

**THE HIGH COURT OF TRIPURA
AGARTALA**

CRP. No. 17 of 2016
CRP. No. 25 of 2016
CRP. No. 34 of 2016
CRP. No. 46 of 2016
CRP. No. 55 of 2016
CRP. No. 56 of 2016
CRP. No. 57 of 2016
CRP. No. 58 of 2016

Crp. No. 17 of 2016

1. Sri Tarani Debbarma,
son of late Sukramani Debbarma,
2. Smt. Madhuri Debbarma,
wife of Sri Tarani Debbarma,
resident of Dhariyacharra, Prabhapur, P.S. Srinagar, District: Tripura West

.....Petitioners

- VERSUS -

1. The Oil and Natural Gas Corporation Ltd.,
Jiban Bharati Building, New Delhi - 110001
2. The Chairman-cum-Managing Director, ONGC Ltd.,
7th Floor, Jiban Bharati Building, New Delhi- 110001
3. The Asset Manager,
Oil and Natural Gas Corporation Ltd., Tripura Asset, Agartala,
Badharghat P.O. Arundhutinagar, P.S. Amtali, Agartala, West
Tripura, District: West Tripura, Pin: 799014
4. The Competent Authority (ROU),
Oil and Natural Gas Corporation Ltd.,
Quarters No. B-78, South colony, P.O. Badharghat, Agartala, Tripura West,
Pin-799014

.....Respondents

For the petitioners	: Mr. J. P. Saha, Advocate
For respondents No. 1-3	: Mr. Soumen Saha, Advocate
For the respondent No. 4	: Mr. A. L. Saha, Advocate

Crp. No. 25 of 2016

1. The Oil and Natural Gas Corporation Ltd.,
Jiban Bharati Building, New Delhi – 110001
2. The Chairman-cum-Managing Director, ONGC Ltd.,
7th Floor, Jiban Bharati Building, New Delhi- 110001
3. The Asset Manager,
Oil and Natural Gas Corporation Ltd., Tripura Asset, Agartala,
Badharghat P.O. Arundhutinagar, P.S. Amtali, Agartala, West
Tripura, District: West Tripura, Pin: 799014

4. The Competent Authority (ROU), Oil and Natural Gas Corporation Limited, Quarters No. B-78, South Colony, P.O. Badharghat, P.S. Amtali, Agartala, District: West Tripura, Pin-799014

.....Petitioners

- VERSUS -

Sri Sunil Das,
son of late Mahesh Das,
resident of Anandanagar, P.S. Srinagar, District: Tripura West

.....Respondent

For the petitioner : Mr. S. M. Chakraborty, Sr. Advocate
Mr. J. P. Saha, Advocate
For the respondents : MR. Soumen Saha, Advocate

Crp. No. 34 of 2016

Sri Priya Lal Debnath,
son of late Dinabandhu Debnath,
resident of Purbajumerdepa, P.S. Melaghar, District: Sepahijala, Tripura

.....Petitioner

- VERSUS -

1. The Oil and Natural Gas Corporation Ltd., Jiban Bharati Building, New Delhi – 110001
2. The Chairman-cum-Managing Director, ONGC Ltd., 7th Floor, Jiban Bharati Building, New Delhi- 110001
3. The Asset Manager, Oil and Natural Gas Corporation Ltd., Tripura Asset, Agartala, Badharghat P.O. Arundhutinagar, P.S. Amtali, Agartala, West Tripura, District: West Tripura, Pin: 799014
4. The Competent Authority (ROU), Oil and Natural Gas Corporation Limited, Quarters No. B-78, South Colony, P.O. Badharghat, P.S. Amtali, Agartala, District: West Tripura, Pin-799014

..... Respondents

For the petitioner : Mr. J. P. Saha, Advocate
For the respondents 1-3: Mr. Soumen Saha, Advocate
For respondent No. 4 : Mr. A. L. Saha, Advocate

Crp. No. 46 of 2016

Sri Samir Debbarma,
son of late Jatindra Debbarma,
resident of Kunaban, P.S. Bishalgarh, District: Sepahijala, Tripura

.....Petitioner

- VERSUS -

1. The Oil and Natural Gas Corporation Ltd., Jiban Bharati Building, New Delhi – 110001

- 2. The Chairman-cum-Managing Director, ONGC Ltd.,
7th Floor, Jiban Bharati Building, New Delhi- 110001
- 3. The Asset Manager,
Oil and Natural Gas Corporation Ltd.,Tripura Asset, Agartala,
Badharghat P.O. Arundhutinagar, P.S. Amtali, Agartala, West
Tripura, District: West Tripura, Pin: 799014
- 4. The Competent Authority (ROU), Oil and Natural Gas Corporation
Limited, Quarters No. B-78, South Colony, P.O. Badharghat,
P.S. Amtali, Agartala, District: West Tripura,Pin-799014

.....Respondents

For the petitioner : Mr. J. P. Saha, Advocate
For the respondents 1-3 : Mr. R. Dasgupta, Advocate
For the respondent No. 4 : Mr. A. L. Saha, Advocate

Crp. No. 55 of 2016

- 1. The Oil and Natural Gas Corporation Ltd.,
Jiban Bharati Building, New Delhi – 110001
- 2. The Chairman cum Managing Director, ONGC Ltd.,
7th Floor, Jiban Bharati Building, New Delhi- 110001
- 3. The Asset Manager,
Oil and Natural Gas Corporation Ltd.,Tripura Asset, Agartala,
Badharghat P.O. Arundhutinagar, P.S. Amtali, Agartala, West
Tripura, District: West Tripura, Pin: 799014
- 4. The Competent Authority (ROU), Oil and Natural Gas Corporation Limited,
Quarters No. B-78, South Colony, P.O. Badharghat, P.S. Amtali, Agartala,
District: West Tripura,Pin-799014

.....Petitioners

- VERSUS -

Shri Ramesh Das,
son of late Lalit Mohan Das,
resident of Prabhapur, P.S. Srinagar, District: Tripura West

.....Respondent

For the petitioners : Mr. S. M. Chakraborty, Sr. Advocate
Mr. Soumen Saha, Advocate
For the respondent : Mr. B. Choudhury, Advocate

Crp. No. 56 of 2016

- 1. The Oil and Natural Gas Corporation Ltd.,
Jeevan Bharati Building, New Delhi - 110001
- 2. The Chairman-cum-Managing Director, ONGC Ltd.,
7th Floor, Jeevan Bharati Building, New Delhi- 110001
- 3. The Asset Manager,
Oil and Natural Gas Corporation Ltd., Tripura Asset, Agartala,
P.O. Badharghat, District: West Tripura, Pin: 799014
- 4. Competent Authority (ROU), ONGC Ltd.,

Qtrs. B-78, South Colony, P.O. Badharghat, Agartala, District:
West Tripura, Pin: 799014

