

GAHC010008322011



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

Case No. : MC/1007/2015

MD. TAZIR UDDIN and 4 ORS

VERSUS

MD. TAJ UDDIN and ORS

Advocate for : M J QUADIR
Advocate for : GA
ASSAM appearing for MD. TAJ UDDIN and ORS

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 30.08.2024

Heard Mr. M.J. Quadir, learned counsel for the applicants.

2. None appears for the respondent Nos. 1, 2 and 5 despite notice having been served and vakalatnama having been filed by the learned counsel representing the aforesaid respondents. It further appears that the names of respondent Nos. 9, 10, 12 and 13 in connected revision petition have been struck off by this Court vide order dated 10.05.2023 in I.A.(Civil) No. 1173/2023 and the names of respondent Nos. 6, 7, 8, 11, 14, 15, 16, 18, 19 and 20 have also been struck off vide order dated 14.11.2022 in I.A.(Civil) No. 2264/2022.
3. This application is filed for condoning the delay of 336 days in filing an

application under Order 22 Rule 9(2) of the CPC for an order of setting aside abatement.

4. Mr. Quadir, learned counsel for the applicants submits that due to want of knowledge the aforesaid delay occurred which is beyond the control of the applicants and unintentional and therefore, the aforesaid delay warrants to be condoned by this Court.

5. I have given my prudent consideration to the arguments made by the learned counsel for the applicants and also perused the grounds of delay averred in the instant miscellaneous application.

6. Paragraph 6 of the miscellaneous application is reproduced hereunder for ready reference:

“6. That the death of the Defendant/respondents No. 3, 4 and 16 was not within the knowledge of the applicants/petitioners till the date of return of the notice by this Hon'ble court upon those respondents in the aforesaid Civil Revision Petition. After knowing about the death of the said respondents the applicants/petitioners enquired about their legal heirs, their address and the date of expiry and for which delay occurred in filing the petition for setting the abatement.”

7. It is apparent that because of want of knowledge about the death of the respondent Nos. 3, 4 and 16, the delay had occurred. The aforesaid explanation appears to be sufficient and bona fide.

8. Accordingly, the delay of 336 days is condoned.

9. In terms of above, this application stands disposed of.

JUDGE

Comparing Assistant