

GAHC030006422023



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

Case No. : I.A.(Civil)/149/2023

The Union of India represented by the Secretary to the Government of India and 2
Ors.

Ministry of Railways, Rail Bhawan, Rafi Marg, New Delhi - 110001 2: The
General Manager

3: The Dy. Chief Engineer

VERSUS

The State of Mizoram represented by the Chief Secretary to the Govt. of Mizoram
and 11 Ors.

Revenue Department, Aizawl 2: The State of Mizoram represented by the Secretary to
the Govt. of Mizoram

3: The District Collector

4: Sh. Thantluanga

5: Sh. C. Thangchhunga

6: Sh. C. Lalmalsawma

7: Sh. Lalhmingchama

8: Sh. Lalrohlua

9:Smt. Lalramhluni

10:Sh. Lalroliana

11:Sh. R. Vanlalthira

12:Sh. Lalsiamlian

Advocate for the Petitioner : Mr. Sanjay Kumar Medhi

Advocate for the Respondent : Ms C Lalpekhlui for R5 - R12

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER**

30.07.2024

Heard Mr. S.K. Medhi, learned counsel for the applicants and Ms. Linda L. Fambawl, learned Addl. Advocate General for the opposite party Nos. 1, 2 and 3. Also heard Mr. Lalchhanliana Khiangte, learned counsel for the opposite party Nos. 4 to 12.

2. This application, under Section 5, read with Section 14 of the Limitation Act, 1963 and Order XLI Rule 3A of the Code of Civil Procedure, 1908 is preferred by three applicant, namely, Union of India represented by the Secretary to the Government of India, Ministry of Railways, New Delhi; the General Manager, NF Railway, Maligaon and the Dy. Chief Engineer, NF Railway, Aizawl for condonation of delay of 1742 days in preferring an appeal against the order dated 22.11.2018, passed by the learned Senior Civil Judge, Kolasib, Mizoram, in Civil Review Petition No. 1/2018.

3. Mr. Medhi, learned counsel for the applicants submits that the opposite

party Nos. 4 to 12 had filed one Civil Review Petition No. 1/2018, arising out of Damage Suit No. 3/2017, before the learned Senior Civil Judge, Kolasib, Mizoram, wherein the learned Senior Civil Judge had directed the District Collector, Kolasib to pay solatium and interest from the remaining compensation, which the District Collector, Kolasib, has, on being deposited by NF Railway for 21 bogus land owners and also directed the District Collector to pay the solatium and interest by way of cheque, which shall be issued in favour of the learned Chief Judicial Magistrate, Kolasib, vide in his account No. 33400483920 at SBI, Kolasib Branch.

4. Mr. Medhi, learned counsel for the applicants submits that the applicants were arraigned as respondent Nos. 4, 5 and 6 in the said review petition and that no direction was issued to the applicants in the order dated 22.11.2018, though arraigned as respondent Nos. 4, 5 and 6 therein. Even then, the opposite party Nos. 4 to 12 had filed an execution petition registered as Execution Case No. 2/2019 before the learned Senior Civil Judge, Kolasib against the Civil Review Petition No. 1/2018, which was registered by the learned Senior Civil Judge as Execution Case No. 2/2019, and that in the process of filing the connected appeal, delay of 1742 days occurred and the same is not intentional rather circumstantial and the applicants have a good case to be heard on merit and therefore, it is contended to condone the delay of 1742 days, in the interest of justice.

5. On the other hand, Mr. Khiangte, learned counsel for the opposite party Nos. 4 to 12, by producing before this Court a copy of the Execution Case No. 2/2019, filed against Civil Review Petition No. 1/2018 before the Court of learned Senior Civil Judge, Kolasib, Mizoram, submits that the present applicants are nowhere made a party in the Execution Case No. 2/2019 and the same has

already been withdrawn by the opposite parties and as such, the applicants have no locus standi to file an appeal against the order dated 22.11.2018, as vide the said order, the learned trial Court had directed the District Collector, Kolasib, only to pay solatium and interest from the amount already deposited with him by the applicants, and therefore, the learned counsel for the opposite party Nos. 4 to 12 submits that this application is not maintainable and therefore, it is contended to dismiss the same as the applicants have no locus standi to file an appeal against the order dated 22.11.2018.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the application and the documents placed on record and also perused the order dated 22.11.2018, in Civil Review Petition No. 1/2018, against Damage Suit No. 3/2017.

7. It appears that though the applicants were arraigned as respondent Nos. 4, 5 and 6 in the said review petition and also reflected as such in the order dated 22.11.2018 passed by the learned Senior Civil Judge, Kolasib, yet, from the operative part of the order in paragraph No. 14, it appears that the direction was issued only to the District Collector to pay solatium and interest by way of cheque, which shall be issued in favour of the learned Chief Judicial Magistrate, Kolasib, against his bank account No. 33400483920 at SBI, Kolasib Branch. No direction was issued to the present applicants as they have already deposited the compensation with the District Collector, Kolasib.

8. In view of the above, and also in view of the submission of learned counsel for the opposite party Nos. 4 to 12, this Court is of the view that this application is not maintainable and accordingly, the same stands closed.

9. The copy of Execution Petition No. 02/2019, placed before this Court by the learned counsel for the opposite party Nos. 4 to 12, shall be part of the

record.

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JUDGE

Comparing Assistant