.....Petitioners

- VERSUS -

Sri Monoranjan Debnath,
son of late Jagabandhu Debnath,
resident of Purba-Jumerdepha, P.S. Melagarh, District: Sipahijala, Tripura

.....Respondent

For the petitioners : Mr. S. M. Chakraborty, Sr. Advocate
Mr. Soumen Saha, Advocate
For the respondent : Mr. B. Choudhury, Advocate

Crp. No. 57 of 2016

1. The Oil and Natural Gas Corporation Ltd.,
Jeevan Bharati Building, New Delhi - 110001
2. The Chairman-cum-Managing Director, ONGC Ltd.,
7th Floor, Jeevan Bharati Building, New Delhi- 110001
3. The Asset Manager,
Oil and Natural Gas Corporation Ltd., Tripura Asset, Agartala, P.O.
Badharghat, District: West Tripura, Pin: 799014
4. Competent Authority (ROU), ONGC Ltd.,
Qtrs. B-78, South Colony, P.O. Badharghat, Agartala, District: West Tripura,
Pin: 799014

.....Petitioners

- VERSUS -

1. Shri Lab Kumar Debbarma,
son of late Sonabasi Debbarma,
2. Smt Laxmisri Debbarma,
wife of Shri Lab Kumar Debbarma,
both are residents of Konaban, P.S. Bishalgarh, District: Sipahijala, Tripura

.....Respondents

For the petitioners : Mr. S. M. Chakraborty, Sr. Adv
Mr. Soumen Choudhury, Advocate
For the respondent : Mr. B. Choudhry, Adv.

Crp. No. 58 of 2016

1. The Oil and Natural Gas Corporation Ltd.,
Jeevan Bharati Building, New Delhi - 110001
2. The Chairman-cum-Managing Director, ONGC Ltd.,
7th Floor, Jeevan Bharati Building, New Delhi- 110001
3. The Asset Manager,
Oil and Natural Gas Corporation Ltd., Tripura Asset, Agartala, P.O.
Badharghat, District: West Tripura, Pin: 799014
4. Competent Authority (ROU), ONGC Ltd.,
Qtrs. B-78, South Colony, P.O. Badharghat, Agartala, District: West Tripura,
Pin: 799014

- VERSUS -

.....Petitioners

Shri Subhash Barman,
son of late Darika Barman,
resident of Anandanagar, P.S. Sreenagar, District: West Tripura

.....Respondent

For the petitioners : Mr. S. M. Chakraborty, Sr. Adv
Mr. Soumen Saha, Advocate
For the respondent : Mr. B. Choudhury, Adv.

BEFORE
THE HON'BLE MR. JUSTICE S. TALAPATRA

Date of hearing : 02.03.2017
Date of delivery of Judgment
and order : 30.05.2017
Whether fit for reporting : YES

Judgment and Order(CAV)

All these petitions filed under Article 227 of the Constitution of India being CRP. 17 of 2016 [Sri Tarani Debbarma & Another. v. ONGC Ltd. and Others], CRP. 25 of 2016 [Sri Sunil Das v. ONGC Ltd. and Others], CRP. 34 of 2016 [Sri Priya Lal Debnathj v.ONGC Ltd. and Others], CRP. 46 of 2016 [Sri Samir Debbarma v. ONGC Ltd. and Others], CRP. 55 of 2016 [ONGC Ltd. and Others v. Shri Ramesh Das], CRP. 56 of 2016 [ONGC Ltd and Others v. Sri Monoranjan Debnath], CRP. 57 of 2016 [ONGC Ltd. and Others v. Shri Lab Kumar Debbarma & Another.] and CRP. 58 of 2016 [ONGC Ltd. and Others v. Shri Subhash Barman] are consolidated and clustered for disposal by a common judgment

[2] It is to be noted at the outset that CRP. No. 25 of 2016, CRP. No. 55 of 2016, CRP. No. 56 of 2016, CRP. No. 57 of 2016 and CRP. No. 58 of 2016, have been filed by the ONGC Ltd, the

requiring agency and the remaining revision petitions have been filed by the persons from whom the right of user in land has been acquired in terms of provision of the Petroleum and Minerals Pipe Lines [Acquisition of Right of User in Land] Act, 1962.

[3] All these revision petitions are structured on the questions viz:

(i) Whether the limitation as prescribed by Rule 5 of the Petroleum and Minerals Pipe Lines [Acquisition of Right of User in Land] Rules 1963 would start from the day of incidence like receipt of payment or execution of indemnity bond in respect of the unfettered use of the land or for any other reasons or from the day when the person from whom right of user in land is acquired received the intimation from the competent authority under Rule 4(c) of the said Rules?

(ii) Whether the appreciation of evidence made by the District Judge suffers from manifest illegality warranting interference under the supervisory jurisdiction of the High Court?

[4] Mr. S. Saha, learned counsel appearing for the ONGC has submitted a list of dates from where it can be availed when the competent authority passed the award, when the person from whom right to user of land has been acquired had received the cheque, the date of filing the petition in the court of the District Judge under Section 10(2) of Petroleum and Minerals Pipe Lines [Acquisition of Right of User in Land] Act 1962 (for short, the PMP Act) and after how many days the petition under Section 10(2) of the said PMP Act was filed from the day of receipt of the cheque. The said information has not been contested by any one. Thus, it would be profitable if a table is made out of those information which then would be as under:

Table

CRP No.	Name of parties	Date of award by the CA	Date of receipt of cheque	Date of filing Ptn under Section 10(2)	Time taken in filing Pts. under Section 10(2) from receipt of cheque
17 of 2016	Tarini Debbarma & Another v. ONGC	28.06.2012	28.06.2012	16.02.2013	240 days (in place of 90 days)
34 of 2016	Priyalal Debnath v. ONGC	20.05.2011	20.05.2011	26.11.2012	632 days (in place of 90 days)
25 of 2016	ONGC vs. Sunil Das	05.12.2011	05.12.2011	26.11.2012	351 days (in place of 90 days)
55 of 2016	ONGC. Vs. Ramesh Das	28.06.12	28.06.2012	16.02.2013	237 days (in place of 90 days)
56 of 2016	ONGC vs. Monoranjn Das	10.05.2011	10.05.2011	26.11.2012	560 days (in place of 90 days)
57 of 2017	ONGC vs. Lab Debbarma & another	04.10.2012	15.10.2012	16.02.2013	123 days (in place of 90 days)
58 of 2016	ONGC. Vs. Subhash Barman	09.06.2012	18.06.2012	22.09.2012	95 days (in place of 90 days)

[5] For purpose of decision, the fact and the impugned finding as challenged in each of the Civil Revision Petitions are required to be traversed separately. It is made clear that the issue relating to “intimation” and its nature thereof and the related questions that would emerge on application of Rule 5 of the Petroleum and Minerals Pipe Lines [Acquisition of Right of User in Land] Rules, 1963 (in short PMP Rules), which provides as follows:

“5. Application to the District Judge for determination of compensation – Any party aggrieved by the determination of compensation may prefer an application to the District Judge within the limits of whose jurisdiction of land or any part thereof is situated, not later than ninety days of the receipt of the intimation from the competent authority under rule 4(3)”.

