

**IN THE HIGH COURT OF TRIPURA
A G A R T A L A**

**I.A. No.01 of 2025
in MAT APP. No.21 of 2025**

Sri Debasish Das,
son of late Surendra Das of Jogendranagar,
Vidyasagar Road, P.S. East Agartala,
District- West Tripura

..... **Petitioner (s)**

- V e r s u s -

Smt. Pritilata Barman,
wife of Sri Debasish Das, daughter of Sri
Haradhan Barman of Rangamura, Rudijala,
P.O. & P.S. Melaghar, District- Sepahijala,
Tripura

..... **Respondent(s)**

For the Petitioner (s)	:	Ms. Rashmi Bhattacharjee, Adv. Mr. Saibal Biswas, Adv.				
For the Respondent(s)	:	None				
Date of hearing	:	28.10.2025				
Date of delivery of Judgment & Order	:	28.11.2025				
Whether fit for reporting	:	<table border="1" style="display: inline-table;"><tr><td>YES</td><td>NO</td></tr><tr><td></td><td>√</td></tr></table>	YES	NO		√
YES	NO					
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**HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA**

JUDGMENT & ORDER

This petition has been filed under Section 5 of the Limitation Act, 1963 praying for condoning the delay of 404 days in preferring the connected appeal No.MAT App.21 of 2025, against the judgment dated 30.03.2024 passed by learned Addl. Judge, Family Court, Agartala, West Tripura in T.S (RCR) 24 of 2022 and the related decree thereof, whereby the petition for restitution of conjugal rights was dismissed.

[2] In an attempt to explain the delay of such a long period, the petitioner states that after the said judgment was pronounced on 30.03.2024, he learnt about the same only in the last week of June 2024 through his engaged Advocate. Thereafter, he applied for the certified copies of the said judgment and decree in the first week of July 2024 and received the same in the second week of August 2024. It is further stated that he earlier lost his vision of one eye and he was also suffering from various diseases during that period, for which he had to visit different hospitals outside the State, including receiving of treatment at Hyderabad, and thereafter also he was confined in his house as per medical advice. Subsequently, in the first week of December 2024, he met his Advocate who instructed him to visit again after 2[two] weeks. He again met the said Advocate on 18.12.2024, and at that time he was advised to meet him again in the first week of January 2025, as the winter vacation was intervening in the meantime.

[3] Thereafter, the petitioner met his Advocate on 15.01.2025 and said Advocate advised him at that time to engage another Advocate who was practising in the High Court. Accordingly, he consulted another learned Advocate in the first week of February, 2025 and said Advocate advised him to meet him in the first week of March, 2025 i.e. after one month but due to his poor health condition, he was unable to meet him and

ultimately he visited the Advocate's chamber only in June 2025. As the health condition of that learned counsel was also not well, the petitioner, on his advice again, approached his present Advocate in July 2025. Then on scrutiny, it was found that certain documents, including said certified copies of the judgment and decree, were missing from the file. He therefore again, collected certified copies and the appeal was finally submitted on 08.08.2025. Therefore, such a long delay has occurred.

[4] Ms. Rashmi Bhattacharjee, learned counsel appearing for the petitioner, submits that the petitioner is a partially blind person and he had to undergo treatment in various hospitals outside the state, which incapacitated him from pursuing the cause and filing the appeal in time. She, therefore, earnestly prays for condoning the delay in filing the connected appeal.

[5] As per the order of the Court, necessary medical papers relating to the treatment of the petitioner were submitted by the petitioner.

[6] On consideration of all these medical papers, it appears that after the disposal of said suit [T.S.(RCR) 24 of 2022] on 30.03.2024 till filing of the appeal on 06.08.2025, only on one occasion he visited one eye clinic situated at Agartala itself in the month of June 2024. The bunch of prescriptions and

several medical reports submitted by him relate to his treatment either for the period prior to the pronouncement of the impugned judgment or after filing of the connected appeal. Therefore, the grounds as taken by the petitioner-that major portion of delay was occasioned due to his illness and receiving of treatment at different hospitals outside the State, are not acceptable. It also appears to us that the petitioner was consistently negligent and inactive in respect of filing of the appeal. Normally, he was supposed to collect the information from his Advocate about the disposal of the case just after pronouncement of the impugned judgment, but he collected the information when already the period of filing of appeal had expired. According to him, when his learned Advocate asked him to meet in the first week of March 2025, he met him in the third week of June 2025 i.e. after more than 4[four] months and there is no satisfactory explanation for such inaction on his part.

[7] Law is fairly settled that as a matter of generosity, the delay cannot be condoned without having shown sufficient reasons for such delay. In a recent decision, the Supreme Court in case of **Union of India & another v. Jahangir Byramji Jeejeebhoy (D) through his L.Rs., 2024 SCC Online SC 489**, has held that when it is decided that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-

deliberate delay and in such circumstances, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. The relevant paragraph nos.26 and 27 of said decision are extracted below:

"26. The length of the delay is a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not. From the tenor of the approach of the appellants, it appears that they want to fix their own period of limitation for instituting the proceedings for which law has prescribed a period of limitation. Once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. While considering the plea for condonation of delay, the court must not start with the merits of the main matter. The court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay.

27. We are of the view that the question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of equity. We should not keep the 'Sword of Damocles' hanging over the head of the respondent for indefinite period of time to be determined at the whims and fancies of the appellants."

[8] Again in **State of Madhya Pradesh v. Ramkumar Choudhury, [Special Leave Petition(C) Diary No.48636 of 2024 decided on 29.11.2024]**, above said principle has been reiterated by the Apex Court. It is also further observed in said case that the discretion to condone the delay has to be exercised judiciously based on facts and circumstance of each case and that, the expression "sufficient cause" cannot be

liberally interpreted, if negligence, inaction or lack of *bona fides* is attributed to the party.

[9] Considering all these aspects, we are not at all satisfied with the explanations as offered by the petitioner in the petition for condoning such delay of 404 days in preferring the connected appeal. Therefore, the petition for condonation of delay is rejected.

(S. DATTA PURKAYASTHA, J) (M.S. RAMACHANDRA RAO, CJ)

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