

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S) 9895-9896 OF 2017
Arising out of SLP(c) Nos. 26318-26319 of 2013

THE STATE OF ODISHA & ANR.

Petitioner(s)

VERSUS

MALATI BISWAL & ORS.

Respondent(s)

WITH

CIVIL APPEAL NO(S) 9897 OF 2017
Arising out of SLP(c) No.8313/2015

CIVIL APPEAL NO(S) 9898 OF 2017
Arising out of SLP (c) No.8321/2015

CIVIL APPEAL NO(S) 9899 OF 2017
Arising out of SLP(c) No.1364/2014

O R D E R

Leave granted.

Heard the learned counsel for the parties. The State of Orissa has come up in the appeals aggrieved by the orders passed by the High Court in the Writ Petitions which were filed by the respondents for allotment of the land. The High Court has allowed the writ applications by the impugned order on the ground that since the land had not been allotted to someone else, it would be appropriate to direct the State of Orissa to allot the land to the respondents who were agriculturalist and or in military. Thus, it would be appropriate to direct that the State of Orissa to realise

the market value of the property from them to make the allotment of the land.

Facts in short, indicates that the applications were invited by the State of Orissa for allotment of the land way back in the year 1987. Husband of Malati Biswal had filed application on 20.1.1987. Girija Sankar Mohapatra filed application on 1.4.1987. Pradip Kumar Mohanty filed it on 20.4.1987. Birachi Kumkar Dwivedy filed the application on 5.4.1989. Provisional orders of allotment were issued to all of them. With a clear stipulation that they would deposit the premium amount within 60 days failing which grace period of 15 days was granted. Thereafter, provisional allotment stood cancelled automatically on failure to deposit the premium.

The provisional allotment orders were issued to them on 6.4.1990, 24.7.1989, 20.3.1992 and 20.7.1989 respectively. However, it is an admitted fact that none of the respondents had deposited any premium as per the condition of provisional allotment and had filed the writ petitions after 18-23 years. The High Court has allowed the writ applications by the impugned orders. Hence the appeals.

We have heard the learned counsel for the parties at length. In our opinion, the impugned order passed by the High Court cannot be said to be sustainable at all.

The provisional allotment orders were issued to the respondents containing similar stipulations which were mentioned in the allotment letter of Shri Udaynath Biswal,

husband of Malati Biswal, the relevant clauses of the terms and conditions are extracted hereunder:

- "1) The premium of the plot is Rs. 24,794/-@Rs. 2,00,000/- per acre and 20% more amounting to Rs. 4959/- only is also charged because this plot is a corner plot. The total amount payable for the plot, thus, comes to Rs. 29,753/- only. The ground rent for the plot is at the rate of Rs. 150/- per acre per annum.
- 4) He/she (allottee) is required to deposit the premium of the allotted land amounting to Rs. 29,753/- (Rupees Twenty nine thousand seven hundred fifty three only) in one instalment within sixty days from the date of receipt of this order in shape of Treasury Challan under the Head of Account "0029-Land Revenue-107-Sale proceed of waste lands and redumption of land-Sale of Home Stead land in New Capital, Bhubaneswar" and send the original Treasury challan to this Department in proof of such deposit.

Provided that if he/she fails to deposit the premium within the above sixty days he/she may deposit the same within a further period of 15 days on payment of fine @ Rs.50/- per each day of delay. The fine towards delayed payment shall be deposited in separate Treasury Challan under the Head fo Account"0070-Other Administrative Services-60-Other Services-800-Other receipt-Fines for delay in deposit of premium of allotted land" and submit both the Treasury Challan in original, i.e. payment of premium and fine to this Department within 75 days from the date of receipt of this order failing which this formal allotment will stand automatically cancelled."

Aforesaid Clause 4 of the provisional allotment order made it clear that the amount of the premium was required to be deposited within 60 days from the date of provisional allotment letter, in the shape of treasury challan. In case of failure to deposit within 60 days, further grace time of 15 days was given by payment of fine of Rs.50/- each day for the delay,

failing which the allotment order would stand automatically cancelled.

In view of the aforesaid stipulation, it is clear that there was no necessity of passing any formal cancellation order and the provisional allotment order stood cancelled automatically due to admitted non-compliance of the requisites to be performed, as stipulated in the order of allotment. No reason has been shown good bad or otherwise why there was so much of delay in approaching the Court. Once the government has framed benevolent scheme for such people, it was incumbent upon them to take advantage of the same as stipulated in the scheme and the allotment orders within reasonable time, it would not be a sufficient ground in the facts of the case that since some of them have served the country, they can approach the court at any time after 20 years. Time cannot be relaxed after lapse of decades. The delay was inexcusable and due to laches on the part of the respondent they were not entitled for any relief.

Thus, the impugned order is hereby set aside. The appeals are, accordingly, allowed. No order as to costs.

.....J
(ARUN MISHRA)

.....J
(MOHAN M. SHANTANAGODAR)

NEW DELHI;
JULY 27, 2017

ITEM NO.1

COURT NO.10

SECTION XI -A

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

Petition(s) for Special Leave to Appeal (C) No(s).26318-26319/2013

(Arising out of impugned final judgment and order dated 26-09-2012 in WPC No. 2010/2012 08-11-2012 in MC No. 18126/2012 08-11-2012 in WP No. 2010/2012 passed by the High Court Of Orissa at Cuttack)

THE STATE OF ODISHA & ANR.

Petitioner(s)

VERSUS

MALATI BISWAL & ORS.

Respondent(s)

WITH

SLP(C) No. 8313/2015 (XI -A)

SLP(C) No. 8321/2015 (XI -A)

SLP(C) No. 1364/2014 (XI -A)

Date : 27-07-2017 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA

HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR

For Petitioner(s) Mr. Shibashish Misra, AOR
Mr. Ashish Kumar Sinha, Adv.
Mr. Suwendu Suvasis Dash, AOR
Mr. Swati Vaibhav, Adv.

For Respondent(s) Mr. Rimi Patnaik, Adv.
Mr. Avnish Kumar Sharma, Adv.
Mr. Kedar Nath Tripathy, AOR

Mr. Sibho Sankar Mishra, Adv.
Mr. Niranjana Sahu, Adv.

Mr. Sanjeeb Panigrahi, AOR
Mr. Tejaswi Kumar Pradhan, AOR

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

Leave granted.

The appeals are allowed in terms of the signed order.

(B. PARVATHI)
COURT MASTER (SH)

(TAPAN KUMAR CHAKRABORTY)
BRANCH OFFICER

(Signed order is placed on the file)