

GAHC010259252013



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

Case No. : MC/2759/2012

NIRU RANI DAS and ANR
W/O- KARUNAMOI DAS
R/O VILL-MASUGHAT
MOUZA-DIGALIBASTI
PO- MASUGHAT
DIST- CACHAR
ASSAM

VERSUS

SUSHEN DAS and ORS
S/O- LATE DHAN RAM DAS
R/O-VILL- MASUGHAT
PO- MASUGHAT
MOUZA- MASUGHAT
PH- BARAKPUR
DIST- CACHAR
ASSAM
PIN-788001

For the Applicant(s) : Mr. S. Dutta, Sr. Advocate

For the Respondent(s) : Mrs. B. Devi, Advocate

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 03.05.2024

Mr. S. Dutta, the learned Senior counsel appearing on behalf of the Applicants submitted that taking into account that the Opposite Party Nos. 2, 3 and 4 were proforma defendants in the suit and they did not participate in the trial as well as also in the First Appellate Court, their names may be struck off.

2. Taking into account the fact that these Opposite Parties have not filed any written statement and they have not participated in the trial as well as in the First Appellate Court, their names are struck off.

3. This is an application under Section 5 of the Limitation Act, 1963 for condoning the delay of 110 days in filing the accompanying Second Appeal against the judgment and decree dated 09.02.2012 passed by the learned Civil Judge No.2, Cachar at Silchar in Title Appeal No.22/2006.

4. This Court heard Mr. S. Dutta, the learned Senior counsel appearing on behalf of the Applicants as well as Mrs. B. Devi, the learned counsel appearing on behalf of the Opposite Party No.1. This Court has also perused the cause shown as to why the delay of 110 days had occurred in preferring the accompanying appeal which is seen in paragraph No.2 of the said application. Taking into account that the grounds which have been assigned in the opinion of this Court constitutes a sufficient cause within the meaning of Section 5 of the Limitation Act, 1963, the delay of 110 stands condoned.

5. The instant Misc. Case stands allowed.

6. The Registry is directed to register the Regular Second Appeal and list the matter in the column of Order XLI Rule 11 on 17.05.2024.

7. This Court further directs the Applicants herein to file a fresh memo of parties before the Registry in respect to the accompanying Second Appeal taking into account that the names of the Opposite Party Nos. 2, 3 and 4 who are also the Respondent Nos. 2, 3 and 4 in the accompanying Second Appeal have been struck off.

JUDGE

Comparing Assistant