

GAHC010006582023



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

Case No. : I.A.(Civil)/741/2023

SUPARNA BAGCHI (GANGULY) AND ANR
D/O LATE SHYAMAL CH. BAGCHI, W/O SAIBAL GANGULY, RESIDENT OF
C/O HARISHPUR TEA CO. PVT. LTD. CHOWKIDINGHEE, MANCOTTA ROAD,
PO ,PS AND DIST DIBRUGARH, ASSAM

2: SMTI. SUMONA BAGCHI
D/O LATE SHYAMAL CH. BAGCHI

W/O MONDEEP BHATTACHARYA
RESIDENT OF C/O HARISHPUR TEA CO. PVT. LTD. CHOWKIDINGHEE
MANCOTTA ROAD
PO
PS AND DIST DIBRUGARH
ASSA

VERSUS

ASLAM HAKIM AND 2 ORS.
S/O LATE DR. ABDUL HAKIM
RESIDENT OF GOOD STREET, OPP. TO SP OFFICE, PO PS AND DIST
DIBRUGARH, ASSAM

2:DR. FAUZIA SHIREEN HAKIM
D/O LATE DR. ABDUL HAKIM
RESIDENT OF GOOD STREET
OPP. TO SP OFFICE
PO PS AND DIST DIBRUGARH
ASSAM

3:MD. SARIFUL HAKIM
S/O LATE DR. ABDUL HAKIM
RESIDENT OF GOOD STREET
OPP. TO SP OFFICE
PO PS AND DIST DIBRUGARH

ASSA

Linked Case :

SUPARNA BAGCHI (GANGULY) AND ANR

VERSUS

ASLAM HAKIM AND 2 ORS. B

Linked Case :

SUPARNA BAGCHI (GANGULY) AND ANR

VERSUS

ASLAM HAKIM AND 2 ORS. B

For the applicant (s) : Mr. D. Mazumdar, Advocate

For the respondent (s) : Ms. S. A. Choudhury, Advocate

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

24.06.2024

Heard Mr. D. Mazumdar, the learned counsel appearing on behalf of the applicants and Ms. S. A. Choudhury, the learned counsel appearing on behalf of the respondent Nos.1 & 2.

2. It is also seen that service upon the respondent No.3 is duly complete.

3. This is an application for condoning the delay of 773 days in preferring the accompanying Appeal directed against the judgment and decree dated 04.08.2018 passed in Title Appeal No.10/2014.

4. This Court has duly taken note of that pursuant to the judgment and decree dated 04.08.2018 passed in Title Appeal No.10/2014, a review application is filed before the learned First Appellate Court which has been registered and numbered as Misc. (J) Case No.95/2019. However, the said review application was dismissed vide the order dated 05.09.2022 and thereupon, the instant accompanying Appeal was filed on 07.01.2023.

5. Taking into account that on account of the delay in disposal of the review application, the instant accompanying Appeal was not filed within time, it is the opinion of this Court that the same constitute a sufficient cause within the meaning of Section 5 of the Limitation Act, 1963. Accordingly, the delay of 773 days is condoned thereby allowing the instant application.

6. The Registry is direction to register the accompanying Second Appeal and show the name of Ms. S. A. Choudhury, the learned counsel appearing on behalf of the respondent Nos.1 & 2 in the cause list.

7. Mr. G. R. Dutta, the learned counsel appearing on behalf of the applicants is directed to service an extra copy of the Memo of Appeal along with stay application, if any, to Ms. S. A. Choudhury, the learned counsel appearing on behalf of the respondent Nos.1 & 2 within 3 (three) days.

8. List the accompanying Appeal immediately after the summer vacation showing the name of Ms. S. A. Choudhury as counsel for

respondent Nos.1 & 2.

9. In view of the above, the I.A. stands disposed of.

JUDGE

Comparing Assistant