CRP. 17 of 2016 [Sri Tarani Debbarma & Another. v. ONGC Ltd. and Others]

[6] The fact not in dispute is that the petitioners namely, Sri Tarani Debbarma and Smt. Madhuri Debbnarm are the owners and possessor of the land appertaining to the plot No. 4940 under Khatian No. 1220 of Mouja Prabhapur measuring 0.55 acre. The petitioners raised rubber plantation and other valuable trees in the year 1999. The petitioners had started collecting latex from the rubber trees. It is not under challenge that the notification dated 23.03.2012 was issued under section (1)3 of the PMP Act for acquisition of the right to user of the land to lay pipelines for supply of gas to the Palatana Project. The petitioners herein did not raise any serious objection against such acquisition.

[7] The competent authority has in the cause assessed the damage against the rubber trees, Segun trees, Awal trees, Gamai Trees, Acasia Tree and mango trees at Rs. 3,36,146/- by the revised order dated 28.06.2012 on cancellation of the earlier order dated 19.12.2011. The rates that were given as under:

Rubber trees – 87 Nos. x 3333 /-	= Rs. 2,89,971/-
Sagun Trees – 33 Nos. 3 x 800/-	= Rs. 26,400/-
Awal Trees 27 Nos. 2 x 250/-	= 6,750/-
Gamai Trees – 31 Nos. 2 x 75/-	= 2,325/-
Akasia Tree 21 Nos. x 450/-	= 9,450/-
Mango trees 5 Nos. 2 x 250	= 1,250/-
Total	Rs. 336146/-

[8] As the petitioners were not satisfied with the said compensation inasmuch as their claim was Rs. 8,70,000/-, they preferred petition under Section 10(2) of the PMP Act for determining the just compensation in the court of the District

Judge, West Tripura Agartala being Misc (L.A.) 8 of 2013. The

respondents No. 1 to 4 filed a written objection contending inter alia that the said petition was not maintainable being barred by limitation as provided under Rule 5 of the PMP Rules. According to them, the compensation was just, legal, adequate and reasonable.

[9] A special application was also filed under Section 151 for the questioning the maintainability, conversion and registration of Misc (LA.) 8 of 2013 [which was registered on 06.03.2013] as Civil Misc PMP 14 of 2014 [registered on 2.07.2014]. As regards, this jurisprudential objection, this court has already decided that nobody can be allowed to suffer for any bona fide mistake committed by the Court and such mistake can be corrected by the Court by invoking its inherent jurisdiction for substantive ends of justice. Initially the case was no doubt wrongly registered. Hence, that objection was not considered.

[10] The judgment dated 28.03.2015 delivered in Civil Misc (PMP) 46 of 2014 has been challenged in the CRP. 17 of 2016. The District Judge has observed that the competent authority passed the award on 28.06.2012 and obtained signature of one of the claimants namely Tarani Debbarma on the order sheet [**Exhibit 5 series**]. It also appears from the record that said Tarani Debbarma signed one indemnity bond on the same day i.e. 28.06.2012 [**Exhibit-B**]. In the said indemnity bond what has been provided is that the petitioners do not have any objection if the gas pipeline is laid over their land as they have received 10% of their land value. Further that they would

not raise any objection if the respondents No. 1, 2 and 3 constructed any building or any structure or excavate any tank, well, reservoir or dam or plant any tree on that land.

[11] The petitioner No. 1 namely Tarani Debbarma has stated that despite his informed objection about the prorated compensation in respect of the land, but finally, the assessment of the plantation has been considered inadequate. He has submitted several documents including a copy of the calculation of capitalized value for rubber plant dated 02.11.2011 issued by the Tripura Rehabilitation Plantation Ltd. [TRPC in short] which has been admitted as [Exhibit -4] on comparing with the originals. He has also introduced the documents which are marked as [Exhibit-1, 2, 3, 5 series, 6, 7 and 8]. Appearing for the respondents No. 1, 2, 3 and 4, one Rampada Jamatia has admitted in the cross examination that no signature of the claimants or witness was taken in the award dated 19.12.2011. No copy of the award was submitted with the petition under Section 10(2) of the PMP Act. What is pertinent to state is that the question has been raised in respect of the revised award dated 28.06.2012. By the impugned judgment dated 28.03.2015, the District Judge having regard to the date of filing of the petition under Section 10(2) of the PMP Act i.e. 16.02.2013 it has been further observed that:

“The object of Rule 5 and Rule 4(3) in question is to bring to the notice of the claimants that assessment of compensation has been made. The PMP Rules does not provide in what manner this information shall be given. In the case in hand, in view of obtaining signature of

claimant Tarani Debbarma in the order sheet as well in the Indemnity Bond as reflected above by the O.P., the only logical conclusion is that he got the information that the order was passed on 28.06.2012. The case not being filed within 90 days of this, in view of Rule 5 of the PMP Rules, the case is not maintainable.”

[12] On returning such finding, the District Judge refused to a fresh determination in respect of the loss that the petitioners had suffered for such acquisition. It transpires from the record that even though the said petition was apparently barred by limitation, but no application for condoning the delay was filed despite this Court has held in **Adhir Ch. Paul v. Union of India** reported (2015) 1 TLR 925, that an application within the meaning of the Section-5 of the limitation Act is maintainable for condoning the delay in filing the application under Section 10(2) of the PMP Act.

[13] There is no dispute that the revised order of compensation was passed on 28.06.2012 and the said petition under Section 10(2) of PMP Act was filed by the petitioner on 16.02.2013 and thus, apparently the said petition was barred by limitation. Whether for lack of intimation, the petitioners are entitled to get condonation of the said delay or not cannot be determined by the District Judge, unless such application under Section-5 of the Limitation Act narrating all those facts and caused are brought to the notice of the District Judge for determination of sufficient cause. Hence, this Court is of the view that the impugned judgment dated 28.03.2015 does not suffer from any infirmity as the petitioners failed to file the appropriate application for condonation of delay.

Even, in the petition there is no explanation in this respect. It is

made clear that in such cases a separate application under Section-5 of the Limitation Act has to be filed by the persons for condoning such delay under Section-5 of the limitation Act in terms of the proposition as curved out in **Adhir Ch. Paul** (supra).

