

GAHC010002102024



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

Case No. : I.A.(Civil)/206/2024

ON THE DEATH OF LACHIT SONA AND LATE SARASWATI SONA, HER
LEGAL HEIRS
KUNDAN SONA, S/O LATE LACHIT SONA, R/O SEALKOTTEE TEA ESTATE,
RANGAMATI DIVISION LINE NO. 1, P.O., P.S. CHABUA AND DIST.
DIBRUGARH, ASSAM.

2: SRI CHANDAN SONA

S/O LATE LACHIT SONA
R/O SEALKOTTEE TEA ESTATE
RANGAMATI DIVISION LINE NO. 1
P.O.
P.S. CHABUA AND DIST. DIBRUGARH
ASSAM.

3: SMTI MOUSUMI SONA

D/O LATE LACHIT SONA
R/O SEALKOTTEE TEA ESTATE
RANGAMATI DIVISION LINE NO. 1
P.O.
P.S. CHABUA AND DIST. DIBRUGARH
ASSAM

VERSUS

SRI ALBIN NARK DIAS AND 2 ORS
S/O SRI C.M. DIAS, R/O PLOT NO. 9, ETABHATA, DIGBOI, P.S. DIGBOI, DIST.
TINSUKIA, ASSAM (OWNER OF BUS BEARING REGISTRATION NO. AS-23C-
3221)

2:SRI AJIT SINGH
S/O SRI T. SINGH
R/O LEKHAPANI

P.S. DIGBOI
DIST. TINSUKIA
ASSAM (DRIVER OF A BUS VEHICLE BEARING REGISTRATION NO. AS-23C-3221)

3:THE NEW INDIA ASSURANCE CO. LTD.
TINSUKIA BRANCH
P.O. AND P.S. AND DIST. TINSUKIA
ASSAM (INSURER OF A BUS VEHICLE BEARING REGISTRATION NO. AS-23C-3221)

Advocate for the Petitioner : MR G N SAHEWALLA, MR M SAHEWALLA,MR H K SARMA,MS T J SAHEWALLA,MD. ASLAM

Advocate for the Respondent : MR. K K BHATTA, MS JONA TALUKDAR (R3)

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 13.09.2024

Heard Mr. H.K. Sarma, learned counsel for the applicants and Mr. K.K. Bhatta, learned counsel for the opposite party No. 3.

2. This interlocutory application, under Section 5 of the Limitation Act, is preferred by the applicants for condonation of delay of 1422 days in preferring the application for substitution of the legal heirs of Late Lachit Sona and Late Saraswati Sona.

3. Mr. Sarma, learned counsel for the applicants submits that the appellant/claimant No. 1 Lachit Sona suffered demise on 07.09.2018 and appellant/claimant No. 2 Saraswati Sona suffered demise on 25.11.2017, and that their legal heirs were not aware of pendency of the proceeding before this Court and therefore, it is contended to condone the aforesaid delay.

4. On the other hand, Mr. Bhatta, learned counsel for the opposite party No. 3 submits that the delay has not been properly explained and therefore, he has

objection in the event of condoning the same.

5. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the application and the documents placed on record, and also the statements and averments made in paragraph Nos. 3, 4 and 5 of the application explaining the cause of delay, and the affidavit-in-opposition filed by the opposite party No. 3.

6. Having considered the submissions of learned Advocates of both the parties and also considering the statements and averments made in paragraph Nos. 3, 4 and 5, this Court is of the view that the delay in filing the substitution application is sufficiently explained and therefore, this Court is inclined to allow this application.

7. Accordingly, the delay of 1422 days in filing the substitution application stands condoned.

8. In terms of above, this I.A. stands disposed of.

JUDGE

Comparing Assistant