



Serial No. 01
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

CRP. No. 12 of 2023

Date of Decision: 24.10.2025

1. Umsaw Khwan Village Dorbar,
P.O – Umsaw, Ri Bhoi District,
Meghalaya,
[Represented by its Headman Shri Handerland Nongkse]
2. Shri. Stanlywiss Rymbai,
S/o Shri Truin Kharpran of Umbir Village, PO- UCC,
PS- Umiam, Ri Bhoi District,
Meghalaya.

.....**Applicants**

- Versus -

1. The State of Meghalaya represented by the Deputy
Secretary to the Government of Meghalaya,
Forest and Environment Department.

.....**Respondent**

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

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| i) | Whether approved for reporting in
Law journals etc.: | Yes/No |
| ii) | Whether approved for publication
in press: | Yes/No |

Appearance:

For the Petitioner/Appellant(s) : Mr. V.G.K. Kynta, Sr. Adv. with
Ms. C. Nongkhlaw, Adv.



For the Respondent(s) : Dr. N. Mozika, Sr. Adv. with
Mr. M.L. Nongpiur, Adv.

JUDGMENT AND ORDER

1. This is an application made under Article 227 of the Constitution of India read with the provisions of Rule 36-A of the Rules of Administration of Justice and Police in the Khasi and Jaintia Hills, 1937, the applicants being aggrieved with the order dated 15.06.2023 passed by the learned District Judge/Additional Deputy Commissioner (Judicial), Ri-Bhoi District, Nongpoh in Misc. Case No. 2 of 2022 connected to RFA No. 1 of 2022.

2. In the application, what is stated is that the genesis of the case between the parties dates back to the filing of a plaint by the Plaintiff/State of Meghalaya being Money Suit No. 8 of 2014 praying for a decree for realization of rupees eight crores with compound interest @ 12% per annum, the same being directed at the applicants herein as defendants. The basis being that a parcel of land measuring about 9,24,441.10 sq. m. situated at Mawpalai village was acquired by the Government under the Land Acquisition Act, 1894, the total amount of compensation coming to rupees ten crores, an initial amount of eight crores of which was paid to the Umsawkhwan Village through its Headman and the applicant No. 2 herein as the power of Attorney holder, after which the Government in the Forest Department has taken over the land on 21.06.2011.



3. The applicant seeking to demand the balance amount of rupees two crores which was not paid to them, had then filed a writ petition before this Court (the then Shillong Bench of the Gauhati High Court) being W.P.(C) No. 275 of 2012 with a prayer that the said sum be paid to them. However, the Government of Meghalaya, on receipt of notice has instead decided to annul the entire land acquisition proceedings which then prompted the applicants to file another writ petition before this Court being W.P.(C) No. 299 of 2012. This petition was disposed of vide order dated 17.02.2014, holding inter alia, that the Government may file a suit for recovery of the said rupees eight crores and in the meantime, the balance sum of rupees two crores is to be paid within four months from the date of receipt of the judgment and order along with interest @ 9% and thereafter @12 % for each delay.

4. The State accordingly filed the said Money Suit No. 8 of 2014 before the Court of the Learned Assistant to the Deputy Commissioner, Ri-Bhoi District, Nongpoh, seeking recovery of the eight crores.

5. In response, the applicants as defendants/applicants have filed an application under Order 7 Rule 11 of the Code of Civil Procedure with a prayer for rejection of the plaint. The learned Assistant to the Deputy Commissioner disposed of the said application vide order dated 16.02.2016, holding that the said suit is not maintainable in its present form for non-joinder of necessary parties as well as for want of cause of action, being thus barred



by the provisions of clauses (a) & (d) of Order 7 Rule 11, the plaint therefore was rejected.

6. On the plaint being rejected, the Government then filed an appeal before the Court of the Learned District Judge, Ri-Bhoi District, Nongpoh, being registered as RFA No 1 of 2018, accompanied by an application for condonation of delay of 707 days for filing of the said appeal, the application being Misc. Case No. 2 of 2018, which application was then allowed vide the said impugned order dated 15.06.2023. Hence this instant application.

7. Mr. V.G.K. Kynta, learned Sr. counsel along with Ms. C. Nongkhlaw, learned counsel appearing on behalf of the applicants has submitted that inspite of non-mentioning of any provision in the application seeking condonation of delay, for example as to whether the same is made out under the provision of Section 5 of the Limitation Act, 1963, the learned District Judge has condoned the delay of 707 days, apparently under the said provision and passed the impugned order. Even if the issue of non-mentioning of Section 5 of the Limitation Act is not pressed, however, the very applicability of the said provision is under challenged in this instant revision petition, submits the learned Sr. counsel.

