

GAHC010135092024



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

Case No. : I.A.(Civil)/2024/2024

SUJOY MITRA

S/O- SRI SATYA RANJAN MITRA, R/O- SANI BARI ROAD, KRISHNA NAGAR,
HOJAI TOWN, WARD NO. 9, P.O. AND P.S. HOJAI, DIST. HOJAI, ASSAM, PIN-
782435.

VERSUS

RIMASHREE PAUL

D/O- SRI DILIP PAUL, R/O- RUBBER BAGAN, NEAR TILOTTAMA BIBAH
BHAWAN, WARD NO. 16, P.O. AND P.S. TEZPUR, DIST. SONITPUR, ASSAM,
PIN- 784001.

Advocate for the Petitioner : MR. A K RAY, MR. I GOGOI, MISS T DAS

Advocate for the Respondent : MR. A GANGULY, MR. A DHANUKA

Linked Case :

SUJOY MITRA

VERSUS

RIMASHREE PAUL (B)

Advocate for : MR. A K RAY
Advocate for : appearing for RIMASHREE PAUL (B)

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 28.08.2024

Heard Ms. T. Das, learned counsel for the appellant/applicant.
Also heard Mr. A. Ganguly, learned counsel for the respondent.

This is an application under Section 5 of the Limitation Act seeking condonation of delay of 48 days occurred in filing the accompanied revision petition against the order dated 03.02.2024 passed by the learned Additional District Judge (FTC), Sonitpur, Tezpur in Misc (J) Case No. 48/2022 arising out of Title Suit (Divorce) No. 59/2022.

Ms. T. Das, learned counsel for the appellant/applicant submits that the delay of 48 days occurred for approaching the wrong forum and the same being not intentional may be condoned by this Court.

Mr. A. Ganguly, learned counsel for the respondent fairly submits that he has received no instructions to object to the prayer for condonation.

Heard the parties and perused the averments made in the condonation application and the grounds the revision petition.

Paragraph 2 and 3 of the aforesaid condonation application is reproduced hereunder for ready reference:-

“2. That the petitioner states that against the said order he approached this Hon'ble Court in wrong forum in as much as he filed an appeal on 27/02/2024 and the same was registered as MAT Appeal No. 5/ 2024 but later on he withdraw the said appeal on 19/06/2024 with liberty to file revision petition and the Hon'ble Court had also allowed him to take back the certified copy of the impugned order. Accordingly, the office of this Hon'ble court returned back the certified copy of the impugned order on 21/06/2024 and on the same day he filed the present revision petition and hence a delay of about 48 days in filing the revision petition.

3. That the petitioner submits that there is no intentional delay on behalf of him. It is only for the reasons that as he approached in wrong forum, delay of about 48 days occurred. It is a fact that he approached in time before this Hon'ble Court, but the same was in appellate forum which was not appropriate.”

Apparent that the appellant/applicant having approached the wrong forum, the delay of 48 days have occurred.

The reasons appears to be sufficient and bona-fide and as such the delay of 48 days stands condoned.

The revision petition to be numbered.

Disposed of.

JUDGE