

GAHC010066562024



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

Case No. : CRP(IO)/125/2024

SUNITEE SARKAR
D/O- LATE SASHI BHUSAN SARKAR, VILL.- BHALUKDUBI, P.O.
BALADMARI, DIST. GOALPARA, ASSAM, PIN- 783121.

VERSUS

AMIYA BALA DAS
W/O- LATE RATNESWAR DAS, VILL.- BIHUFIELD, NEW GOALPARA, P.O.
BALADMARI, P.S. AND DIST. GOALPARA, PIN- 783121.

Advocate for the Petitioner : MR F Z MAZUMDER

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 09.04.2024

Mr. F. Z. Mazumder, the learned counsel appearing on behalf of the petitioner submits that taking into account that the order being passed by the learned first Appellate Court i.e. the court of the learned Civil Judge, (Senior Division) Goalpara in Misc (J) Case No.

22/2022 is an order passed under Section 5 of the Limitation Act, thereby condoning the delay which is a discretionary jurisdiction he would not like to further proceed with the instant proceedings.

2. He however, submitted that the petitioner herein who is the appellant in Title Appeal No. 08/2015 be permitted to file objection to the application under order XLI Rule 21 filed by the respondents in the said appeal being registered and Misc (J) Case No. 57/2015 and the observations made in the impugned order dated 11.01.2024 should not influenced the learned First Appellate Court in deciding the said application.

3. Taking into account the said submissions the instant application stands closed on withdrawal.

4. This Court further observes that in the circumstance the application being Misc (J) Case No. 57/2015 had not yet been disposed off, the petitioner herein would be at liberty to file her objections to the said application within (fifteen) days from today and it is further observed that the order dated 11.01.2024 passed in Misc (J) Case No. 22/2022 being an order passed in connection with an application under Section 5 of the Limitation Act, 1963 the said order shall not influence the learned First Appellate Court in deciding the said application under order XLI Rule 21 being Misc (J) Case No.57/2015.

J U D G E

Comparing Assistant