

GAHC010082802021



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

Case No. : I.A.(Civil)/1211/2022

M/S INDIAN OIL CORPORATION LTD
ASSAM OIL DIVISION, DIGBOI REFINERY, PO DIGBOI DIST TINSUKIA

VERSUS

ON THE DEATH OF KERAMUDDIN SHEIKH, HIS LEGAL HEIRS 1.1)
SOURAB ALI AND 6 ORS
R/O MULLAPARAH, P.O. GARIGAON, GUWAHATI-12, DISTRICT KAMRUP,
ASSAM

1.2:SAMSER ALI
S/O LATE KERAMUDDIN SHEIKH
R/O MULLAPARAH
P.O. GARIGAON
GUWAHATI-12
DISTRICT KAMRUP
ASSAM

1.3:ATWAR ALI
S/O LATE KERAMUDDIN SHEIKH
R/O MULLAPARAH
P.O. GARIGAON
GUWAHATI-12
DISTRICT KAMRUP
ASSAM

1.4:BAPDHAN ALI
S/O LATE KERAMUDDIN SHEIKH
R/O MULLAPARAH
P.O. GARIGAON
GUWAHATI-12
DISTRICT KAMRUP

ASSAM

1.5:AKHTAR ALI
S/O LATE KERAMUDDIN SHEIKH
R/O MULLAPARAH
P.O. GARIGAON
GUWAHATI-12
DISTRICT KAMRUP
ASSAM

2:THE STATE OF ASSAM

REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
DEPARTMENT OF LAND AND REVENUE
GOVT. OF ASSAM
DISPUR GUWAHATI 6

3:THE DEPUTY COMMISSIONER

KAMRUP M GUWAHATI 0

Advocate for the Petitioner : GA, ASSAM

Advocate for the Respondent : MR. R BARUAH

Linked Case :

M/S INDIAN OIL CORPORATION LTD

VERSUS

ABDUL RAHMAN and 2 ORS

Advocate for : MR.A DAS
Advocate for : appearing for ABDUL RAHMAN and 2 ORS

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 15.03.2024

1. This is an application under Section 5 of the Limitation Act, 1963 for condoning of delay of 818 days in preferring the review application to the judgment and decree dated 25.02.2015 passed in L.A. Appeal No.7/2005.
2. It reveals that the Applicant herein was neither made a party in the reference proceedings nor in the appeal proceedings.
3. A perusal of paragraph No.8 of the instant application categorically admits that the Deputy Commissioner, Kamrup(M) vide letter dated 06.01.2016 intimated the Applicant that in terms with the judgment and decree dated 25.02.2015 passed by this Court in L.A. Appeal No.7/2005, an award has been prepared amounting to Rs.12,03,876/- and the applicant was directed to deposit the said amount for disbursement of the same in terms of the said judgment of this court.
4. The judgment and decree passed by this Court on 25.02.2015 in L.A. Appeal No.7/2005 therefore came to the notice of the applicant on the basis of the said communication dated 06.01.2016. It is further seen that the applicant thereupon sought for a legal opinion and on 24.02.2016, an opinion was given that the applicant is required to file a review against the judgment and decree dated 25.02.2015 and also to deposit the said amount in order to avoid accruing of further interest. The said amount was duly deposited on 08.07.2016 by the applicant to the District Commissioner, Kamrup(M). Almost after one year four months of the opinion the review application was filed on 23.06.2017 and in that process, the delay of 818 days had occasioned.

5. The only grounds which have been assigned is that, it was on account of certain instruction to be taken from the Higher Authorities, the said review application could not be filed. The said grounds do not inspire the confidence of this Court taking into account that as far back in the month of January, 2016, the applicant very well knew about the judgment and decree dated 25.02.2015 when the District Commissioner, Kamrup(M) duly intimated the applicant on 06.01.2016. The applicant was also asked to prefer a review on the basis of a legal opinion on 24.02.2016. Then also the review application was not filed till 23.06.2017. Under such circumstances, as the cause shown for condonation of delay being not sufficient, this Court accordingly rejects the instant application for condonation of delay.

6. The consequential effect of the instant application being rejected is that the review petition so filed is barred by limitation and as such cannot be entertained.

7. The Instant Application hence stands dismissed.

JUDGE

Comparing Assistant