

GAHC010179092022



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

Case No. : I.A.(Civil)/2717/2022

THE EDUCATION RESEARCH AND DEVELOPMENT FOUNDATION (ERDF)
AND 2 ORS.

ERDF BHAWAN, LALMATI ROAD, BHETAPARA, GUWAHATI 781028,
ASSAM, REPRESENTED BY ITS CHAIRMAN, MAHBUBUL HOQUE

2: MAHBUBUL HOQUE
S/O LATE IBRAHIM ALI
CHAIRMAN
THE EDUCATION RESEARCH AND DEVELOPMENT FOUNDATION (ERDF)
ERDF BHAWAN
LALMATI ROAD
BHETAPARA
GUWAHATI 781028
ASSAM

3: THE KHAIRUN NESSA BEGUM WOMENS COLLEGE (KBWC)
REPRESENTED BY MAHBUBUL HOQUE
CHAIRMAN
THE EDUCATION RESEARCH AND DEVELOPMENT FOUNDATION (ERDF)
ERDF BHAWA

VERSUS

SADEKA BEGAM AND 5 ORS.
D/O FAKAR UDDIN
RESIDENT OF VILLAGE NETAINAGAR, PO AND PS RATABARI, DIST
KARIMGANJ, ASSAM

2: FAKAR UDDIN
S/O FOYZUR RAHMAN

RESIDENT OF VILLAGE NETAINAGAR
PO AND PS RATABARI

DIST KARIMGANJ
ASSAM

3:REJANA BEGUM
D/O ABDUL AJIJ

RESIDENT OF VILLAGE AND PO DALGRAM
PS RATABARI
DIST KARIMGANJ
ASSAM

4:ABDUL AJIJ
S/O LATE ABDUL GONI
RESIDENT OF VILLAGE AND PO DALGRAM
PS RATABARI
DIST KARIMGANJ
ASSAM

5:DR. PARVEEN SULTANA
W/O ENGINEER SALEH AHMED CHOUDHURY

C/O MAHJABIN RAHMAN
DIRECTOR
THE EDUCATION RESEARCH AND DEVELOPMENT FOUNDATION (ERDF)
ERDF BHAWAN
LALMATI ROAD
BHETAPARA
GUWAHATI 781028
ASSAM

6:NAZIA BEGUM
D/O LATE ABDUS SUBHAN

RESIDENT OF VILLAGE AND PO LATHIMARA
PS KATIGORAH
DIST CACHAR
ASSA

Advocate for the Petitioner : MR A A KHAN

Advocate for the Respondent : MR. D NANDI (R-2)

In

THE EDUCATION RESEARCH AND DEVELOPMENT FOUNDATION (ERDF)
AND 2 ORS.

VERSUS

SADEKA BEGAM AND 5 ORS. F

Advocate for : MR A A KHAN

Advocate for : appearing for SADEKA BEGAM AND 5 ORS. F

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

01.05.2024

Heard Mr. H.K. Sharma, the learned counsel for the applicants. Also heard Mr. D. Nandi, the learned counsel for the respondent No. 2.

This is an application under Section 5 of the Limitation Act, 1963, for condonation of delay of 23 days in filing the connected RFA against the judgment and decree dated 07.04.2021, passed by the learned Civil Judge, Karimganj in Title Suit No. 29/2015.

It is submitted by Mr. H.K. Sharma, learned counsel that on being aggrieved to the said judgment and decree, they have already preferred an appeal before the learned District Judge, Karimganj which was registered as Title Appeal No. 01/2021 which was within time and accordingly, the appeal was admitted vide order dated 10.08.2021. Subsequently, in pursuant to the

Notification No. HC. VII-35/2020/6412/A dated 07.12.2021 for want of the pecuniary jurisdiction; the same was again transmitted to this court.

Thereafter, only the connected RFA has been filed after the correspondence made by the District Judge, Karimganj and hence there is a delay of 23 days in preferring the connected RFA.

It is further submitted that there was no willful negligence or laches on the part of the applicant to file the appeal within the statutory period of time, but due to the issue raised for the pecuniary jurisdiction, the appeal has to be preferred before this Court with the delay of 23 days.

In this context, Mr. D. Nandi, the learned counsel for the respondent No. 2 raised no objection.

Considering the submissions made by the learned counsel for the applicant and also considering the notifications of this Court on pecuniary jurisdiction and another aspect of the case, the delay of 23 days in preferring the connected RFA stands condoned.

With the above observations, the Interlocutory Application stands disposed of in terms above.

The Registry is accordingly directed to register the connected RFA and to number accordingly for admission.

JUDGE

Comparing Assistant