

GAHC010173302019



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

Case No. : I.A.(Civil)/1220/2021

ON THE DEATH OF SAYED ALI
HIS LEGAL HEIRS

2: SHAHAR ALI
R/O VILL-CHARUA BAGRA
P.O.-CHIRAKUTA
P.S.-CHAPOR
DIST-DHUBRI
ASSAM

3: EMBRAHIM ALI
R/O VILL-CHARUA BAGRA
P.O.-CHIRAKUTA
P.S.-CHAPOR
DIST-DHUBRI
ASSAM

4: AKBAR ALI
R/O VILL-CHARUA BAGRA
P.O.-CHIRAKUTA
P.S.-CHAPOR
DIST-DHUBRI
ASSAM

5: ANTA ALI @ INTAJ ALI
R/O VILL-CHARUA BAGRA
P.O.-CHIRAKUTA
P.S.-CHAPOR
DIST-DHUBRI
ASSAM

6: SHAHABUDDIN
R/O VILL-CHARUA BAGRA
P.O.-CHIRAKUTA

P.S.-CHAPOR
DIST-DHUBRI
ASSAM

7: TAHER ALI
R/O VILL-CHARUA BAGRA
P.O.-CHIRAKUTA
P.S.-CHAPOR
DIST-DHUBRI
ASSAM

8: SMTI. JAMIRAN BIBI
R/O VILL-CHARUA BAGRA
P.O.-CHIRAKUTA
P.S.-CHAPOR
DIST-DHUBRI
ASSAM

9: SMTI. KHATUJA BIBI
R/O VILL-CHARUA BAGRA
P.O.-CHIRAKUTA
P.S.-CHAPOR
DIST-DHUBRI
ASSA

VERSUS

MD. HASEN ALI AND ANR
S/O LT. MESER ALI, R/O VILL-FULKATA, P.S.-DHUBRI, DIST-DHUBRI,
ASSAM, PIN-783127

2:MD. ABU SHAMA
S/O LT. MESER ALI
R/O VILL-BALDIAR ALGA
P.S.- S. SALMARA
DIST-DHUBRI
ASSAM
PIN-78334

Advocate for the Petitioner : MR. M A SHEIKH

Advocate for the Respondent : MR. J SINGH (r-2)

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

28.02.2024

Heard Ms. F. Intaz, learned counsel appearing for the applicant. Also heard Mr. B.K. Bhagawati, learned counsel representing the respondent no.2.

This is an application under Section 5 of the Limitation Act praying for condonation of 1331 days of delay in preferring the connected Regular Second Appeal.

Ms. Intaz submits that the respondent no.1 Md. Hasen Ali has expired and his legal heirs are to be impleaded in this matter.

Mr. Bhagawati submits that Md. Hasen Ali died on 29.11.2014 and that too during the pendency of the first appeal, whereas his legal heirs were not impleaded.

Mr. Bhagawati submits that there cannot be any question of impleading the legal heirs of late Hasen Ali at this stage in the second appeal since his legal heirs were not impleaded in the first appeal.

I have considered the submissions made by the learned counsels of both sides.

I have decided to agree with the contention of Mr. Bhagawati. Moreover, I have found that the aforesaid delay has not been properly

explained.

Therefore, this Interlocutory Application is dismissed and disposed of.

JUDGE

Comparing Assistant