

GAHC010241592022



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

Case No. : I.A.(Civil)/3697/2022

ABHIJIT HAZARIKA
S/O KIRON HAZARIKA,
RESIDENT OF DADHARA, BAMUN CHUBURI, PO TEZPUR, MOUZA
BHAIRABPAD, DIST SONITPUR, ASSAM

VERSUS

LEGAL HEIRS OF LT. NIMAI BASAK, BOLAI BASAK AND ANR.
S/O HARIDAS BASAK,
RESIDENT OF C/O BASAK ELECTRICAL WORKS, MURATETELI, PO
TEZPUR, MOUZA BHAIRABPAD, DIST SONITPUR, ASSAM 784001

2:SRI KANAI BASAK
S/O HARIDAS BASAK

RESIDENT OF C/O BASAK ELECTRICAL WORKS
MURATETELI
PO TEZPUR
MOUZA BHAIRABPAD
DIST SONITPUR
ASSAM 78400

For the Applicant(s) : Mr. B. Chakraborty, Advocate

For the Respondent(s) : None appears.

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 03.04.2024

1. This is an application filed under Section 5 of the Limitation Act, 1963 for condoning the delay of 115 days in preferring the accompanying Regular Second Appeal against the judgment and decree dated 03.06.2017 in Title Appeal No.13/2012 passed by the learned Civil Judge, Sonitpur at Tezpur.
2. This Court has duly taken note of the grounds which have been assigned inasmuch as it has been mentioned that it was on account of mistaken advice of the counsel for the applicant, an application under Section 115 of the Code of Civil Procedure, 1908 was preferred although the said application was not maintainable taking into account that the proceedings did not come within the ambit of the Assam Urban Areas Rent Control Act, 1972.
3. It is a well settled principle of law that on account of a mistake committed by the counsel, the parties should not suffer. This Court in the interest of justice condones the delay of 115 days in preferring the accompanying appeal.
4. Accordingly, I.A. stands allowed.
5. The Registry is directed to register the accompanying Regular Second Appeal and list the matter for hearing in the column of Order XLI Rule 11.

JUDGE

Comparing Assistant