

GAHC010190012024



2024:GAU-AS:9999-DB

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

**Case No. : WP(C)/5157/2024**

1: ABUL HASAN RAFIQUE AHMED AND ANR  
S/O- LATE DR. ALIMUDDIN AHMED, R/O- HOUSE NO. 345, WARD NO.6,  
CHIRING CHAPORI, DIST. DIBRUGARH, PIN- 786001, ASSAM

2: SMT. MRIDULA GOGOI AHMED  
W/O- SRI ABUL HASAN RAFIQUE AHMED R/O- HOUSE NO. 345  
WARD NO.6 CHIRING CHAPORI DIST. DIBRUGARH PIN- 786001 ASSAM

VERSUS

1: THE HOUSING AND URBAN DEVELOPMENT CORPORATION LTD AND 4  
ORS (HUDCO), HAVING ITS REGISTERED OFFICE AT HUDCO BHAWAN,  
INDIA HABITAT CENTRE, LODHI ROAD, NEW DELHI-110003,  
REPRESENTED BY ITS CHAIRMAN AND MANAGING DIRECTOR (CMD).

2:HOUSING AND URBAN DEVELOPMENT CORPORATION LTD.  
REPRESENTED BY ITS BOARD OF DIRECTORS HUDCO BHAWAN INDIA  
HABITAT CENTRE LODHI ROAD NEW DELHI-110003.

3:HOUSING AND URBAN DEVELOPMENT CORPORATION LTD. (HUDCO)  
REPRESENTED BY ITS REGIONAL MANAGER OFFICER OF THE REGIONAL  
OFFICE HOUSEFED COMPLEX RUKMINIGAON G.S. ROAD GHY-781022.

4:HOUSING AND URBAN DEVELOPMENT CORPORATION LTD. (HUDCO)  
SITUATED AT HOUSEFED COMPLEX RUKMINIGAON G.S. ROAD GHY-  
781022 REPRESENTED BY ASSTT. GENERAL MANAGER (P) HUDCO  
GHY-781022.

5:THE RECOVERY OFFICER-I DEBT RECOVERY TRIBUNAL SITUATED AT  
NEW TOWN PATH G.S. ROAD NEAR HANUMAN MANDIR GUWAHATI  
ASSAM PIN- 781007

**For the Petitioner(s)** : Mr. B. Baruah, Advocate.

**For the Respondent(s)** :

**- B E F O R E -**  
**HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI**  
**HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

**03.10.2024**

*(Vijay Bishnoi, CJ)*

This writ petition is filed by the petitioners being aggrieved with the order dated 09.07.2024 passed by the Debts Recovery Appellate Tribunal, Kolkata in Diary No.211/2022, whereby the application filed by the petitioners under Section 5 of the Limitation Act seeking condonation of delay in filing an appeal against the judgment & order dated 31.08.2018 passed by the Debts Recovery Tribunal in O.A. No.272/2014, whereby it has allowed the application filed on behalf of the Housing & Urban Development Corporation Limited (HUDCO) under Section 19 of the Recovery of Debts and Bankruptcy Act, 1993 (hereinafter to be referred as "1993 Act") against the petitioners, has been dismissed.

The facts which are relevant for the purpose of adjudicating the dispute raised in the writ petition are that the petitioners were advanced a house loan by the respondent HUDCO in the year 2001. Admittedly, the petitioners have failed to pay the monthly installments as per the terms and conditions of the loan agreement and in that event, the HUDCO was forced to approach the Debts Recovery Tribunal by moving an application under Section 19 of the 1993 Act. The said application was contested by the petitioners before the Debts Recovery Tribunal, however, the Debts Recovery Tribunal, vide order dated 31.08.2018, has allowed the application filed on behalf of HUDCO under Section 19 of the 1993 Act and issued a Recovery Certificate in favour of HUDCO for a sum of ₹ 15,43,876/- along with interest @ 12% per annum till the realization of the aforesaid amount.

Against the order dated 31.08.2018, the petitioners have not preferred any appeal before the Debts Recovery Appellate Tribunal under the provisions of the 1993 Act and instead preferred a writ petition being WP(C) No.1677/2020 before this Court.

A Coordinate Bench of this Court, vide order 04.03.2020, had issued notices to the HUDCO and other respondents in that writ petition and passed an *interim* order in favour of the petitioners. Ultimately, the above referred writ petition came to be dismissed by this Court vide order dated 16.12.2021 as not maintainable in view of the availability of remedy of appeal before the appellate authority. After passing of the order dated 16.12.2021 in WP(C) No.1677/2020, the petitioners kept quiet and ultimately filed an appeal before the appellate authority only on 09.06.2022.

Taking into consideration the above referred facts and circumstances of the case, the Tribunal vide order dated 09.07.2024, has dismissed the application for condonation of delay preferred on behalf of the petitioners while observing as under:-

“16. In the present case even if the Appellant was trying to make deposit of the certificate amount there is nothing available on record to show that he was prevented from depositing the same. If the Bank was not accepting the same the Appellant could have deposited the same with the DRT Guwahati but it was not done. Appeal was filed on 9.6.2022. In the application under Section 5 of the Limitation Act, no such ground is taken simply it is stated that the Appellant No.1 is a retired Assistant Professor and Appellant No.2 is a house wife. No specific ground is taken as to why they could not prefer the appeal in time. Even if the submission, made by the Learned Counsel for Appellant, is taken into consideration, there is no specific ground available from the record. There is no explanation for the delay in filing the Writ Petition from the date of judgment i.e. 31.8.2018 till 2020 when the writ was filed. Thereafter, after disposal of the Writ Petition, appeal is filed on 9.6.2022. No sufficient cause to explain the delay could be shown. I do not find any ground to condone the delay in filing the appeal. No sufficient

*cause could be shown by the Appellant explaining the delay in filing the appeal. Accordingly, I.A. 135 of 2022, under Section 5 of the Limitation Act, is devoid of merit and is accordingly dismissed. Consequently, the appeal is also dismissed being time barred.*

*Copy of the order be supplied to Appellant and the Respondents and a copy be also forwarded to the concerned DRT.”*

Having heard the learned counsel for the petitioners at length and after going through the material available on record, we do not find any illegality in the conclusion arrived at by the learned Debts Recovery Appellate Tribunal in its order dated 09.07.2024 passed in Diary No.211/2022. Hence, we do not find any case for interference and this writ petition stands dismissed.

**JUDGE**

**CHIEF JUSTICE**

**Comparing Assistant**