

GAHC010002882019



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

Case No. : I.A.(Civil)/3169/2019

SHRI NIKHIL TALUKDAR
S/O- LATE AMBIKA CHARAN TALUKDAR
R/O- KHARUPETIA TOWN
MOUZA- KHARUPETIA
P.S. DALGAON
DIST.- DARRANG
ASSAM.

VERSUS

SRI ASHIM SAHA AND 3 ORS.
S/O- SRI AMULYA SAHA
R/O- WARD NO. 7
KHARUPETIA TOWN
MOUZA- KHARUPETIA
P.S. DALGAON
DIST.- DARRANG
ASSAM.

2:OFFICER-IN-CHARGE
DALGAON POLICE STATION
DALGAON
DIST.- DARRANG
ASSAM.

3:THE CHAIRMAN OF KHARUPETIA TOWN COMMITTEE
KHARUPETIA
MOUZA- KHARUPETIA
P.S. DALGAON
DIST.- DARRANG
ASSAM.

For the Applicant(s) : Mr. R. Sharma, Advocate
For the Respondent(s) : Mr. T. U. Laskar, Advocate
: Mr. T. R. Gogoi, Advocate

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 11.03.2024

1. The instant application has been filed for condoning the delay of 1436 days in filing the accompanying appeal against the judgment and decree dated 04.03.2015 passed by the Civil Judge, Darrang, Mangaldoi, in Title Appeal No.3/2013.
2. This Court has duly perused the said application. From a perusal of the said application, it reveals that it was on account of wrong advice, the applicant has been pursuing remedies under Section 115 of the Code of Civil Procedure, 1908 by filing an application before this Court which was registered and numbered as CRP No.2/2019.
3. During the course of the said proceedings, it was brought to the attention of the Applicant that the said application under Section 115 of the Code would not be maintainable taking into account that the judgment and decree passed in Title Appeal No.3/2013 does not come within the purview of Assam Urban Areas Rent Control Act, 1972. It is under such circumstances, the accompanying appeal was filed and in that process, there is delay of 1436 days.
4. This Court having heard the learned counsels for the Respondents is of the opinion that the cause shown in the said application comes within the ambit of sufficient cause in terms with Section 5 of the Limitation Act, 1963.

Consequently, the delay of 1436 days in preferring the accompanying second appeal is condoned.

5. Accordingly, I.A. stands closed.

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

7. The learned counsel for the Petitioner is directed to serve a copy of the second appeal to the learned counsels for the Respondents during the course of the day. Mr. R. Sharma, the learned counsel submitted that he undertakes to do the same during the course of the day.

JUDGE

Comparing Assistant