

GAHC010095942019



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

Case No. : I.A.(Civil)/1536/2019

KHALEDA BEWA @ BEGUM AND 2 ORS
W/O- LATE MOZIBAR RAHMAN,
R/O- NAYAPARA, GOALPARA TOWN, P.O. AND P.S. GOALPARA, DIST.-
GOALPARA, ASSAM.

2: NAZIM ALOM @ RINKU
S/O- MOZIBAR RAHMAN

R/O- NAYAPARA
GOALPARA TOWN
P.O.
P.S. AND DIST.- GOALPARA
ASSAM.

3: MUKTADEER ALOM
S/O- LATE MOZIBAR RAHMAN

R/O- NAYAPARA
GOALPARA TOWN
P.O.
P.S. AND DIST.- GOALPARA
ASSAM

VERSUS

MUSTIKA YESMIN
W/O- NUR MOHAL ISLAM,
R/O- NAYAPARA, GOALPARA TOWN, P.O., P.S. AND DIST.- GOALPARA,
ASSAM, PIN- 788381.

Advocate for the Petitioner : MR F Z MAZUMDER

Advocate for the Respondent : MS BISMITA BARMAN

Linked Case :

KHALEDA BEWA @ BEGUM AND 2 ORS.
W/O- LATE MOZIBAR RAHMAN

R/O- NAYAPARA
GOALPARA TOWN
P.O. AND P.S. GOALPARA
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VERSUS

MUSTIKA YESMIN
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R/O- NAYAPARA
GOALPARA TOWN
P.O.
P.S. AND DIST.- GOALPARA
ASSAM
PIN- 788381.

Advocate for the applicant(s): Mr. FZ Mazumdar

Advocate for the respondent(s): X X

B E F O R E
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

19.06.2024

This is an application under Order XLI, Rule 3(A) of the Code of Civil Procedure, 1908, (for short, the Code) read with Section 5 of the Limitation Act, 1963 for condoning the delay of 1322 days in preferring the accompanying regular second appeal against the judgment and decree dated 16.05.2015 passed by the learned Civil Judge at Goalpara in Title Appeal No.12/2014.

2. I have heard Mr. FZ Mazumdar, the learned counsel appearing on behalf of the applicants. None had appeared on behalf of the respondent.

3. The sole ground which has been taken in the application is that the applicants pursuant to receipt of notice in Title Appeal No.12/2014 from the Court of the learned Civil Judge at Goalpara had engaged a counsel. Thereupon, the said Title Appeal so filed by the respondent herein was allowed thereby setting aside the judgment and decree dated 24.09.2014 passed in Title Suit No.42/2012. Thereafter, it has been further stated that the applicants came to learn about the said judgment and decree on 01.05.2018 on their own source and pursuant thereto the instant appeal was preferred.

4. There is no explanation as to why the applicants did not have any contact with the engaged advocate for almost three years or for that matter during the period when the appeal was pending. There is no mention as to how the applicants came to learn about the judgment and decree passed on 16.05.2015 in Title Appeal No.12/2014. Under such circumstances, this Court is of the opinion that the applicants have failed to disclose any sufficient cause for condoning the delay of 1322 days in preferring the accompanying second appeal against the judgment and decree dated 16.05.2015 passed in Title

Appeal No.12/2014.

5. Accordingly, the instant application stands dismissed.

6. Taking into account that the instant application has been dismissed, the accompanying second appeal which has been directed against the judgment and decree dated 16.05.2015 in Title Appeal No.12/2014 by the Court of the learned Civil Judge at Goalpara cannot be entertained as it has become barred by limitation.

JUDGE

Comparing Assistant