

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 188-190 OF 2015
(Arising out of SLP (C) Nos. 17897-17899 of 2013)

INDIAN RARE EARTH LTD.

APPELLANT

VERSUS

BHAGAVAL DAS AND ANR. ETC.

RESPONDENTS

O R D E R

Leave granted.

These appeals have been preferred by the appellant-Indian Rare Earth Ltd. against the common order dated 29th November, 2012 passed by the Madras High Court Bench at Madurai in C.R.P. (NPP) (MD) Nos.1348, 1350 and 1662 of 2010. By the impugned common order, the High Court condoned the delay in filing the restoration application and restored the Land Acquisition Original Petition (hereinafter referred to as 'L.A.O.P.') filed by the respondents-landowners.

The learned counsel appearing on behalf of the appellant submits that there was a great delay in filing of the applications for restoration which were dismissed for non-prosecution. Alongwith applications for restoration, no application for condonation of delay was filed which were filed about three years after filing of the restoration applications.

A chart has been filed by the learned counsel for the appellant showing the details of L.A.O.P numbers preferred by the

respondents, delay of dismissal for non-prosecution, date of filing of restoration applications which are as follows:

S. No.	Name	L.A.O. P. No.	Date of Dismissal	Date of filing Restoration Application	Delay in filing of Restoration Application	Date of filing of Application for Condonation of Delay	Delay in filing of Condone Delay Application from the date of filing Restoration Application	Dismissal by Civil Court	Impugned Order
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1.	Neelan Nadar LR C. Vijay Kumar	L.A.O. P. No. 51/91	14.11.1 995	30.4.200 3 I.A. No. 219/2006	2692 days/ 8 years	16.10.20 06 I.A. No. 352/2006	3 years	18.12.2 009	29.11.20 12
2.	Bhagaval Das	L.A.O. P. No. 65/91	12.11.2 002	30.04.20 03 I.A. No. 215/2006	138 days	16.10.20 06 I.A. No. 355/2006	3 years	18.12.2 009	29.11.20 12
3.	S.K. Manikandan	L.A.O. P. No. 72/91	12.11.2 002	30.04.20 03 I.A. No. 218/2006	138 days	16.10.20 06 I.A. No. 350/2006	3 years	18.12.2 009	29.11.20 12

Initially the case was adjourned for amicable settlement between the parties. The learned counsel appearing on behalf of the Respondent-Bhagaval Das and respondent- S.K.Manikandan on instruction from the parties made the proposal which reads as follows:

"1. That the acquisition of lands from the same village as set out in pages "M to O" had been subjected to Reference under Section 18 at the instance of the various land owners before the Subordinate Judge.

2. That the Subordinate Judge had passed Orders enhancing the compensation from Rs.1,100/- per cent as fixed by the Special Tahsildar to Rs.4,500/- per cent

together with 30% Solatium and interest at 12%. One such order is dated 17.3.2003 and at paragraph 2 the date of 4(1) Notification had been given which is in respect of one of the lands set out in Page "0".

3. Therefore the same compensation of Rs.4,500/- together with Solatium and interest could be awarded as the Respondents had withdrawn the various appeals filed by them before the Madurai Bench as seen from the judgment enclosed.

4. That if compensation of Rs.4,500/- is accepted then the question relating to the period during which interest could be waived has to be decided. The period between 12.11.2002 (i.e.) the date of dismissal of LAOPs, till 16.10.2006 (i.e.) the date of filing of Condone Delay Application, which had been filed in view of the stand taken by the Special Tahsildar in the Counter to the Restoration Application filed by the land owners on 30.4.2003 itself, which will be 4 years need not carry interest.

5. Accordingly the SLP may be disposed of by fixing the compensation at Rs.4,500/- together with 30% Solatium, 12% interest from date of Section 4(1) Notification (16.03.1988/04.03.1988) till date of Award i.e. 19.08.2014 less the interest for a period of four years as stated above with direction to the petitioner to pay the entire amount as above within a period of 2 months failing which interest would become payable for the entire period till date of actual payment."

The learned counsel appearing on behalf of Respondent-Neelan Nadar through LR C. Vijay Kumar also made similar suggestion as made on behalf of other respondents as quoted above.

The learned counsel for the respondents relied on the decision in *Khazan Singh v. Union of India, (2002) 2 SCC 242*, and submitted that the Court could not have dismissed the L.A.O.Ps for non-prosecution.