8. Another argument canvassed is that a reading of Rule 36-A of the 1937 Rules, would reveal that the same does not incorporate or expressly permit the application of Section 5 of the Limitation Act, 1963 as there is no



provision in the said 36-A Rules which provides for condonation of delay or to import the purport of Section 5 of the Limitation Act, this, in the face of the embargo created by Section 29(2) of the Limitation Act. Rule 41 of the said 1937 Rules only speaks about the law of limitation by referring to the Limitation Act of 1908 and not the Limitation Act of 1963, submits the learned Sr. counsel. The observations of the Apex Court in the case of **Consolidated Engg. Enterprises v. Irrigation Deptt., reported in (2008) 7 SCC, 169** at para 20 has been referred to in this regard.

9. Therefore, by invoking Section 5 of the Limitation Act on the ground that Rule 36-A of the 1937 Rules is a State law, whereas the Limitation Act is a Central Law and as such, as per the provision of Article 254, if there is a conflict between a Central Act and a State Act, the former would prevail over the latter, the proposition put forth by the learned First Appellate Court is not correct legally and therefore, the impugned order was passed without jurisdiction, submits the learned Sr. counsel. The case of **Wallam Jingsuk Barim v. Union of India & Ors, Crl.M.C. No. 108 of 2023** was also cited in this regard to support this contention, wherein vide order dated 19.02.2024, this Court, at para 9 and 15 of the same, has observed as follows:

“9. Learned counsel for the respondent contended that there is no sufficient cause shown by the petitioner to condone the delay of 114 days and in terms of Section 21 of the Act, which is referred to supra, no application can be entertained beyond the outer time limit of 30 days as prescribed under the Act of 2008. He has further



contended that the provisions of the Limitation Act, 1963 much less Section 29 (2) will not be applicable to this case, as the Act of 2008 is a special law, governing the proceedings relating to the offences falling under the said Act. Section 29 (2) of the Act, 1963 reads as follows:

"29(2) Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, the provisions of section 3 shall apply as if such period were the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in sections 4 to 24 (inclusive) shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law."

Thus, it was stated that the petitioner, having not shown any sufficient cause for condoning the delay of 114 days in preferring the appeal, has no statutory right to seek for condonation of delay and hence, the application ought to be rejected at the threshold.

15. When the Special Law prescribes an outer time limit, this Court cannot extend the time on the reasoning that it would amount to legislation by the Court itself, which is not permissible. For example, if any application is filed for discharge, it has got to be filed within the time limit stipulated and if the contention of the petitioner is accepted against the discharge petition, the accused will take his own sweet time to file such a petition with a request to condone the delay. Though Article 21 of the Constitution deals with personal liberty of a person, it does not mean that the said Article can be invoked to overcome the statutory provisions, more so, Special Enactments like NIA. For example, under the Employees Provident Fund Act, 1952 r/w Rule 7(2) of the Tribunal (Procedure) Rules, 1997 (extracted below), an outer time limit of 120 days is prescribed under Section 7-1 in preferring the appeal beyond which the Tribunal will become *functus officio*.

"7(2) Any person aggrieved by a notification issued by the Central Government or an order passed by the Central Government or any other authority under the Act, may within 60 days from the date of issue of the notification/order, prefer an appeal to the Tribunal:

Provided that the Tribunal may if it is satisfied that the appellant was prevented by sufficient cause from



preferring the appeal within the prescribed period, extend the said period by a further period of 60 days."

Similarly, under the Payment of Gratuity Act, 1972 also, the maximum period of 120 days is prescribed to prefer an appeal before the Appellate Authority against the order of the Controlling Authority, beyond which the Appellate Authority has no power to entertain the same as also the condition of pre-deposit within the time is emphasized, in the absence of which, no appeal can be entertained."

10. On the other aspect of the matter, the learned Sr. counsel has submitted that the judgment and order dated 16.02.2016 passed by the Learned Assistant to the Deputy Commissioner, Ri-Bhoi District, Nongpoh in Misc. Case No. 12 (T) of 2014 arising out of Money Suit No. 8 of 2014 was under challenged before the learned District and Sessions Judge, Ri-Bhoi District, Nongpoh, the appeal preferred by the State was apparently delayed by 707.

11. It is the submission of the learned Sr. counsel that when the matter was heard before the Court of the learned Assistant to the Deputy Commissioner, after which the said judgment and order dated 16.02.2016 was passed, the State was duly represented by its counsel. Even so, if the statement of the State that the copy of the said order was received only on 05.04.2016, there is no plausible explanation as to why the delay was occasioned, except to say that the said appeal was contemplated to be filed only after obtaining approval from the Law Department, which do not constitute any judicially tenable explanation for condonation of the inordinate delay.



