

GAHC010241352023



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

Case No. : I.A.(Civil)/3200/2023

ANJAN KR DEY
S/O LATE RAMESH CHANDRA DEY, R/O GOHAIN ALI, WARD NO.8, JORHAT
TOWN, JORHAT, PIN 785001, ASSAM

VERSUS

JAYANTI DEY AND 4 ORS
W/O LATE BISWESWAR DEY, R/O GOHAIN ALI, WARD NO.8, JORHAT
TOWN, JORHAT, PIN 785001, ASSAM

2:SRI BIJOY KUMAR DEY

S/O LATE BISWESWAR DEY
R/O GOHAIN ALI
WARD NO.8
JORHAT TOWN
JORHAT
PIN 785001
ASSAM

3:SMTI ANURADHA DEY

D/O LATE BISWESWAR DEY
R/O GOHAIN ALI
WARD NO.8
JORHAT TOWN
JORHAT
PIN 785001
ASSAM

4:SMTI APSARA DEY

D/O LATE BISWESWAR DEY
R/O GOHAIN ALI
WARD NO.8
JORHAT TOWN
JORHAT
PIN 785001
ASSAM

5:SMTI MANCHAN ACHAO

W/O SRI TARUN ACHAO
R/O KAMERBONDHA ROAD
WARD NO.8
JORHAT TOWN
JORHAT
PIN 785001
ASSA

For the applicant (s) : Mr. P. K. Roychoudhury, Advocate

For the respondent (s) : Mr. S. K. Ghosh, Advocate

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

08.05.2024

This is an application filed under Section 5 of the Limitation Act for condoning the delay of 193 days in filing the application under Order XLI Rule 19 of the Code of Civil Procedure, 1908 (for short, 'the Code') for restoration/re-admission of the Regular Second Appeal which was dismissed for non-prosecution vide the order dated 28.02.2023.

2. This Court has perused the application and heard the learned counsels appearing on behalf of both the parties. From a perusal of the said application, it reveals that on account of the illness of the counsel Dr. B. Ahmed, the said counsel could not appear before this Court when the

matter was taken up for hearing. Further to that, the said counsel on account of his ailment also could not inform the appellants. However, it was only at the stage when the applicant received notice from the Executing Court, they came to learn about the dismissal of the Appeal for which the accompanying application under Order XLI Rule 19 of the Code was filed which was registered as Misc. Case No.81/2021 along with the instant application for condoning the delay of 193 days.

3. This Court taking into account the above materials is satisfied that the same constitutes a sufficient cause for condoning the delay of 193 days for which the delay stands condoned.

4. In view of the above, the instant I.A. stands disposed of.

JUDGE

Comparing Assistant