The learned counsel for the appellant submits that the appellant is not supposed to pay interest for the period from the date of dismissal of L.A.O.Ps for non-prosecution up to the date of restoration i.e. 29th November, 2012.

We have heard the learned counsel for the parties and noticed the suggestions made on behalf of respondents.

In two cases in which Bhagaval Das and S.K.Manikandan are party respondents (L.A.O.P Nos. 65/91 and 72/91), delay in filing the restoration application is 138 days and the delay in filing the application for condonation of delay is three years. The rest of the delay we find is in disposal of the case. In the aforesaid circumstances, we are of the opinion that it has been rightly suggested on behalf of the respondents Bhagaval Das and S.K. Manikandan that they would forego the interest for the period of four years due to delay on their part.

In the case of Neelan Nadar Lr C.Vijay Kumar who was the applicant in L.A.O.P No.51/91, we find that there was a delay of about eight years in preferring the restoration application and three years in filing the application for condonation of delay. However, rest of the period had been taken due to delay in disposal of the application by the Court. Taking into consideration the nature of the case, we are of the view that the respondent Neelan Nadar through Lr. C.Vijay Kumar who was the applicant in L.A.O.P No.51/91 is not entitled for the interest for a period of eight years i.e. delay in filing restoration application.

In view of the suggestion made on behalf of respondents-Bhagaval Das and S.K. Manikandan which was also accepted by the respondent-Neelan Nadar, we are of the view that instead of dismissing the L.A.O.P. cases, they should have been adjourned for hearing on some other day. In the facts and circumstances of the case, instead of remanding the case back to the authorities, we direct the appellant to pay the respondents-applicants compensation at the rate of Rs.4,500/- per

cent together with 30% solatium and 12% interest from the date of issuance of Notification under Section 4(1) (16.03.1988/04.03.1988) till the date of Award less the interest for a period of 8 years in case of Neelan Nadar LR C. Vijay Kumar in L.A.O.P. No.51/91 and 4 years in cases of Bhagaval Das in L.A.O.P. No. 65/91 and S.K. Manikandan in L.A.O.P. No. 72/91. The appellant is further directed to pay the entire amount within a period of two months.

This order is subject to enhancement of compensation, if any, made by any other Court of Competent Jurisdiction.

L.A.O.P Nos. 51/91, 65/91 and 72/91 stand disposed of in terms of the aforesaid directions.

The impugned common order dated 29th November, 2012 passed by the Madras High Court, Bench at Madurai, stands modified to the extent above.

The appeals stand disposed of with the aforesaid observations and directions.

.....J.
[SUDHANSU JYOTI MUKHOPADHAYA]

.....J.
[N.V. RAMANA]

NEW DELHI;
JANUARY 08, 2015

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petitions for Special Leave to Appeal (C) Nos. 17897-17899/2013
(Arising out of impugned final judgment and order dated 29/11/2012
in CRP No. 1348/2010, CRP No. 1350/2010 and CRP No. 1662/2010
passed by the High Court of Madras)

INDIAN RARE EARTH LTD

Petitioner(s)

VERSUS

BHAGAVAL DAS AND ANR. ETC.

Respondent(s)

Date : 08/01/2015 These petitions were called on for hearing
today.

CORAM :

HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA
HON'BLE MR. JUSTICE N.V. RAMANA

For Petitioner(s) Mr. P.S. Narsimha, ASG
 Mr. E.R. Kumar, Adv.
 Mr. Somanadri, Adv.
 Mr. Shiv Thanu Mohan Adv.
 Mr. Abhishek Vinod Deshmukh, Adv.
 Mr. Anurag Tripathi, Adv.
 M/s. Parekh & Co.,Adv.

For Respondent(s) Mr. V. Prabhakar, Adv.
 Mr. Pramit Saxena, Adv.
 Ms. Jyoti Prashar, Adv.

 Mr. Ram Sankar, Adv.
 Mr. G. Ananda Solvam, Adv.
 Mr. K. Mayil Samy, Adv.
 Mr. R. V. Kameshwaran, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeals stand disposed of in terms of the Signed
Order.

(Rajni Mukhi)
Sr. P.A.

(Suman Jain)
Court Master

(Signed Order is placed on the file)