

GAHC010040272022



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

Case No. : I.A.(Civil)/957/2022

ON THE DEATH OF MAHIBUL HUSSAIN HIS LEGAL HEIRS RASHAN ARA
BEGUM
W/O LATE MAHIBUL HUSSAIN, R/O BARBARI GAON, JYOTINAGAR,
GABHARUPATHAR WARD, PO JALANNAGAR, PS AND DIST. DIBRUGARH,
ASSAM, PIN-786005

VERSUS

ABDUL GANI,
S/O LT ABDUL GAFAR, R/O BARBARI GAON, (JYOTINAGAR),
GABHARUPATHAR WARD, DIBRUGARH TOWN MOUZA, PS AND DIST.
DIBRUGARH, ASSAM, PIN 786005

Advocate for the Petitioner : MR. B BARUAH,

Advocate for the Respondent : ,

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

20.09.2024

Heard Mr. Baruah, learned counsel for the applicant.

2. This application, under Section 5 of the Limitation Act, is preferred by the applicant for condoning the delay of 2106 days in preferring the connected substitution application.

3. Mr. Baruah, learned counsel for the applicants submits that the appellant No. 2 suffered demise on 10.06.2020, and the applicant came to know about the same on 18.03.2020, and she was not aware of legal requirement of substitution of the legal heirs within a period of 60 days. Mr. Baruah further submits that when she came to know about the legal requirement of impleadment of legal heirs, then the Covid-19 pandemic was prevalent and normal functioning of the courts were suspended. Mr. Baruah also submits that in Suo Moto Case No. 03/2020, Hon'ble Supreme Court had extended the period of limitation from 15.03.2020, till 02.10.2021. Mr. Baruah also submits that after coming to know about the legal requirement of impleading legal heirs of appellant No. 2, she has approach this court by filing the present application and that the delay is not intentional rather it is circumstantial and the same sufficiently explained in this petition and therefore, it is contended to allow this petition.

4. It is to be noted here that the respondent has not turned up after due service.

5. Having heard the submission of learned counsel for the applicant, I have carefully gone through the petition as well as the documents placed on record and also perused the averments made in paragraph Nos. 2 & 3 of the application and also the order of Hon'ble Supreme Court in Suo Moto Case No. 03/2020, dated 23.09.2021.

6. It appears that the appellant No. 2 suffered demise on 10.06.2014, and the applicant came to know about the legal requirement of impleading legal heirs on 18.03.2020, and at the relevant time Covid-19 pandemic was prevalent.

7. It is to be noted here that in Suo Moto Case No. 03/2020, Hon'ble Supreme Court has also extended the period of limitation from 15.03.2020, till 02.10.2021.

- 8.** Thus, the delay of 2106 days is sufficiently explained in this application.
- 9.** Therefore, this court is inclined to allow this application and accordingly, the delay of 2106 days in filing the substitution petition, stands condoned.
- 10.** In terms of above, this I.A. stands disposed of.

Comparing Assistant

JUDGE