

GAHC010025962023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : I.A.(Civil)/453/2023

M/S WELKIN PROMOTERS PVT LTD AND ANR
REPRESENTED BY ITS DIRECTOR JARNEL SINGH, OFFICE AT S.K BARUAH
ROAD, BYE LANE NO. 1 (EAST) HOUSE NO. 8, RUKMININAGAR, DISPUR
GUWAHATI, 781006, KAMRUP M ASSAM

2: JARNEL SINGH
S/O LATE SEWA SINGH
RESIDENT OF S.K BARUAH ROAD
BYE LANE NO. 1 (EAST) HOUSE NO. 8
RUKMININAGAR
DISPUR GUWAHATI
781006
KAMRUP M ASSA

VERSUS

ON THE DEATH OF BANKIM CH CHANGKAKOTI BIPASHA CHANGKAKOTI
AND 3 ORS
D/O LATE BANKIM CH CHANGKAKOTI, AND RESIDENT OF PRATEETI,
HOUSE NO. 34 BYE LANE NO. 9, WEST .RG BARUAH ROAD, GUWAHATI
781024, KAMRUP M ASSAM

2:DR. INDRANI CHANGKAKOTI

D/O LATE BANKIM CH CHANGKAKOTI
AND RESIDENT OF PRATEETI
HOUSE NO. 34 BYE LANE NO. 9
WEST .RG BARUAH ROAD
GUWAHATI 781024
KAMRUP M ASSAM

3:SUJATA CHANGKAKOTI
D/O LATE BANKIM CH CHANGKAKOTI
AND RESIDENT OF PRATEETI

HOUSE NO. 34 BYE LANE NO. 9
WEST .RG BARUAH ROAD
GUWAHATI 781024
KAMRUP M ASSAM

4:ARUP JYOTI CHANGKAKOTI
S/O LATE BANKIM CH CHANGKAKOTI
AND RESIDENT OF PRATEETI
HOUSE NO. 34 BYE LANE NO. 9
WEST .RG BARUAH ROAD
GUWAHATI 781024
KAMRUP M ASSA

Advocate for the Petitioner : MR. R K BHUYAN

Advocate for the Respondent : MR. B D DEKA

Linked Case : FRS Filing No. 1391 of 2023

M/S WELKIN PROMOTERS PVT LTD AND ANR

VERSUS

ON THE DEATH OF BANKIM CH CHANGKAKOTI BIPASHA CHANGKAKOTI
AND 3 ORS (A)

Advocate for : MR. R K BHUYAN
Advocate for : appearing for ON THE DEATH OF BANKIM CH CHANGKAKOTI
BIPASHA CHANGKAKOTI AND 3 ORS (A)

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 05.06.2023

Heard Mr. R.K. Bhuyan, the learned counsel appearing on behalf of the
Applicants. Mr. B.D. Deka, the learned counsel appears on behalf of the

Respondent Nos. 1 to 4.

2. This is an application under Section 5 of the Limitation Act, 1963 for condoning the delay of 250 days in filing the connected appeal against the judgment and decree dated 28/4/2021 passed by the Court of the Civil Judge No. 2, Kamrup (Metro) at Guwahati in Title Suit No. 434/2018 .

3. It is the case of the Applicants that in view of the settlement between the Applicants and the predecessors of the Respondent No. 1 to 4, the Applicants did not appear in the said suit which had resulted in the ex-parte decree passed against the Applicants. This aspect of the matter however has been denied by the Respondent Nos. 1 to 4 on the ground that there was no settlement or compromise between the predecessors of the Respondent No. 1 to 4 with the Applicants.

4. The fact as to whether there were a negotiation as claimed by the Applicants or not is a question of fact which if gone into would only delay the adjudication of the accompanying appeal.

5. Taking into account the above, the counsels appearing on behalf of the parties agree that rather than delaying the matter on the question of delay in filing the appeal, the matter be decided on merits. Accordingly, the delay of 250 days in preferring the accompanying appeal stands condoned.

6. The Registry is therefore directed to register the accompanying appeal and list the matter for admission after 2(two) weeks.

7. It is made clear that this Court had only on the basis of consensus of early adjudication of the matter have condoned the delay. The averments made in the application regarding the negotiation between the Applicants and the predecessor of the Respondents have not been decided and the condonation of

delay shall not be deemed to mean that the Respondent Nos. 1 to 4 had accepted the averments made in the Application for condonation of delay.

8. The I.A. stands disposed off accordingly.

JUDGE

Comparing Assistant