

GAHC010043592014



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

Case No. : MC/1944/2014

PUSHPENDRA NATH BORA and ANR,
S/O LATE NANDESWAR BORA, GANESHGURI, DISPUR, GUWAHATI 781005

2: SMT. NILIMA BORA

W/O SRI PUSHPENDRA NATH BORA
GANESHGURI
DISPUR
GUWAHATI 78100

VERSUS

SMT. RAJKUMARI RABI DAS and 13 ORS,

2:DIPAK RABI DAS

3:ANIL RABI DAS

4:JAMUNA RABI DAS

5:GANGA RABI DAS

6:UTTAM RABI DAS

7:RANJIT RABI DAS

NO. 1 A IS THE WIFE AND 1B TO 1G ARE SONS OF LATE TAPAN RABI DAS

8:DHUKU RABI DAS @ DUKKU

S/O LATE BANDHU RABI DAS

9:BISHNU MUCHI

S/O LATE MAHOR MUCHI

10:RAM NARESH RABI DAS
S/O LATE TINKURI MUCHI
OPPOSITE PARTIES O. 1 TO 4 ARE R/O G.S. ROAD
LACHIT NAGAR
ULUBARI
GUWAHATI 781007

11:GOPAL TIGRONIA
S/O LATE GOBINDA TIGRONIA
GOBINDA BHAWAN
NONGRIM HILLS
SHOLLONG
MEGHALAYA

12:SMT. BIOMALA GOENKA @ SMT. BIMALA GOEL
W/O GOBINDA SIKARIA
GOBINDA BHAWAN
NONGRIM HILLS
SHILLONG
MEGHALAYA.

13:SMT. DEBI BALA DAS @ SMT. RABI DAS
W/O LATE SIRKUT RABI DAS
14:BHAKTA RABI DAS

S/O LATE SIRKUT RABI DAS
BOTH OPPOSITE PARTY NO. 7 AND 8 ARE RESIDENTS OF LACHIT NAGAR
ULUBARI G.S. ROAD
GUWAHATI 781007
S/O LATE ANIL ROY MALAKAR
R/O JAGANNATH MANDIR ROAD
P.O. P.S. and DIS. NAGAON
ASSAM PIN 87200

For the applicant (s) : Mr. P. K. Roychoudhury, Advocate

For the respondent (s) : None appears

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

24.05.2024

This is an application filed under Section 5 of the Limitation Act, 1963
for condoning the delay of 114 days in preferring the accompanying Review

Application.

2. This Court has duly taken note of that vide an order dated 26.06.2014, steps were directed to be taken by way of registered post with A/D. Thereupon, on 01.09.2014, when the matter came up, the counsel appearing on behalf of the petitioners sought for 7 days time to take appropriate steps. It is also seen that on 20.01.2020 again the counsel for the petitioners sought for time to take steps within one week. However, the Office Note dated 16.05.2024 shows that steps have not been undertaken by the petitioners upon the respondents.

3. Today, when the matter is taken up, Mr. P. K. Roychoudhury, the learned counsel for the petitioners submits that steps have been taken by postal Talabama on 17.02.2020. However, steps ought to have been taken by way of registered post and that too within one week as per the order dated 20.01.2020. The same is not in accordance with the liberty which was granted by this Court vide the order dated 20.01.2020. This shows that the petitioners seem to be not interested in the instant proceedings.

4. This Court has also taken note of the accompanying review application and the reasons why the review application was filed. From a perusal of the review application, it reveals that the petitioners herein initially assailed the order dated 16.08.2011 passed in T.S. No.17/2007 in CRP No.402/2011 on the ground that the learned Trial Court ought not to have granted the liberty to file a fresh suit while allowing the withdrawal of the suit. It is seen that this Court vide the order dated 20.06.2013, the very order sought to be reversed, observed that in view of the subsequent suit having already been filed, disposed of the said revision proceedings thereby permitting the petitioners herein who would be the defendants in the subsequent suit to

take all the pleas available.

5. It has been brought to the attention of this Court by Mr. P. K. Roychoudhury, the learned counsel for the petitioners herein that the review application has been filed on the ground that on making enquiry it was found that no subsequent suit was filed. In the opinion of this Court, the said would not constitute any error apparent on the face of the record or to be a sufficient cause to exercise the review jurisdiction in the facts of the instant case. Taking into consideration that almost a decade had passed, the instant application shall be construed as an intimation that there was no subsequent suit.

6. Taking into account the fact that the petitioners seem to be disinterested, this Court dismisses the instant application for condonation of delay on the ground of failure to take steps as directed. It is made clear that the petitioners would be at liberty to raise all their pleas if any subsequent suit is filed.

7. Consequently, the accompanying review petition cannot be entertained as it is barred by limitation.

JUDGE

Comparing Assistant