

GAHC030000302024



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

Case No. : I.A.(Civil)/7/2024

Smt. H.Lalhmingthangi (L), R/b Sh. C. Zoramliana
S/o C. Lalbiakthanga (L), R/o Tuikual North, Aizawl, Mizoram

VERSUS

Sh. P.C. Lianngura and Anr.
S/o Darchhunga (L), R/o Tuikual North D Mual, Aizawl 2:Sh. Lalchhuana
S/o Romanga (L)
R/o Tuikual North 'D' Mual
Aizawl

Advocate for the Petitioner : Mr Zoramchhana

Advocate for the Respondent :

Linked Case : RFA/1/2024

Smt. H. Lalhmingthangi (L)
represented by Sh. C. Zoramliana
S/o C. Lalbiakthanga (L)

R/o Tuikual North
Aizawl
Mizoram

VERSUS

Sh. P.C. Lianngura and Anr.
S/o Darchhunga (L)

R/o Tuikual North D Mual
Aizawl

2:Sh. Lalchuana
S/o Romanga (L)

R/o Tuikual North 'D' Mual
Aizawl

Advocate for the Petitioner : Mr Zoramchhana
Advocate for the Respondent :

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA
ORDER**

Date : **02.05.2024**

Heard Mr. Zoramchhana, learned counsel for the applicant.

It appears from the Office Note dated 23.02.2024 that the A/D card of the notices issued to the respondent have returned after due service with the signatures on the A/D card.

In view of the above, the notices are deemed to be duly served on the respondent.

This application under Section 5 of the Limitation Act, 1969 for condoning the delay of 226 days in filing the connected regular first appeal, by which the applicant intend to impugn the order dated 23.03.2024 passed by the Court of learned Senior Civil Judge No.3 in Eviction Suit No. 6/2017.

Learned counsel for the applicant has submitted that the delay of 226 days in filing the connected appeal has occurred due to the circumstances, which were beyond the control of the present applicant.

It has been submitted that the impugned judgment was pronounced by

the Trial Court in the absence of the applicant and he came to know about the impugned judgment only when he received the summons of the Executive Court in Execution Case No. 103/2023.

Learned counsel for the applicant has also submitted that due to poverty and literacy the applicant could not arrange a lawyer immediately to file the appeal.

It is also submitted that ultimately when the applicant could meet a lawyer, it was informed to him that the said lawyer does not practice in the High Court.

Therefore, some delay in engaging a lawyer to file the instant appeal was caused.

The cause of delay in lodging the instant appeal are mentioned in detail in Paragraph No. 3 of the condonation of delay application.

After considering the submission made by learned counsel for the applicant as well as considering the grounds mentioned in Paragraph No. 3 of the condonation of delay application, this Court is of considered opinion that the petitioner had sufficient cause for not preferring the appeal within a period of limitation.

Hence, this Court is inclined to condon the delay in filing of the connected regular first appeal. This Interlocutory Application is therefore, allowed and delay of 226 days in filing of the connected regular first appeal is hereby condoned.

This interlocutory application is accordingly, disposed.

JUDGE

Comparing Assistant