CRP 25 of 2016 [ONGC Ltd. and Others v. Sri Sunil Das]

[14] The respondent in this Case is the owner and possessor of plots No. 7705, 7706, 7707, 7708, 7702, 7703, 7561, 7558, 7559 and 7557 under Khatians No. 61, 1/31, 1/32, 3336 and 1102 of mouja Ananda Nagar measuring 1.48 acre. The respondent raised rubber plantation and other valuable trees in the year 2002. He had started collecting latex and fruits. By the notification dated 12.08.2011 under section 3(1) of the PMP Act, a part of the said land for [limited to use] had been sought to be acquired. The competent authority assessed the loss, apart from the pro-rata loss of the land, at Rs. 18 per banana tree, [31 in total] per bamboo Rs. 2/- [161 in total], per Segun tree having girth of 3'6" at Rs. 800/- [15 in total] Segun tree having girth of 2'6" at Rs. 75 per tree [12 in total] the rubber trees (8 to 9 years) per rubber tree Rs. 800/-[347 in total] 400 meters of bamboo fencing at Rs. 9,000/- Rs. 50 per other tree [15 in total] per Gourd plant Rs. 100/- [204 in total] and for another 700 meters of bamboo fencing at Rs. 10,000/. Since the respondent was not satisfied with the said award he filed petition under Section 10(2) of the PMP Act to the District Judge on 26.11.2012, whereas the award was passed on 05.12.2011. There

is an indemnity bond in respect of the petitioner's no objection in laying down the pipelines or making any other structure etc, in the same format as obtained from the petitioner of CRP 17 of 2016.

[15] The petitioners herein have raised the objection regarding the maintainability. But the respondent did not file any application for condonation, notwithstanding the law as laid down by this court in **Adhir Ch. Paul** (supra). The District Judge has however, observed as under:

"It is continued that in this case, the award in question was passed on 05.12.2011 but the case was filed as late as on 26.11.2012. The case is thus clearly barred by law of limitation and thus not maintainable.

Learned counsel for the claimant replies that on O.P. did not inform the claimant in writing that compensation was being fixed on his application. So, the requirement of Rule 5 and Rule 4(3) of the PMP Rules was not complied with.

8. Rule 5 of the PMP Rules runs as follows:

Application to the District Judge for determination of compensation- any party aggrieved by the determination of the amount of compensation may prefer an application to the District Judge within the limits of whose jurisdiction the land or any part thereof is situated, not later than ninety days of receipt of the intimation from the competent authority under Rule 4(3)."

Rule 4(3) of the PMP Rules runs as follows:

(3) The Competent Authority shall, on receipt of the claim for compensation, make such inquiry as provided in rule 4A and fix the compensation and thereafter inform the parties referred to in sub-section (2) and (5) of Section 10 of the amount of compensation, so fixed."

9. The object o Rule 5 and Rule 4(3) in question is to bring to the notice of the claimant that assessment of compensation has been made so as to enable the claimant to take next appropriate step. In the case in hand, from the side of O.P. nothing could be shown that on passing the award, the claimant was informed. Os, argument of the learned counsel of the claimant that only on receipt of the certified true copy of the award on 31.10.2012, claimant could come to know about the award is to be accepted. Further argument that thereafter the case being filed on 26.11.2012, the case is not barred by limitation is also to be accepted."

[16] The petitioners herein have challenged this finding on the ground that they did not get any opportunity to resist the point of limitation inasmuch as there was no application under Section-5 of the Limitation Act in terms of **Adhir Ch. Paul** (supra) as there was no application from the side of the petitioner and there was no averments in the application as well.

[17] Mr. J. P. Saha, learned counsel having relied a previous decision of this Court in **ONGC vs. Biplab Deb Roy** etc. [judgment and order dated 29.09.2016 delivered in CRP No. 12 of 2016 and other] has contended that this Court has clearly stated that from the day of receiving the substantive intimation the limitation would start. This Court is of the view, having noticed the ratio laid down in **Adhir Ch. Pual** that it was the duty of the respondent to file an application under Section-5 of the Limitation Act laying down the causes of delay. In absence of such application under Section-5 of the Limitation, the District Judge ought not have decided whether the delay which has admittedly been occurred in filing the petition under Section 10(2) of the PMP Act could be condoned or not. Hence this judgment and order dated 26.11.2015 delivered CRP (PMP) 64 of 2014 as challenged in this CRP No. 25 of 2016 is interfered with and set aside.

CRP 34 of 2016 [Sri Priya Lal Debnathj v.ONGC Ltd. and Others],

[18] The fact which is not under dispute is that the petitioner is the owner and possessor of plots No. 3791 and 3793 under Mouja Purbajumerdhepa measuring 0.36 acre. The right to use of that land was acquired by the respondent Nos. 1, 2 and 3 for laying pipelines for their thermal project at Palatana. The petitioner had executed an indemnity bond extending no objection that the respondents No. 1, 2 and 3 shall have the right to use that land, to construct building or construction, excavate tank or well, reservoir or plants and to raise plantation. The petitioner had claimed compensation for damage of 116 rubber trees 63 borak bamboos 1 Jam tree and 2 Garjan trees. The respondent had also carried out a field inquiry in the matter.

[19] By filing a written objection under Section-5 of the PMP Act, the petitioner had claimed Rs. 10,000/- per rubber tree Rs. 7,500/- per Garjan tree Rs. 100/- per bamboo Rs. 7,500/- for jam tree. Thus, it came to Rs. 11.88.800/-. But ignoring the said claim, the competent authority by the order dated 15.06.2011 has only given a sum of Rs. 12,000/- as compensation against the claim observing that the matter was inquired locally and as per the inquiry report it has been revealed that under two plots No. 3791/P and 3793/P only the land measuring 0.06 acre would be utilized and for such utilization only 15 rubber trees would be damaged and accordingly the loss was determined at Rs. 12,000/-. Though the said order was passed on 15.06.2011 the petitioner filed an

application under Section 10(2) of the PMP Act on 26.11.2012 and thus, apparently the said application was barred by limitation.

[20] The petitioner did not file any application for condoning the delay, even no explanation or cause for such delay has been provide in the application under Section 10(2) of the PMP Act. The District Judge, by the judgment dated 08.01.2016 delivered Civil Misc 46 of 2014 has dismissed the petition holding that the said petition is clearly barred by limitation as provided under Rule 5 of the PMP Rules.

[21] The said judgment dated 08.01.2016 is under challenge in this CRP No. 64 of 2016. As observed no application under Section-5 of the Limitation Act has been filed by the petitioner laying the cause for condoning the delay that occurred in fling the petition under Section 10(2) of the PMP act. In view of the ratio laid in **Adhir Ch. Paul** (supra), it was the duty of the petitioner to file such application. It is to be further noticed that even if there was sufficient cause, unless a proper application under Section-5 of the Limitation Act is filed, the Court cannot extend its jurisdiction to condone the delay inasmuch as in view of Rule 5 of the PMP Rules, the petition under Section 10(2) of the PMP Act has to be filed within a period of 90(ninety) days. The respondents No. 1-3 had valued right to oppose the prayer and as such, this Court does find any infirmity in the impugned judgment and order and accordingly, the civil revision petition being CRP No. 34 of 2016 is dismissed.