12. The learned Sr. counsel went on to argue that it is a settled position of law that the State is not occupying any preferred coveted position than any other litigant when it comes to explanation of the cause of delay. Sufficient cause is a legal threshold that demands real, credible and satisfactory explanation, not general excuses and should incorporate conditions to prove that the delay was a result of fraud, natural calamity etc. But in the present case, the respondent State has not been able to demonstrate such facts, far less, to explain each day's delay for the 707 days in question. Therefore, the observation of the learned Lower Appellate Court in the impugned order that *"...the applicant had sought legal opinion or advice from many legal counsels including the Law Department..."* does not constitute sufficient cause. In support of this contention, the following cases have been referred to by the learned Sr. counsel:

- i. **State of Madhya Pradesh & Ors v. Bherulal, (2020) 10 SCC 654, para 3;**
- ii. **State of Uttar Pradesh & Ors v. M/s Satish Chand Shivhare & Brothers 2022 Live Law (SC) 430, para 17 & 18.**

13. In reply, Dr. N. Mozika, learned Sr. counsel and Special counsel for the State/respondent along with Mr. M.L. Nongpiur, learned counsel has submitted that the first challenge to the jurisdiction of the learned court in



passing the impugned order is to the absence in mentioning of the correct provision of law, more particularly, that the application for condonation of delay was not preferred under Section 5 of the Limitation Act, nevertheless, the learned Court has passed the said impugned order by resorting to the said provision of Section 5 of the Limitation Act. This, would not be an impediment as it is well settled that non-mentioning of the relevant provision of law would not take away the Court's jurisdictional powers, if so vested. The case of **J. Kumaradasan Nair & Anr v. Iric Sohan & Ors, (2009) 12 SCC 175**, para 18 was referred to in this regard.

14. The second limb of argument put forth by the learned Senior Special counsel is that, though, the provision of Rule 36-A of the said Administration of Justice Rules, 1937 prescribes a period of appeal within 30 days, but is silent on the aspect of condonation of delay, however, Rule 41 of the same rules does not preclude the applicability of the Limitation Act, 1908, particularly if the dispute in question is between persons not belonging to a Scheduled Tribe or Tribes. This is further cemented by the fact that a Full Bench of this Court in the case of **Shella Action Committee, Rally of Shella Village Natives v. The State of Meghalaya & Ors**, has held that the Limitation Act, 1963 applies to the entire State of Meghalaya including the tribal areas of Autonomous Districts or Regions.

15. Yet again, if the provision of Rule 36-A is silent on condonation,



then in such a scenario, the proposition found in the case of *State of Madhya Pradesh & Anr v. Anshuman Shukla*, (2014) 10 SCC, 814, para 20, 21, 22, 23 and 24 as well as the case of *Mukri Gopalan v. Cheppilat Puthanpurayil Aboobacker* reported in (1995) 5 SCC 5 would apply, wherein it was held that when a special law does not expressly exclude, the provision of Section 29 (2) of the Limitation Act, 1963 will apply to such law and the provision of Sections 4 to 24 of the Limitation Act would come into play under the circumstances.

16. On the contention of the petitioner that no sufficient cause was set out to warrant passing of the impugned order, the learned Senior Special counsel has submitted that there were sufficient grounds elucidated by the State respondents in the condonation application, stressing more particularly that the State Government is an impersonal machinery acting through its officers/servants after obtaining legal opinions from Government counsels, such opinions requiring approvals at various stages of the administrative hierarchy, the delay so cause has been properly explained. To buttress this contention, reliance has been placed in the following case laws:

- i. ***State of Haryana v. Chandra Mani & Ors*, (1996) 3 SCC 32, para 11;**
- ii. ***Ramnath Sao v. Gobardhan Sao*, (2002) 3 SCC 195, para 15;**



iii. Perumon Bhagvathy Devaswom v. Bgargavi Amma, (2008) 8 SCC 321, para 13; and

iv. N. Balakrishnan v. M. Krishnamurthy, (1998) 7 SCC 123, Para 9 to 13.

17. On an understanding of what has been put forth by the parties in their respective argument, this Court is of the view that what is required to be decided here are two issues, first is the issue of applicability of the law of limitation to the case of the parties and second is whether sufficient cause has been shown to condone such delay.

