

**HIGH COURT OF TRIPURA
AGARTALA**

CRP No.03 of 2025

Sri Nepal Ch. Nama, S/o Sri Birchandra Nama, resident of Village - Nama Para, Hospital Road, P.O. & P.S. – Manubazar, Sabroom, District – South Tripura.

.....Petitioner(s);

Versus

Smt. Sandhya Sarkar @ Sandhya Nama (Sarkar) @ Sandhya Rani Sarkar, D/o Birchandra Nama, resident of Village – Hrishyamukh, PO & PS – Belonia, District – South Tripura.

..... Respondent(s);

For Petitioner(s) : Mr. Dhruva Jyoti Saha, Advocate.

For Respondent(s) : Mr. Dilip Kumar Das Chawdhury, Advocate.

HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO

O-R-D-E-R

22/08/2025

This Revision petition is filed challenging the judgment dt. 19.11.2024 of the learned District Judge, South Tripura, Belonia, in Civil Misc. (Condo) No.07 of 2024 arising out of Title Appeal No.03 of 2024.

2. Admittedly, the petitioner herein was the defendant in T.S. (P) No.05 of 2020 on the file of the Civil Judge, (Senior Division), South Tripura, Belonia. It was a suit filed for partition of the plaint schedule property by the respondent herein. After contest, the suit was decreed on 22.12.2023, and the decree in the suit was drafted on 05.01.2024.

3. Title Appeal No.03 of 2024 was filed on 17.05.2024 by the petitioner.

4. Along with the appeal, he had filed the Civil Misc. (Condo) No.07 of 2024 under Section 5 of the Limitation Act, 1963, to condone the delay of 104 days in filing the appeal.

5. In the application seeking condonation of delay, it was contended that application for certified copy was made on 06.02.2024 and it was furnished on 17.02.2024. But thereafter the petitioner could not contact his advocate over mobile number as he was not available, and on 25.02.2024 he contacted the advocate who had asked him to meet him in his chamber. But the petitioner could not manage leave from his department. Thereafter, there was Lok Sabha Election, which was announced on 16.03.2024, in which the petitioner was engaged on election duty. After the completion of the election process, the petitioner got leave from the department after much trouble, and then he filed the appeal on 17.05.2024. Petitioner contends that this caused the delay of 104 days in filing the appeal.

6. Though counter-affidavit was not filed to the said application, the application was opposed by the respondents.

7. The learned District Judge, South Tripura, Belonia, dismissed the Civil Misc. (Condo) No.07/2024 on the ground that the petitioner was not diligent in applying for a certified copy, as he had applied for the same after more than a month. The learned District Judge also held that the petitioner did not take steps to file the appeal immediately after obtaining the certified copy and slept over the matter till 17.05.2024. The District Judge rejected the plea

of the petitioner that he could not get leave from his department on the ground that no document was filed to show that the petitioner was a Government servant or he was engaged in the Lok Sabha election.

8. Counsel for the petitioner contends that in the affidavit filed along with the delay condonation application, the petitioner had stated that he was a Government servant and this fact was not disputed by the respondents by filing a counter-affidavit in the delay condonation application. By way of abundant caution, he has also filed before this Court evidence that he is employed as a constable in the Police Department of the Government of Tripura.

9. Since the respondents had not denied about petitioner's employment in Government service, and since undoubtedly a Police Constable would be involved on election duty and it would be difficult for him to get leave when there is election in the State, the District Judge should have accepted the reason assigned for condonation of delay and allowed the application for condonation of delay. He could have at least called upon the petitioner to produce evidence that he is a Government servant or that he was engaged in the election process, if he doubted the plea of the petitioner in that regard.

10. The counsel for the respondent also stated that the suit being a partition suit, and the parties being related to one another, he has no objection if this Revision petition is allowed setting aside the order of the learned

District Judge, South Tripura, Belonia, dt. 19.11.2024 in Civil Misc. (Condo) No.07/2024.

11. In my opinion, sufficient cause has been shown by the applicant for condoning the delay of 104 days in filing Title Appeal No.03 of 2024 before the District Judge, and that the District Judge was not right in dismissing the application by the impugned order.

12. Therefore, this Revision petition is allowed, and the Civil Misc.(Condo) No.07 of 2024 is allowed, as well as the Title Appeal No.03 of 2024; the said Title Appeal is restored to the file of the Court since it was dismissed on the ground of dismissal of Civil Misc.(Condo) No.07 of 2024 on 19.11.2024 and the order dismissing Title Appeal No.03 of 2024 is dependent on the order in Civil Misc.(Condo) No.07 of 2024.

13. Therefore, the instant Revision petition is allowed subject to the petitioner paying cost of Rs.500/- to the respondent within four weeks. The appeal is restored to the file of the Court subject to payment of cost.

14. Pending application(s), if any, shall stand disposed of.

(M.S. RAMACHANDRA RAO, CJ)

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