CRP 46 of 2016 [Sri Samir Debbarma v. ONGC Ltd. and Others]

[22] The facts are mostly undisputed in this case. The petitioner is the owner and was the possessor of Plot No. 222 under Khatian No. 1/3 of Mouja Konaban measuring 2.38 acre of tilla class of land. After death of his father, namely, Jatindra Debbarma, he became of the owner of the said land by inheritance. He raised the rubber plantation during the life-time of his father. By the notification under S.O.2608(E) dated 22.10.2010 issued by the Ministry of Petroleum and Natural Gas the respondents No. 1, 2 and 3 acquired the right of user under the PMP Act.

[23] The competent authority based on the report of the field inquiry had determined the loss the petitioner that he had suffered for acquisition of right of user in respect of the said land measuring 0.38 acre. At the time of such determination, the competent authority, the respondent No. 4 found that the trees standing on the land measuring 0.63 acre, which is beyond the acquisition, have suffered damage due to laying of the gas pipeline for the Thermal Power Plant at Palatana installed by respondents No. 1, 2 and 3. Accordingly, by the order dated 11.03.2012 the competent authority determined the loss as sustained by the petitioner to the extent of Rs. 1,28,597/- in the following manner:

Segun Trees -21 Nos (3-0) (3-6) x 800/- = 16,800/-
Segun Trees 11 Nos (2-0)(2-6) x 75/- = 825/-
Rubber Tree 130 Nos. (8-11) yrs.x 800/- = 1,04,000/-
Rubber trees 130 Nos21 Nos. (7-8)yrs.x 332/- = 6,972/-
Total = Rs. 1,28,597/-

[24] Being dissatisfied with the said determination, the petitioner filed a petition under Section 10(2) of the PMP Act on 09.10.2012. Though the said application under Section 10(2) of the PMP Act was apparently barred by Limitation, no application under Section-5 of the Limitation Act was filed assigning the cause for such delay for purpose of condoning the same. Even in the petition, no such cause has been assigned.

[25] By the judgment dated 08.03.2016, the District Judge has dismissed the petition by holding that the petitioner has not filed any application for condonation of delay under Section-5 of the Limitation Act. If filed, it could have considered whether the delay could be condoned or not. The said judgment is under challenge in CRP No. 46 of 2016. However, the District Judge has categorically observed by the said judgment dated 08.03.2016 that the said petition filed by the petitioner under Section 10(2) of the PMP Act is barred by the Limitation Act.

[26] Mr. J. P. Saha learned counsel has submitted that the petitioner did not receive any intimation as required under Rule 4(2) of the PMP Act and as such it cannot be held that the petition was barred by limitation. Mr. Dasgupta, learned counsel appearing for the respondents No. 1, 2 and 3 had seriously contested the proposition by stating that when the petition under Section 10(2) of the PMP Act was apparently barred by limitation, unless the petition under Section-5 of the Limitation Act had been filed

assigning sufficient cause, the District Judge could not extend its jurisdiction to entertain the petition under Section 10(2) of the PMP Act.

[27] This Court is totally in agreement with the submission of Mr. Dagupta, learned counsel, inasmuch as whether a delay would be condoned or not, depends on the fact or cause and interpretation of law. If any person is entitled to any benefit in respect of delay that can only be extended if an application under Section-5 of the Limitation Act is filed, not otherwise. In view of the above, this Court does not find any merit in this petition and accordingly, the same is dismissed.

CRP 55 of 2016 [ONGC Ltd. And Others v. Shri Ramesh Das]

[28] The facts are mostly not in dispute. The respondent is the Owner and was the possessor of the plot. No. 4881 under Khatian Nos. 1-300 and 297 of mouja Prabhapur measuring 2.25 acre where the respondent raised rubber plantation since 2005 and he had started collecting latex. By the notification dated 12.08.2011 issued under Section 3(1) of the PMP Act, a piece of land measuring 0.59 acre out of that land was acquired to use the right for laying gas pipeline for the Thermal Gas Project at Palatana, as installed by the respondents No. 1, 2 and 3.

[29] Even though the respondent has raised objection under Section-5(2) of the PMP Act but by the order dated 28.06.2012 the

competent authority had determined the compensation for loss that the respondent would imminently suffer for damage of 117 rubber trees. But no compensation was paid for use of the land. The respondent claimed Rs. 10,000/- per rubber tree, Rs. 7,500/- per Gamai tree and Rs. 7,500/- for Segun tree. Being dissatisfied by the said determination, as evident from the order 28.06.2012, the respondent filed the petition under Section 10(2) of the PMP Act for determination of just compensation, being Misc (LA) 09 of 2012 in the Court of District Judge. The said petition was filed on 16.02.2013.

[30] It is apparent on the face of the record that the said petition was barred by limitation as Rule-5 of the PMP Rules provides that such petition under Section 10(2) of the PMP Act shall be filed within 90(ninety) days from the day when the order had filed, determining the compensation is communicated. The petitioners No. 1, 2 and 3 by filing the written objection against the application being Civil Misc 47 of 2015 for condoning the delay. On consideration, the prayer for conodonation of the delay was allowed.

[31] The District Judge had in the course of inquiry recorded the evidence, both oral and documentary, and finally by the judgment and order dated 08.01.2016 had observed as under:

Issue No. 3

“Exhibits 1 to 4 and 7 series are the documents proved from the side of the claimant regarding assessment of compensation of rubber tree. No document is proved in this regard from the said of the O.P. Documents exhibited by the claimants are similar in nature, i.e.

calculation of capitalized value of a Rubber tree according to the age of trees. Of these documents, Exbt. 3 and 4 are relevant to this case being prepared on 05.10.2010 and 02.11.2011 respectively and date of notification under Section 3 of the PMP Act being 23.03.2012. As per exhibit-3, latex yielding starts in the 7th year and the value of each tree at that time is calculated as Rs. 7,143/-. In Exhibit-4, though the value of a tree in the first year is shown as Rs. 7,143/-, in terms of Exhibit- 3, first year of yielding latex is the seventh year of the tree. So, in Exbt. 4, first year is to be treated as the seventh year of the tree. In Exbt. 5, the award, the age of each rubber tree are shown as 4-5 years. Case of the claimant however is that the plantation started in the year 2005 and notice was issued on 12.08.2011. So, age of the trees is taken as between 6-7 years. In accordance with Exbt. 4, the value of tree of 6-7 years old, taking average, comes to Rs. 5,506/-. The O.P. has applied the rate prescribed in Exbt. 2 in making the assessment. Exbt. 4 prepared on 02.11.2011 are preferable to Exbt. 2 prepared on 29.04.2008 notification under Section 3(1) of the Act being published on 23.03.2012. So, Rs. 5,506/- ought to have been fixed as the rate of compensation for each rubber tree instead of Rs. 3,333/-.”

