

GAHC040017222023



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

Case No. : IA(C)/210/2023

Kakit Jopir and 18 Ors
S/o Shri Tuser Jopir, R/o Mongku-Merom of Karko Village, PO and PS Jengging,
District Upper Siang, Arunachal Pradesh.

2: Moni Apang

Age:

Occupation :

3: Akom Jopir

Age:

Occupation :

4: Melam Jopir

Age:

Occupation :

5: Tukleng Apang

Age:

Occupation :

6: Katon Jopir

Age:

Occupation :

7: Tusel Jopir

Age:

Occupation :

8: Bedang Apang

Age:

Occupation :

9: Dulik Jopir

Age:

Occupation :

10: Kangut Jopir

Age:

Occupation :

11: Lido Apang

Age:

Occupation :

12: Emoh Jopir

Age:

Occupation :

13: Mingang Jopir

Age:

Occupation :

14: Angging Jongkey

Age:

Occupation :

15: Onyo Jopir

Age:

Occupation :

16: Olom Jopir

Age:

Occupation :

17: Dikong Jopir

Age:

Occupation :

18: Kadum Jongkey

Age:

Occupation :

19: Geni Jopir

Age:

Occupation

VERSUS

Jomlong Pangkam and Anr.

S/o Lt. Lasik Pangkam, Karko Village, PO and PS Jengging, District Upper-Siang,
Arunachal Pradesh. 2:Olik Apang

Age: 0

Occupation

Advocate for the Petitioner : C. Modi

Advocate for the Respondent : O. Modi

BEFORE
HONBLE MRS. JUSTICE MARLI VANKUNG

ORDER

Date : 25.07.2024.

Heard Mr. C. Modi, learned counsel for the applicants and Mr. O. Modi, learned counsel for the respondents.

This is an application filed under Section 5 of the Limitation Act, praying for the condonation of delay of 108 days in filing the connected revision petition against the order passed by the Deputy Commissioner, Yingkiong upper Siang

dated 30.05.2023.

The learned counsel for the applicants submits that the reasons and explanation for the delay of 108 days in filing the connected revision petition has been explained in detail at paragraphs 8, 9 & 10 of the condonation application. He submits that the reasons for the delay of condonation is explained from 29th August, 2023 till the date of filing the revision petition on 15.12.2023 since the period from 30.05.2023 to 28.08.2023, which is 3 (three) months, is the revision period allowed under the Limitation Act. He submits that the impugned order was not issued out by the Deputy Commissioner till August 2023 and thereafter, the President of Kardo Mongku Merom, who had led the parties in the previous Kebang was not in a position to continue due to his personal problem and as such, there was chaos among the petitioners as to who would lead the case, which took around 2 (two) months to finalized the matter amongst the petitioners. Thereafter, the case was handed over to the counsel in the last part of November at Pasighat, but since the counsel had some personal problems, the case was again handed over to the present counsel during the 2nd week of December, 2023. As a result, there was a delay of 108 days which is not due to negligence or laches on the part of the petitioners.

The learned counsel for the applicants/petitioners further submits that the applicants/petitioners are the residents of border area of Arunachal Pradesh, where there is no proper road or internet connection. This caused communication gap between the villagers and the main town people which also caused unintentional delay in filing the revision petition. The learned counsel

further submits that unless the delay is condoned, the applicants would suffer great loss since the case of the applicants is with regards to the inheritance of their ancestral land which the applicants had been using for the purpose of cultivation, trapping and gathering since the time of immemorial. That unless the applicants/petitioners are given the opportunity to be heard, there would be great miscarriage of justice.

Mr. O. Modi, learned counsel for the respondents, on the other hand submits that the reason for the delay of 108 days has not been properly explained and that there was no sufficient cause made out for the condonation of delay. The learned counsel submits that the applicants/petitioners had wrongly submitted that the Deputy Commissioner, Yingkiong had not issued the order till the month of August, 2023, since the applicants/petitioners were also present on the date when the impugned Order dated 30.05.2023 was issued. He further submits that the village where the applicants belonged to is not in the border area and there is proper mobile network, internet service and good road communication. He further submits that the delay is due to the negligence and laches on the part of the applicants, who were sleeping over their rights for more than 100 days.

I have heard the submissions made by the learned counsels for both the parties and I have also perused the condonation application and other documents on record.

This Court finds that the explanation given by the applicants that the delay was due to the chaos amongst the petitioners, when the President of Karko Mongku Merom had left his position, which led to the delay of about 2

(two) months to finalize the person who would lead the case, an acceptable explanation. This Court is also satisfied with the explanation given that time was also taken to engaged a new counsel since the previous counsel engaged by the applicants/petitioners could not represent their case due to personal problems. Thus, considering the explanation given in its entirety, this Court finds that sufficient reasons have been made out for the delay of 108 days in filing the connected revision petition, which is not due to the negligence or laches on the part of the applicants.

Accordingly, this Court find it fit to condone the delay of 108 days in filing the connected revision petition and disposed of the instant I.A.(C) No. 210/2023.

JUDGE

Comparing Assistant