

HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A
CRP No.52 of 2025

Sunshine Tea Processing Co. Ltd., a company incorporated under the Companies Act, having its Registered Office at 166, Jessor Road, Kolkata-700055.

..... *Petitioner(s)*

V E R S U S

1. The State of Tripura, represented by the Chief Secretary, Government of Tripura, Secretariat, Capital Complex, P.O. Kunjaban, Agartala, West Tripura.
2. Secretary to the Government of Tripura, Revenue Department, Secretariat, Capital Complex, P.O. Kunjaban, Agartala, West Tripura.
3. The District Magistrate and Collector, P.O. Gaurnagar, Kailashahar, District- Unakoti, Tripura.
4. Sub-Divisional Magistrate, Kailashahar, District- Unakoti, Tripura.
5. Ranibari Tea Company Ltd., a company incorporated under the Companies Act, having its Registered Office at 113, Park Street Poddar Point, 6th Floor, Room No.604, Kolkata, West Bengal-700016.

..... *Respondent(s)*

For Petitioner(s) : Mr. Gautam Kumar Nama, Advocate.

For Respondent(s) : Mr. Dipankar Sharma, Addl. G.A.

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

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01/08/2025

Heard Mr. Gautam Kumar Nama, counsel for the petitioner and
Mr. Dipankar Sharma, counsel appearing for the respondent-State.

[2] This revision petition is filed by the petitioner under Article 227 of the Constitution of India challenging an order dated 25.06.2025 by the District Judge, Unakoti District, Kailashahar allowing an application filed by the respondent-State of Tripura under Section 14 of the Limitation Act, 1963 seeking exclusion of the time spent in pursuing erroneously an application under Order IX, Rule 13 CPC being Civil Misc. No.42 of 2024.

[3] An *ex parte* temporary injunction was granted against the State of Tripura and other respondents in a suit filed by the petitioner on 22.08.2024.

[4] Though a Civil Misc. Appeal should have been filed against the said order by 22.09.2024, erroneously the State of Tripura and other official parties filed an application to the Court of Civil Judge, Senior Division, Unakoti District, Kailashahar under Order IX, Rule 13 of CPC being Civil Misc. No.42 of 2024, which was dismissed on 13.01.2025 on the ground that the said Court had no jurisdiction to entertain such application.

[5] The respondents then filed a Civil Misc. application with an application seeking condonation of delay under Section 5 read with Section 14 of the Limitation Act seeking exclusion of the time spent in pursuing the Order IX, Rule 13 CPC petition.

[6] The Trial Court held that the application under Order IX, Rule 13 of CPC was rightly dismissed as the Civil Judge, Senior Division had no jurisdiction to entertain such application; the period spent in pursuing the said application in the wrong forum can be excluded in view of Section 14 of the Limitation Act, 1963 and so it condoned the delay in filing the Civil Misc. Appeal.

[7] Counsel for the petitioner seeks to contend that there were four official defendants in the suit but the application under Section 14 was filed by only one of them i.e. the fourth respondent herein; that mistake of law cannot be an excuse which should be accepted by the Court in exercising its discretion to condone the delay in filing the Civil Misc. Appeal; and

therefore, the order of the District Judge allowing the Section 14 application is required to be set aside.

[8] As regards the contention of the petitioner's counsel that mistake of law cannot at all be taken into consideration while exercising the discretion to condone the delay in filing appeal is concerned, the said contention cannot be accepted because if it were to be what the petitioner's counsel contended, then there was no necessity on the part of the legislature to enact Section 14 of the Limitation Act, 1963.

[9] As regards the filing of the application only by the fourth respondent and not by respondents No.1 to 3 is concerned, it was always a curable defect and such technicalities cannot be allowed to come in the way of doing substantial justice particularly when the fourth respondent is also an officer of the State and would not have been litigating in his personal capacity and would obviously be representing the other respondents as well.

[10] In any event, the scope of interference under Article 227 of the Constitution of India is very restricted and only in the case of grave injustice, such power is required to be exercised, and it cannot be exercised to correct every error of law and fact in orders passed by the Courts below.

[11] In the facts and circumstances of this case, I am of the opinion that public interest is served by not entertaining this revision as otherwise there would be grave prejudice to public interest if the revision were to be allowed. Therefore, the instant revision petition fails and is dismissed.

(M.S. RAMACHANDRA RAO, CJ)