[32] As urged by the petitioner that appreciation is not proper and there is no infirmity in the determination of the competent authority. This court is on scrutiny of the records of evidence of the view that such unbridled re-appreciation as urged is not permissible under Article-227 of the Constitution of India. In **Shalini Shyam Shetty and Anr., v. Rajendra Shankar Patil** reported (2010) 8 SCC 329, the Apex Court has observed that the High Court can set aside or reverse the finding of an inferior court or tribunal only in a case where there is no evidence or where no reasonable person could possibly have come to the conclusion which the court or tribunal has come to. Except to this limited “extent”, the High Court has no jurisdiction to interfere with the finding of fact.

[33] Thus, this Court is unable of interfere with the said findings as recorded in the judgment and order dated 08.01.2016,

which is under challenged in this CRP No. 55 of 2016. Having held so, this revision petition stands dismissed.

CRP 56 of 2016 [ONGC Ltd and Others v. Sri Monoranjan Debnath]

[34] The facts are not in dispute that the respondent is the owner and was the possessor of plots No. 3845, 3848, 3846, 3559, 3875, 3796 and 4264 under khatians No. 237, 686 and 49 of Mouja Purbajumerdhepa measuring 4.00 acre along with the some Khas land. Over that land the respondent raised rubber plantation from the year 2002 and 2005. He had also excavated a pond for fisheries. By the notice dated 01.03.2001, the competent authority under PMP Act, has acquired a tract of contiguous land measuring 2.10 acre out of the said land for laying down gas pipelines for the Thermal Power Project at Palatala, as installed by the petitioners No. 1 , 2 and 3 in exercise of power conferred by Section 3(1) of the said Act. The respondent raised objection, but by the order dated 12.05.2011 the competent authority determined compensation at Rs. 1,76,000/- for 204 rubber trees and other trees.

[35] The respondent being aggrieved by the said assessment, filed the petition under Section 10(2) of the PMP act for determination of just compensation viz-a-viz the damage that the respondent has suffered for acquisition of right to use of the said land. The respondent claimed compensation for 2000 fishes @ Rs. 200/- per fish, for 204 rubber trees @ Rs. 10,000/- per tree, 200 banana trees @ 1,000/- per plant, 25 betel nut trees @ 1,000/- per

tree and 10 gamai trees @ 7,500/- per tree . The petitioners herein by filing the written statement had disputed such claim by contending that the compensation as assessed is just and proper.

[36] After recording the evidence both oral and documentary, the District Judge held that the documents (**Exhibit-4, Exhibit 5 series, Exhibit -6 and Exhibit -7 series**) have reflected a consistent method of calculation. Based thereon, he enhanced the compensation. On the basis of the analogy as reflected, the compensation for 45 trees at Rs. 5,804/- per tree and 149 trees at Rs. 4911/- per tree has been assessed. But the compensation relating to the other trees and pond remained unchanged. The District Judge has further observed that the compensation as reassessed shall be paid within a period of 60 days from the date of the judgment.

[37] That amount would also carry interest at 6% from the date of expiry of 60 days till realization. It has been further observed that the amount that has been already paid shall be deducted from the total compensation. For coming to such conclusion the analogy as provided by the District Judge is reproduced as under:

“Exhibits 4, 5 series and 6 are the documents proved from the side of the claimant regarding assessment of compensation of rubber tree. No document is proved in this regard from the side of the O.P. Documents exhibited by the claimant are similar in nature, i.e. calculation of capitalized value of a rubber tree according to age of tree. Of these documents, Exbt. 5 series, Memorandum of TRPC dated 05.10.2010 and 6 are relevant to this case being prepared on 05.10.2010 and 02.11.2011 respectively and date of notification under Section 3 of the PMP Act being 04.11.2010 and notice of the O.P. vide Exbt. 2 series being dated 10.06.2011. As

per Memorandum of TRPC dated 05.10.2010, Exbt. 5 series, latex yielding starts in the 7th year and the value of each tree at that time is calculated as Rs. 7,143/-. In Exbt. 6, though the value of a tree in the first year is shown as Rs. 7143/- in terms of Exbt. 5 series, first year of yielding latex is the seventh year of the tree. So, in Exbt. 6, first year is to be treated as the seventh year of the tree. As per Exbt. E series, one of the awards, 45 nos. of rubber trees were aged 5 to 6 years. In accordance with Exbt. 6, the value of rubber tree of 5 to 6 years age, taking average, comes to Rs. 5804/-. As per the other award under Exbt. E series, 149 nos. of rubber trees were aged 8 to 9 years. In terms of Exbt. 6, the value of rubber tree of 8-9 years age, taking average, comes to Rs. 4911/-. The O.P. seems to have applied the rate prescribed in letter No. NRETC/EST/1/32/10-11 dated 25.10.2010 of the Rubber Board at the rate of Rs. 264/- per tree for trees aged 5 to 6 years and Rs. 800/- per tree aged 8 to 9 years in making the assessment. The document is not proved from the side of the O.P. So, it is not possible for this Court to examine the document to consider the applicability in the case. The documents proved by the claimant discussed above are considered consistent method of calculation of compensation of rubber trees and this rate is being applied by this Court in many other cases in making similar assessment. This rate will accordingly apply in this case as well in preference to the one applied by the O.P.”

[38] The petitioners adduced one witness namely Rampada Jamatiay, OPW -1, who has stated that on the basis of the field inquiry report, the competent authority had decided the rate. Though in the written statement, filed by the respondent, no specific ground was taken as to the limitation, but in the affidavit OPW -1 has stated beyond the pleading that the petition was time barred.

[39] On careful scrutiny of this petition filed under Article 227 of the Constitution of India it surfaces that several grounds of objection have been projected for challenging the said judgment dated 04.01.2016 as delivered in Civil Misc (PMP) 66 of 2014 passed by the District Judge, West Tripura Agartala. The documents which were considered by the District Judge were not filed before the competent authority.

[40] Further, it has been urged that the uprooted trees were taken away by the land owner and were sold to the market with or without permission from the Forest department. The finding on the matter relating to the intimation is untenable. They have urged that the matter may be remanded to the District Judge for retrial. In respect of the limitation, the petitioners have categorically raised that the date on which the amount of compensation of award was awarded by the competent authority that should be relevant date for counting the limitation of the 90 days.

