necessary development i.e. construction of roads, laying electricity, water and sewer lines, etc. BDA carved out plots, constructed flats for economically weaker sections and lower income group, invited applications for allotment of the plots and flats from general as well as reserved categories and allotted the same to eligible persons. In the process, BDA not only incurred huge expenditure but also created third-party rights. In this scenario, the delay of nine years from the date of publication of the declaration issued under Section 6(1) and almost six years from the date of passing of award should have been treated by the High Court as more than sufficient for denying equitable relief to Respondent 1.

> **27.** The two judgments relied upon by the learned counsel for Respondent 1 are not helpful to the cause of his client. In Vyalikaval Housebuilding Coop. Society v. V. Chandrappa [(2007) 9 SCC 304] this Court held that where the acquisition was found to be vitiated by fraud and mala fide, the delay in filing the writ petition cannot be made a ground for denying relief to the affected person. In Babu Ram v. State of Haryana [(2009) 10 SCC 115 : (2009) 4 SCC (Civ) 69] this Court held that the appellant cannot be denied relief merely because there was some delay in filing the writ petition. The facts of that case were that 34 kanals 2 marlas of land situated at Jind (Haryana) was acquired by the State Government under Section 4 read with Sections 17(2)(c) and 17(4) for construction of sewage treatment plant. Notification under Section 4 was issued on 23-11-2005 and declaration under Section 6 was issued on 2-1-2006. Mitaso Educational Society, Narwana, filed a suit for injuncting the State from constructing the sewage treatment plant in front of the school. On 15-2-2006, the trial court passed an order of injunction. In another suit filed by one Jagroop similar order was passed by the trial court. After some time, the appellant filed writ petition under Article 226 of the Constitution. Before this Court it was argued that relief should be denied to the appellant because there was delay in filing the writ petition. Rejecting this argument, the Court observed: (Babu Ram case [(2009) 10 SCC 115 : (2009) 4 SCC (Civ) 69] , SCC p. 122, para 32)
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> > "32. Since Section 5-A of the LA Act had been dispensed with, the stage under Section 9 was arrived at within six months from the date of the notice issued under Sections 4 and 17(2)(c) of the LA Act. While such notice was issued on 23-11-2005, the award under Section 11 was made on 23-5-2006. During this period, the appellants filed a suit and thereafter, withdrew the same and filed a writ petition in an attempt to protect their constitutional right to the property. It cannot, therefore, be said that there was either any negligence or lapse or delay on the part of the appellants.""

18. From the view expressed by the Supreme Court in the aforesaid cases, it is clear that when there is an

unexplanatory delay, the writ petition cannot be entertained. Here in this case, the petitioner has challenged the acquisition proceeding after lapse of almost three years from initiation of the said proceeding that too after passing the award by the Land Acquisition Officer on a very vague submission that the notification for initiation of the land acquisition proceeding was published in the newspapers which are not very renowned in the locality, but that stands does not survive for the reason that the newspapers like Deshbandhu, New Rashtra Bhraman and Dainik Bhaskar cannot be said to be the newspapers not in circulation or not known to the public. Even thereafter, the order-sheets filed by the respondents indicate the signatures of the farmers and even of the petitioner who took part in the proceeding, received the awarded amount, but not challenged the action of the Authority. As per the facts and stand taken by the respondents/State, the purpose for acquiring the land is nothing but a proposed scheme over Sunar river with an estimated cost of Rs.518.09 Crores for which the land of the Government area measuring 514.80 hectares is used and the land of the individuals to the extent of 286.189 hectares has been acquired and out of the said scheme, the expected area of the land to be irrigated and benefited would be 16200 hectares by Micro Irrigation Pressurized Pipe System. Thus, it is clear that it is not a case in which the Government is acquiring the land of the individuals and the land of Government despite availability is not being used whereas maximum area of the Government land is being utilized. It is also clear from the aforesaid that only on the Government land, the scheme as has been proposed cannot be implemented, therefore, the land of the individuals is also proposed to be acquired. Hence, the case of **Raghbir Singh Sehrawat** (supra) on which learned counsel for the petitioner has placed reliance is not applicable in the

present case.

19. The Supreme Court in the case reported in **(1997) 1 SCC 134 [Ramniklal N. Bhutta and another Vs. State of Maharashtra and others]** while cautioning the High Courts in interfering with the land acquisition proceedings in paragraph-10 of its judgment has observed as under:-

> "10…...Our country is now launched upon an ambitious programme of all-round economic advancement to make our economy competitive in the world market. We are anxious to attract foreign direct investment to the maximum extent. We propose to compete with China economically. We wish to attain the pace of progress achieved by some of the Asian countries, referred to as "Asian tigers", e.g., South Korea, Taiwan and Singapore. It is, however, recognised on all hands that the infrastructure necessary for sustaining such a pace of progress is woefully lacking in our country. The means of transportation, power and communications are in dire need of substantial improvement, expansion and modernisation. These things very often call for acquisition of land and that too without any delay. It is, however, natural that in most of these cases, the persons affected challenge the acquisition proceedings in courts. These challenges are generally in the shape of writ petitions filed in High Courts. Invariably, stay of acquisition is asked for and in some cases, orders by way of stay or injunction are also made. Whatever may have been the practices in the past, a time has come where the courts should keep the larger public interest in mind while exercising their power of granting stay/injunction. The power under Article 226 is discretionary. It will be exercised only in furtherance of interests of justice and not merely on the making out of a legal point. And in the matter of land acquisition for public purposes, the interests of justice and the public interest coalesce….."

The Supreme Court in a case reported in **(2004) 6 SCC 765 [Hira Tikko Vs. Union Territory, Chandigarh and others]** explaining the scope of principle of legitimate expectation has held that the doctrine cannot be pressed into service where the public interest is likely to suffer as against the personal interest of a party. The Supreme Court further in

the case reported in **(2004) 6 SCC 733 [Friends Colony Development committee Vs. State of Orissa]** has held that the private interest would stand subordinate to the public good. In the case at hand, over the acquired land, the respondents have completed their project by 60% to 70%, invested huge amount of money which is ultimately the public money and if the proceeding challenged by filing the writ petition after such a long delay is entertained and award is quashed to protect the interest of an individual who is otherwise not entitled to get any equity of law that would amount to great injustice with the public at large.

20. The Supreme Court, in fact, has observed that challenging the acquisition proceeding by filing the writ petition even with the delay of few months is fatal and the same cannot be entertained. However, the petitioner has disclosed in his petition that except the land acquired, he has no other land, but in lieu of the acquired land, an adequate amount of compensation has been determined and paid to the some of the land owners. The award was passed on 05.03.2020 and if the petitioner is not satisfied with the quantum of the compensation awarded, he has a remedy to challenge the award by filing a reference and the amount of award can also be enhanced by the competent Court.

21. Thus, I am not satisfied with the submissions made by learned counsel for the petitioner that for raising the grievance against the acquisition proceeding, writ petition can be entertained even ignoring the ground of delay and laches because there were material irregularities and the mandatory requirements have also not been followed, for the reason that the respondents by filing reply along with the documents have substantiated that the mandatory requirements have not been violated and the acquisition proceeding has been completed

after following due procedure of law and as such, the petitions filed by the petitioners suffer from delay and laches. The petitions are also not maintainable on the ground that the same have been filed after passing the award.

22. *Ex consequentia*, the petitions filed by the petitioners stand **dismissed** on the ground of delay and laches.

(SANJAY DWIVEDI)
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