

**IN THE HIGH COURT OF HIMACHAL PRADESH**  
**AT SHIMLA**

**CMP(M) No.1255 of 2024**  
**In/and**  
**Unnumbered LPA No.261/2024**  
**Reserved on:12.09.2024**  
**Pronounced on: 23.09.2024**

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State of HP & others	Versus	.....Applicants
Ambrish Upadhyay		.....Respondent

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**Coram:**

***Hon'ble Mr. Justice M.S. Ramachandra Rao, Chief Justice.***  
***Hon'ble Mr. Justice Satyen Vaidya, Judge.***

Whether approved for reporting?

For the applicants : Mr. Arsh Rattan, Deputy Advocate General.

For the respondent : Nemo.

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**M.S. Ramachandra Rao, Chief Justice.**

**CMP(M) No.1255 of 2024**

This application is filed by the applicants-State under Section 5 of the Indian Limitation Act, 1963 to condone delay of 116 days in filing this appeal challenging the judgment dt. 14.03.2024 passed by the learned Single Judge in CWP no.4957 of 2023.

Since the delay in filing the appeal is not inordinate, we are condoning the same. The application is accordingly allowed.

LPA No.261 /2024

In this case, the land of the respondent had been utilized by the appellants for constructing roads without acquiring the same and without paying any compensation to the respondents.

2. Therefore, the respondent approached this Court and sought directions to the appellants to acquire his land and pay them compensation in accordance with law in a time bound manner.

3. The appellants sought to oppose grant of relief to the respondent on the ground of delay and laches, and also on the pretext that while the road was being constructed, the respondent had not raised any objection, but had voluntarily donated the land for construction of the road.

4. The learned Single rejected the contentions of the appellants/State by placing reliance on the judgments of the Supreme Court in *Vidya Devi vs. State of Himachal Pradesh and others*<sup>1</sup>, and *Sukh Dutt Ratra vs. State of Himachal Pradesh & others*<sup>2</sup>, wherein, the Supreme Court had held that the plea of delay and laches cannot be raised in the case of a continuing cause of action, especially in land acquisition matters, where acts of the State shock the conscience of the Court; and that to forcibly dispossess a person of his private property without following due process of law, would be violative of a “*Human*

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<sup>1</sup> (2020) 2 SCC 569

<sup>2</sup> (2022) 7 SCC 508

*Right*” and also a “*Constitutional Right*” under Article 300A of the Constitution of India; and the plea of oral consent to the acquisition has no legal sanction and cannot be countenanced.

5. We completely agree with the reasoning of the learned Single Judge in the impugned judgment and find no merit in the appeals. Accordingly, all these appeals are dismissed. No costs.

6. Pending miscellaneous application(s), if any, shall also stand disposed of.

**(M.S. Ramachandra Rao)**  
**Chief Justice**

**(Satyen Vaidya)**  
**Judge**

**September 23, 2024**  
*(Yashwant)*