[41] It appears from the record that since there was no specific pleading in respect of limitation, no issue was framed by the District Judge. In absence of pleadings, non-framing of issue cannot be held illegal. By way of evidence such plea cannot be made out, unless the same has been taken specifically in the written objection. In the written objection it has been generally stated that the claim petition is barred by law of limitation, waiver and acquiescence but there is no pleadings how the petition filed under Section 10(2) of the PMP Act, was barred. Since the issue is based on the fact and law, if the fact is not pleaded, expectedly no specific issue would be framed. That apart, the document, the bond, that has been introduced in the record of evidence does not carry any date. As such, on the face of the records it can be derived that the petition was barred by limitation.

[42] This Court, after scrutiny of the records, does not find any ground to hold that the appreciation and analogy was of such nature which would persuade this Court to interfere. The jurisdictional limit is well laid by the Apex Court in **Shalini Shyam Shetty** (supra), hence this petition stands dismissed.

CRP 57 of 2016 [ONGC Ltd. and Others v. Shri Lab Kumar Debbarma & Ors.]

[43] There is no dispute that the respondents are the owners and were the possessors of the Plot No. 583/2762 under Khatian No. 969 of Mouja Kunjaban measuring 2.18 acre where they raised plantation of valuable trees. The petitioner No. 4 had given the notice in respect of acquisition of right to use of the land measuring 0.96 acre for laying gas pipelines for supply of gas to the Thermal Power Plant at Palatana as per the provisions of Section 3(1) of the PMP Act.

[44] The respondents have filed the written objection under Section 5(2) of the Act. In the public interest, the competent authority assessed the compensation in respect of the damage that has been suffered by the respondents to the extent of Rs. 2,37,711/- for 67 rubber trees and 29 gamai trees and other valuable trees.

[45] Being aggrieved, the responders filed an application under Section 10(2) of the PMP Rules, as they claimed compensation at Rs. 10,000/- per rubber tree, at Rs. 7,500/- per

gamai tree and for the land Rs. 2,00,000/- per kani. The issues which were framed are inter alia, whether the said petition was time barred and whether the compensation as assessed by the competent authority is adequate and proper?

[46] In respect of the question of limitation the District Judge has observed that there is no evidence that the intimation was given to the respondents. What the District Judge has observed is that “.....there is no date against the signature issuing the certified true copy. So, from the award, it is not proved that it came to the knowledge of the claimants on the date of passing it or on what date it came to their knowledge.” Hence, it has been categorically held the case is not barred by limitation.

[47] After recording the evidence the District Judge has observed as under:

“11. Exhibit-1 to 4 and 6 series are the documents proved from the side of the claimants regarding assessment of compensation of rubber tree. No document is proved in this regard from the side of the O.P. Documents exhibited by the claimants are similar in nature, i.e. calculation of capitalized value of a Rubber tree according to age of tree. Of these documents, Exbt. 3 and 4 are relevant to this case being prepared on 05.10.2010 and 02.11.2011 respectively and date of notification under Section 3 of the PMP Act being 22.10.2010. As per Exbt. 3 latex yielding starts in the 7th year and the value of each tree at that time is calculated Rs. 7143/-. In Exbt. 4 though the value of a tree in the first year is shown as Rs. 7143/-, in terms of Exbt. 3, first year of yielding latex is the seventh year of the tree. So, in Exbt. 4 first year is to be treated as the seventh year of the tree. As per award, the rubber trees were aged 5-6 years. In accordance with Exbt. 4, the value of tree of 5-6 years age, taking average, comes to Rs. 5804/-. The O.P. has applied the rate prescribed in Exbt. 2 o/e/ Rs. 3333/- per tree in making the assessment. This rate was prescribed on 29.04.2008 whereas the date of notification is 22.10.2010. So, Exbts. 3 and 4 prepared on 05.10.2010 and 02.11.2011 are definitely preferable to Exbt. 2 prescribing the rate on 29.04.2008. So, Rs. 5804/- ought to have been fixed

as the rate of compensation for each rubber tree instead of Rs. 3333/-.

Regarding gamai tree, claimants have failed to prove any prescribed rate. Exbt. 5 referred in this regard at the time of argument though prescribes a rate, it is in cubic meter for round timber whereas in the award, description of the gamai tree is given without specifying the unit of measurement for which no calculation in terms of cubic meter is possible. Hence, no enhancement of rate of gamai tree comes into question.

Claimants have failed to prove any sale deed or any other document relating to the rate of the land or of any adjoining land as the basis of claim of compensation for the land. For this, there is absolutely no document before this Court to assess any compensation for land. So, they are not entitled to get any compensation over what was paid to them vide Exbt. 'F' series for the land."

[48] In view of the above analogy, the compensation was enhanced to Rs. 5,804/- per rubber tree instead of Rs. 3,333/- and the rates were not interfered with. The said judgment dated 04.01.2016 which has been challenged in this petition on the ground that the documents as placed before the District Judge were not placed before the competent authority. The uprooted trees were taken away by the respondent and sold in the market and further, the point of limitation has been reiterated but the ground is not descriptive at all.

[49] The petitioners have further raised questions regarding the method of ascertaining the age of the rubber trees. There was no documentary evidence. But from the field inquiry report it appears that the rubber trees were 5-6 years old and the said report has also asserted the girth of trees. In this regard, there is no assertion by the petitioners.

[50] Thus, on scrutiny of the records this Court does not find either the analogy or the finding based thereupon suffers from

any illegality and in view of **Shalini Shyam Shetty** (supra), this Court is not inclined to interfere with the findings so returned by the District Judge. In the result, this petition stands dismissed.

CRP 58 of 2016 [ONGC Ltd. and Others v. Shri Subhash Barman]

[51] There is no dispute that the respondent is the owner and was the possessor of plot Nos. 7528/p, 7532/p, 7536/p, and 7538/p under Khatian Nos. 3422 and 2937 of Mouja Anandanagar for the land measuring 0.50 acre where he planted rubber trees in the year 2005. The competent authority issued the notice to acquire right to use of the land to lay pipelines for supply gas to the Thermal Power Plant at Palatana under Section 3(1) of the PMP Act. The respondent filed his objection under Section 5(1) (2) of the PMP Act. But in the public interest, the competent authority, by the order dated 07.06.2012, assessed the compensation to the tune of Rs. 3,66,630/- as the damage against 110 rubber trees,.

[52] Being aggrieved the respondent filed the petition under Section 10(2) of the PMP Act for fresh determination of the compensation on the basis of the rate at Rs. 10,000/- per tree and for the land Rs. 1,000,000/- per kani. The petitioners herein filed the written statement raising the ground of non-maintainability of the said petition. On considering of the pleadings the relevant issue that was framed is whether the compensation assessed by the competent authority adequate and proper?

