

GAHC010067252024



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

Case No. : MC/26/2024

JOYDEV BISWAS AND ANR.
S/O SRI SATYALAL BISWAS, VILL.- NO. 1 GAROKOTA, P.O.- BHODEAGURI,
P.S.- KACHUGAON, DIST.-KOKRAJHAR, BTAD, ASSAM

2: BAIJANTI MOCHAHARI
D/O BALORAM MOCHAHARI
W/O ANNA RAM BORO
VILL. DHUPGURI
PO.- ORANG
P.S.- MAZBAT
DIST.-UDALGURI
BTAD
ASSA

VERSUS

THE STATE OF ASSAM AND 7 ORS.
REP. BY THE COMMISSIONER AND SECRETARY, LAND REVENUE DEPTT.
GOVT. OF ASSAM, DISPUR, GUWAHATI-6

2:BODOLAND TERRITORIAL COUNCIL
REP. BY ITS SECRETARY
KOKRAJHAR

3:THE DIRECTOR
LAND RECORDS AND SURVEYS
RUPNAGAR
GUWAHATI-332

4:THE DIRECTOR
LAND RECORDS AND SURVEYS
BTC
KOKRAJHAR
ASSAM

5:THE DEPUTY COMMISSIONER
KOKRAJHAR
DIST.-KOKRAJHAR
BTAD
ASSAM

6:THE DEPUTY COMMISSIONER
UDALGURI
DIST.-UDALGURI
BTAD
ASSAM

7:THE CIRCLE OFFICER
GOSSAIGAON REVENUE CIRCLE
GOSSAIGAON
KOKRAJHAR
BTAD
ASSAM

8:THE CIRCLE OFFICER
MAJBAT REVENUE CIRCLE
MAZBAT
UDALGURI
BTAD
ASSA

Advocate for the Petitioner : MR. S Z RAHMAN, MR. S Z RAHMAN,MR. R MAZUMDAR,MR.
N I KHAN

Advocate for the Respondent : GA, ASSAM, SC, BTC,SC. REVENUE

Linked Case : WP(C)/2977/2019

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Advocate for : MR. A DEB
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 7 ORS.

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 01.10.2024

Heard Mr. R. Mazumdar, learned counsel for the petitioners. Also heard Mr. P. Hazarika, learned counsel on behalf of Mr. S. R. Rabha, learned Standing Counsel for BTC, Mr. J. Handique, learned Standing Counsel for Revenue Department and Mr. J. K. Goswami, learned Additional Senior Government Advocate for the State respondent.

By way of this application, the applicant is seeking restoration of WP(C) No. 2977/2019 which was dismissed on the ground of non-prosecution by this Court's order dated 13.09.2023.

Heard the parties and perused the material available on record.

Paragraph 3 of the said interlocutory application is reproduced hereunder for ready reference:-

“3. That the applicants beg to state that the date of dismissal of the writ petition is 13.09.2023 and the application for restoration had to be filed on or before 13.10.2023, but it is filed on 28/03/2024 and as such, there is delay of 166 days in preferring the present application for restoration of the writ petition vide WP(C) No.2977/2019. This delay is due to the fact that the applicant No.1 is mainly handling the case and in favor of the other applicant also, but the applicant No.1 and his family consisting of his wife and 7 years old son Pranab Biswas went to AIG Hospitals, Hyderabad, Telengana as the applicant No.1 and his son have been suffering from Acute Gastric and Eye problem and acute allergy and pneumonia respectively for better treatment and they were under treatment since 06.11.2023 and 07.11.2023 respectively and till date, for which the applicant No.1 had to stay at Hyderabad for treatment and they were under rest w.e.f. 06.11.2023 and 07.11.2023 respectively till February, 2024 and as such, was unable to come to Guwahati for the purpose of filing and swearing affidavit. After getting relief to some extent, he met the lawyer and requested to prepare the necessary application and accordingly, this application is prepared and filed on 28/03/2024.

However, the applicant No.2, has been staying at Mumbai for treatment of her husband Annaram Boro as he has been undergoing treatment for failure of both the kidneys at MGM Medical College & Hospital, Kamothe, Navi Mumbai and it is pertinent to mention herein that the daughter namely, Punam Boro of the applicant No.2 was hospitalised in HCG Cancer Centre, Mumbai as she had suffered from cancer and after struggling with cancer her daughter expired on 13.11.2022 and for the treatment of the husband of the applicant No.2, she has been staying in Mumbai till date.

Hence, there is delay of 166 days in preferring the application for restoration of the WP(C) No.2977/2019. For all these reasons, there is delay of 166 days which is not at all wilful or intentional, rather it is due to unavoidable circumstances, as stated above, and as such, the same may

be condoned in the interest of justice.

Apparent that the ground stated are sufficient ground for restoration of the writ petition which was dismissed for non-prosecution.

Accordingly, WP(C) No. 2977/2019 stands restored to its original position as it was on 13.09.2023 subject to the condition that the petitioner shall deposit the amount of Rs. 5000/- to the Gauhati High Court (Principal Seat) Employees Association.

Disposed of.

JUDGE

Comparing Assistant