

GAHC010293042023



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

Case No. : I.A.(Civil)/269/2024

VHANU DAS
S/O LATE CHANDRA MOHAN DAS,
RESIDENT OF DAS COLONY, WARD NO. 19, PARGONA, BARAKPAR, PS
SILCHAR, DIST CACHAR, ASSAM

VERSUS

BISWAJIT ROY @ ALOY ROY AND ORS.
S/O MANIKLAL ROY
RESIDENT OF SRIGURU LANE, N.S AVENUE SILCHAR TOWN, PARGONA
BARAKPUR, PO AND PS SILCHAR, DIST CACHAR, ASSAM

2:ON THE DEATH OF KHUKAN DAS
HIS LEGAL HEIRS RINKU DAS
S/O LATE KHUKAN DAS
C/O MADHU PAUL
RESIDENT OF SONAI BAZAR
VETERINARY HOSPITAL
PARGANA BANRAJ
PO SONAI
PS SONAI
DIST CACHAR
ASSAM

3:RAJU DAS KUTI DAS
S/O LATE KHUKAN DAS
C/O SUDHANGSHU DAS
RESIDENT OF VILLAGE CHIRUKANDI (SOUTHERN SIDE OF BISHFOOTI
BRIDGE) PARGONA BARAKPAR
DIST CACHAR
ASSAM

4:PUJA DAS PAKHI
D/O LATE KHUKAN DAS
W/O MADHAB CHANDA
RESIDENT OF DAS COLONY

JANATA LANE
SILCHAR
PARGONA BARAKPUR
DIST CACHAR
ASSA

Advocate for the Petitioner : MRS. R RONGMEI, MR S NATH,MS. K L R YANTHAN,MR P UPADHYAYA

Advocate for the Respondent : MR. S D PURKAYASTHA (R-1), MS S.S.BORA(R-1)

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 21.08.2024

Heard Ms. K.L.R. Yanthan, learned counsel for the applicant and Mr. S.D. Purkayastha, learned counsel for the opposite party No. 1.

2. This application, under Section 5 of the Limitation Act, is preferred by the applicant for condonation of delay of 43 days in preferring the connected second appeal against a judgment and decree dated 19.06.2023, in Title Appeal No. 33/2015, passed by the learned Civil Judge No. 1, Cachar, Silchar.

3. Ms. Yanthan, learned counsel for the applicant submits that the applicant could not contact his counsel at Gauhati High Court in time and also because of her poor financial condition, the appeal could not be preferred and the delay of 43 days in filing the connected second appeal is not intentional and deliberate one, rather it is circumstantial and that the grounds have been mentioned in paragraph Nos. 2 and 3 of the application and therefore, it is contended to condone the delay of 43 days.

4. On the other hand, Mr. Purkayastha, learned counsel for the opposite party No. 1 submits that he has no objection in the event of condonation delay of 43 days in preferring the connected second appeal.
5. Having heard the submission of learned Advocates of both sides, I have carefully gone through the application and the statements and averments made in paragraph Nos. 2 and 3 of the application.
6. It appears that the delay of 43 days in preferring the connected second appeal is sufficiently explained and therefore, this Court is inclined to condone the same. Accordingly, the delay of 43 days in preferring the connected second appeal stands condoned.
7. Registry shall register the connected second appeal and thereafter, list the same before this Court. Registry shall also reflect the name of Mr. S.D. Purkayastha, learned counsel for the respondent No. 1 in the connected second appeal.
8. In terms of above, this interlocutory application stands allowed.

JUDGE

Comparing Assistant