

GAHC010206022021



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

Case No. : I.A.(Civil)/316/2022

M/S ASSAM TRADE CORPORATION AND ANR
A PROPRIETORSHIP FIRM REPRESENTED BY ITS PROPRIETOR AND
AUTHORISED SIGNATORY SRI RAJ KUMAR SINGH

2: SRI RAJ KUMAR SINGH
PROPRIETOR AND AUTHORIZED SIGNATORY OF M.S ASSAM TRADE
CORPORATION
611
HENGRABARI
GANESHGURI
GUWAHATI 781006
DIST KAMRUP M ASSAM

PRESENTLY RESIDING AT 473. KRISHNA NAGAR
GHAZIABAD
DIST GHAZIABAD
NEW DELH

VERSUS

SUDHIR JALAN AND ANR.
S/O LATE GAURI SHANKAR JALAN
RESIDENT OF 78, S.R.C.B ROAD, FANCY BAZAR, GUWAHATI 781001, DIST
KAMRUP (M) ASSAM

2:SRI SUMIT JALAN
S/O LATE GAURI SHANKAR JALAN
RESIDENT OF 78
S.R.C.B ROAD
FANCY BAZAR
GUWAHATI 781001
DIST KAMRUP (M) ASSA

Advocate for the Petitioner : MR. B CHAKRAVARTY

Advocate for the Respondent : MR G N SAHEWALLA (R-1,2)

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

18.06.2024

Heard Mrs. R. Devi, the learned counsel appearing for the applicants as well as Mr. G.N. Sahewalla, the learned senior counsel representing the respondents.

2. This is an application under Order 41 Rule 3A of the CPC read with Section 5 of the Limitation Act praying for condonation of 1268 days of delay in preferring the connected appeal.

3. The respondents filed the Title Suit No.40/2017. The notice upon the present petitioners was published in a newspaper and in spite of that, the petitioners did not contest the suit before the trial court. Therefore, the trial court passed an *ex parte* decree against the present petitioners. The decree was executed through Title Execution Case No.06/2018.

4. On 03.05.2017, the present applicants filed a Criminal Revision Petition No.140/2017 before this Court. In that application, their address was shown as the one which was same as their address shown in Title Suit No.40/2017.

5. Now, the applicants have claimed that on 3rd week of July, 2019, they came to know that a consignment of *supari* have been sold in auction pursuant to an order passed by court in respect of a suit. Therefore, they applied for certified copy of the order and it was obtained on 07.08.2019.

6. Thereafter, the applicants had a series of consultations with their lawyer at Guwahati. In the meantime, the COVID lock down started. After the relaxation of lock

down, the applicants again had a series of consultations with their lawyer. After that, the Puja Vacation came.

7. Afterwards, some confusion arose regarding the forum where the applicants can file the first appeal. In this way, the delay took place.

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

9. Notice regarding the Title Suit was served according to law. I find that the applicants were negligent. I am of the considered opinion that the delay has not been convincingly explained. Therefore, this Court is of the opinion that the delay of 1268 days in preferring the first appeal cannot be condoned. The application stands dismissed and disposed of accordingly.

JUDGE

Comparing Assistant