[53] From scrutiny of the written agreement, it does appear that no material is laid to show how the said petition was barred by limitation. But the petitioners by adducing one witness namely, Rampaa Jamatiya OPW -1 could not shed any light on what was the basis of raising such objection as to the limitation.

[54] By the judgment dated 08.01.2016, the District Judge has returned the finding on that issue which reads as under:

“Exhibits-1 to 4 are the documents proved from the side of the claimant regarding assessment of compensation of rubber tree. No document is proved in this regard from the side of the O.P. Documents exhibited by the claimants are similar in nature, i.e. calculation of capitalized value of a rubber tree according to age of tree. Of these documents, Exbt. 3 is relevant to this case being prepared on 05.10.2010 and dated of notification under Section 3 of the PMP Act being 07.01.2011. As per Exbt. 3, latex yielding starts in the 7th year and the value of each tree at that time is calculated as Rs. 7143/-. In Exbt. 4, though the value of a tree in the first year is shown as Rs. 7143/-, in terms of Exbt. 3, first year of yielding latex is the seventh year of the tree. So, in Exbt. 4, first year is to be treated as the seventh year of the tree. The O.P. has applied the rate prescribed in Exbt. 2 prepared on 29.04.2008 in making the assessment. Notification under Section 3 of the Act being made on 07.01.2011, the O.P. ought to have taken the revised rate of rubber tree made by the same authority i.e. TRPC Ltd. on 5th December, 2010 vide Exbt. 3 which is also the basis of preparation of Exbt. 4, a notification of the same authority prepared on 02.11.2011. As per Exbt. 3, and 4 value of a rubber tree in the 7th year is Rs. 7143/- . As per case of the claimant, his rubber trees were aged 7 years. So, this is the rate at which the claimant was entitled to get the compensation.”

[55] The said judgment dated 08.01.2016 is under challenge in this petition on the grounds of objection that uprooted trees were taken away by the land owners and sold to the market. Even the question of limitation has been reiterated though, as already pointed out, no materials have been placed by way of pleading or by evidence.

[56] Further it has been stated that there is no cogent documentary evidence regarding the age of the trees. While advancing such plea, the petitioners did not take notice of the pleading that the rubber trees were planted in the month of April 2005. Such pleadings have not been disputed in the written statement or the evidence adduced on behalf of the petitioners. The notification for acquisition was issued on 30.06.2011. Therefore, the rubber trees were more than 6 years old and according to the observation made by the competent authority in the order dated 07.06.2012, the capital value of 6 years old rubber tree was Rs. 10,000/- per tree.

[57] Having scrutinized the records, this Court does not find any infirmity in the findings as returned by the District Judge by the judgment dated 08.01.2016. It is to be noted that there is no evidence that the uprooted trees were taken by the respondent and sold in the market. As there is no manifest illegality or any streak of perversity in appreciation of the evidence. Having regard to the principles of **Shalini Shyam Shetty** (supra), this Court is not inclined to interfere with the findings so returned by the District Judge. In the result this petition stands dismissed.

[58] In the scrutiny of the records it has surfaced that this Court has made certain and sudden general misconception in respect of Rule 5 of the PMP Rules, which provides as quoted above. The misconception or the confusion if formulated would be (a) what

would be the meaning and purport of the word ‘intimation’ as appearing in Rule 5 of the PMP Rules, (b) whether signing on the receipt register or acknowledgement or any other indenture would amount to receipt of intimation from the competent authority under Rule 4(3) of the PMP Rules, and (c) whether, if intimation is not received or there is a claim and a counter-claim in respect of the intimation, a formal application under Section-5 of the Limitation Act, shall be filed in view of the law laid down in **Adhir Ch. Paul** (supra).

[59] In **Biplab Deb Roy** (supra), this Court had occasion to observe that mere intimation or mere knowledge would not suffice, it shall be substantive, meaning that the intimation shall carry unsubstantive knowledge or the relevant part thereof. Its communicating thereafter, shall be established.

[60] In **Raja Harish Chandra Raj Singh v. The Deputy Land Acquisition**, reported in **AIR 1961 SC 1500** the Apex Court had occasioned to hold as under:

“5.It seems clear to us that the ratio of the decision in Harish Chandra Case is that the party affected by the award must know it, actually or constructively, and the period of six months will run from the date of that knowledge, Now knowledge of the award does not mean it must relate to the essential contents of the award. These contents may be known either actually or constructively. If the award is communicated to a party under Section 12(2) of the Act, the party must be obviously fixed similarly when a party is present in court either personally or through his representative when the award is made by the Collector, it must be presumed that he knows the contents of the award. Having regard to the scheme of the Act we think that knowledge of the award must mean knowledge of the essential contents of the award.”

[Emphasis added]

[61] The said proposition has been restated by the Apex Court in **State of Punjab v. Mst. Qaisar Jehan Begum and Arn.**, reported in **AIR 1963 SC 1604** and in **Premji Nathu v. State of Gujarat and Another** reported in **(2012) 5 SCC 250**. Thus, this Court is of the view that intimation would mean a substantive communication in writing. It would be safer that the competent authority enclosed a copy of the order awarding the compensation with the said intimation.

[62] For purpose of calculating 90 days as the limitation for filing the petition under Section 10(2) of the PMP Act, the date of receipt of such communication along with the order awarding the compensation would be the relevant date. In future, the competent authority shall ensure that such communication is made forthwith after passing the order awarding the compensation to the person from whom the right to use of the land is acquired.

[63] If for any reason, in between, some other communications are entered, it would be the duty of that person from whom the land has been acquired for purpose of use, to file an application under Section-5 of the Limitation Act stating the causes and also stating that such communication cannot be treated as intimation as appearing in Rule 4(3) of the PMP Rules.

[64] On the basis of that fact and the causes so assigned, the competent court i.e. the District Judge shall decide whether the communication is adequate or not or whether the causes so assigned

are sufficient to condone the delay or not. In absence of such application under Section-5 of the Limitation Act, the application under Section-10(2) of the PMP Act, shall be dismissed. In every petition as filed under Section-10(2) of the PMP Act, there shall be a statement regarding on which date the petitioner received the intimation from the competent authority or how the petitioner had gathered the knowledge of the order of awarding compensation.

[65] It is made therefore clear that mere signing on the receipt register or any other document or indemnity bond not relating to the substantive content of the award cannot form 'intimation'. Intimation must be substantive and as a safer course, it must carry a copy of the order of award. No other document shall be considered, as intimation.

In terms of the above, the petitions being CRP No. 17 of 2016 , CRP No. 34 of 2016 , CRP No. 46 of 2016, CRP No. 55 of 2016 , CRP No. 56 of 2016 CRP No. 57 of 2016 and CRP No. 58 of 2016 are dismissed as stated whereas the CRP No. 25 of 2016 is allowed. However there shall be no order as to costs. Transmit the LCRs forthwith.

JUDGE

A.Ghosh