

GAHC010163162023



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

Case No. : I.A.(Civil)/2481/2023

THE ASSAM PLANTATION CROPS DEVELOPMENT CORPORATION
LIMITED (APCDC LTD.) AND 3 ORS.
REP. BY ITS MANAGING DIRECTOR, OPPOSITE SARUSAJAI NATIONAL
STADIUM COMPLEX, N.H. 37, LAKHARA, GUWAHATI- 781040, ASSAM.

2: THE CHAIRMAN
ASSAM PLANTATION CROPS DEVELOPMENT CORPORATION LIMITED
HAVING ITS OFFICE AT SAWKUCHI
OPP. SARUSAJAI NATIONAL STADIUM COMPLEX
N.H. 37, LAKHARA
GUWAHATI- 781040
ASSAM.

3: THE PLANTATION MANAGER (ENGG)
ASSAM PLANTATION CROPS DEVELOPMENT CORPORATION LIMITED
HAVING ITS OFFICE AT SAWKUCHI
OPP. SARUSAJAI NATIONAL STADIUM COMPLEX
N.H. 37, LAKHARA
GUWAHATI- 781040
ASSAM.

4: ALL THE ESTATE IN-CHARGES OF CHANDRAPUR
RAMSHAHILL
HARMOTI
BURAPAHAR
KANCHANJURI
RONGAPARA
DIFFALOO
DOFAMARA
MAGURSILA
KAKI
TOPATALI AND OUGURI RUBBER ESTATE
APCDC LTD. HAVING ITS REGISTERED OFFICE AT SAWKUCHI
OPP. SARUSAJAI NATIONAL STADIUM COMPLEX

N.H. 37, LAKHARA
GUWAHATI 781040
ASSAM

VERSUS

M/S N. K. PRODUCTION AND 3 ORS.
A PROPRIETORSHIP CONCERN, HAVING ITS OFFICE AND PLACE OF
BUSINESS AT BY-LANE NO. 9, H. NO. 35, RGB ROAD, P.O.- GEETANAGAR,
GUWAHATI- 24 IN THE DISTRICT OF KAMRUP (M), ASSAM AND
REPRESENTED BY ITS PROPRIETOR, DEBO BORKOTOKY, S/O LATE BOLIN
BORKOTOKY.

2:THE STATE OF ASSAM
REP. BY THE SECRETARY
DEPTT. OF SOIL CONSERVATION
GOVT. OF ASSAM
DISPUR
GUWAHATI- 06.

3:THE ADDITIONAL CHIEF SECRETARY
TO THE GOVT. OF ASSAM
SOIL CONSERVATION DEPTT.
DISPUR
GUWAHATI- 6.

4:THE DIRECTOR OF SOIL CONSERVATION
ASSAM
BHUMI SANGRAKSHAN BHAWAN
R.G. BORUAH ROAD
GUWAHATI- 05

Advocate for the Petitioner : MR. R SARMA, MR A DEY

Advocate for the Respondent : SC, SOIL CONSERVATION DEPTT., MR. N ALAM (R-1)

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

08.08.2024

Heard Mr. R. Sarma, learned counsel for the applicants and also heard Mr. S.A.

Bakhtiar, learned counsel appearing for the respondent No.1 as well as Ms. R.S. Deuri, learned standing counsel, Soil Conservation Department, appearing for the respondent Nos.2, 3 and 4.

This application under Section 5 of the Limitation Act is preferred by the applicants for condonation of delay of 131 days in preferring connected appeal against the judgment and decree dated 01.09.2022 passed by the learned Civil Judge No.1, Kamrup(M), in Title Suit No.231/2019.

It is to be noted here that vide impugned judgment and decree dated 01.09.2022, the learned Civil Judge No.1, Kamrup(M) has decreed Title Suit No.231/2019 in favour of the plaintiff.

Mr. Sarma, learned counsel for the applicants submits that the applicants were not aware about disposal of the case and at the relevant time, Covid-19 pandemic was also prevalent and that thereafter the applicants came to know about the same and in the meantime 131 days have elapsed and the delay of 131 days in preferring the connected appeal is not intentional, rather it is circumstantial and the same has been sufficiently explained in paragraphs 3 and 4 of the application and therefore, Mr. Sarma has contended to condone the delay of 131 days in preferring the connected appeal.

Per contra, Mr. Bakhtiar, learned counsel for the respondent No.1 and Ms. R.S. Deuri, learned standing counsel, appearing for the respondent Nos.2—4, submit that they have no objection in the event of condonation of 131 days delay in filing the connected appeal, however, it is submitted that the appeal may be listed on priority basis.

Having heard the submission of learned Advocates of both the parties, I have carefully gone through the statement and averment made in paragraphs 3 and 4 of the application and it appears that the applicants have sufficiently explained the delay in paragraphs 3 and 4 of the application.

Having taken note of the same and also taken note of the facts and circumstances on the record as well as submission of the learned Advocates of both the parties, this

Court is inclined to condone the delay of 131 days in filing the connected appeal.

In terms of above, this I.A. stands disposed of.

Registry to register and number the connected appeal and list the same before this Court.

Sd/- *Robin Phukan*
JUDGE

Comparing Assistant