18. True, under Rule 36-A of the 1937 Rules, an outer limit of limitation for filing an appeal or application has been fixed at 30 days which is the statutory period prescribed for filing of appeal or revision or any other applications. No provision for condonation of delay for any such appeal or applications filed after the said 30 days period is found in such rule. It would thus be concluded that any such appeal or application filed after the 30 days' period will not be accepted by the court. However, this rule read in conjunction with Rule 41 of the same Rules, where it has been expressly provided that the principles of the Limitation Act, 1908 (the Act of 1963 came later when the 1908 Act was repealed) will be applicable in disputes between persons not belonging to the Scheduled Tribe (the Government being considered an entity not belonging to the Scheduled Tribe), would only mean



that condonation for exceeding the period of limitation can be resorted to by the party by way of an appropriate prayer.

19. It has to be reminded that the 1937 Rules occupies only a part of the space within the State of Meghalaya, more particularly within the Khasi and Jaintia Hills with the exclusion of the Garo Hills region. Therefore, it is a special Act or law or even a State law with limited territorial jurisdiction. Whereas, the Limitation Act is a Central law which covers the territorial jurisdiction of the whole of India. The applicability of the Limitation Act in the State of Meghalaya has only been reinforced by the pronouncement of a Full Bench of this Court in the case of Shella Action Committee, Rally of Shella Village Natives (*supra*) which has held that “...*Limitation Act, being an Act of Parliament and having not been excluded from operation by any notification by the President, applies to the State of Meghalaya including the tribal areas...*” Thus, this issue is no longer *res integra*. The contention of the Revision Petitioner in this respect, cannot be accepted and the related authorities cited would not be applicable to the facts and circumstances of this case in this regard.

20. Even in the case of Wallam Jingsuk Barim (*supra*) where this Court has reiterated the prevalence of the provisions of a special or local law to make the provisions of Section 29 (2) of the Limitation Act inoperable, as has been observed hereinabove, in the face of Rule 41 and the ruling of a Full



Bench, this Court in the case of Shella Action Committee, Rally of Shella Village Natives (supra), it is apparent that the law of limitation in the form of the Limitation Act, 1963, is applicable to the case of the parties in question.

21. The case of Anshuman Shukla (supra) as well as that of Mukri Gopalan (supra) cited by the State respondent wherein in brief, the Hon'ble Supreme Court has held that when a special law does not expressly exclude, the provision of Section 29(2) of the Limitation Act, 1963 will apply to such law and the provisions of Sections 4 to 24 of the limitation Act would apply, would also be applicable to the case of the parties herein as essentially, the principles of the Limitation Act being applicable has been accepted by competent courts as well as by this Court in such similar situations.

22. On the objection that the impugned order was passed on an application, without the same not being preferred under specific provisions of law, the reliance of the learned Sr. counsel/Special Counsel for the State respondent in the case of J. Kumaradasan Nair (supra) at para 18 of the same is found acceptable by this Court since this proposition is well settled by now.

Para 18 is reproduced below as:

“18. It is also now a well-settled principle of law that mentioning of a wrong provision or non-mentioning of any provision of law would, by itself, be not sufficient to take away the jurisdiction of a court if it is otherwise vested in it in law. While exercising its power, the court will merely consider whether it has the source to exercise such power or not. The court will not apply the beneficent provisions like Section 5 and 14 of the Limitation



Act in a pedantic manner. When the provisions are meant to apply and in fact found to be applicable to the facts and circumstances of a case, in our opinion, there is no reason as to why the court will refuse to apply the same only because a wrong provision has been mentioned. In a case of this nature, sub-section (2) of Section 14 of the Limitation Act per se may not be applicable, but, as indicated hereinbefore, the principles thereof would be applicable for the purpose of condonation of delay in terms of Section 5 thereof.”

23. The next issue is whether sufficient cause has been shown or rather whether such cause shown by the State respondent as accepted by the learned District Judge can pass muster the test of law.

24. In the context of the facts and circumstances of the case of the parties, what has been presented by the State respondent as sufficient cause to defend the filing of the relevant application leading to the passing of the impugned order is that the concerned department in the Forest and Environment Department, Government of Meghalaya, has admitted that the initial order dated 16.02.2016 passed by the learned Assistant to the Deputy Commissioner was received by the Department on 05.04.2016. On 21.04.2016, the Law Department has opined that the said order can be appealed against before the Court of the Additional Deputy Commissioner/District and Sessions Judge.

25. However, a further legal opinion was sought for and the department was advised to now proceed with filing an intra-court appeal against the Judgment dated 17.02.2014 passed by the learned Single Judge of



this Court in W.P.(C) No 299 of 2012. Accordingly, the State respondent herein then filed the said writ appeal along with an application for condonation of delay on 27.07.2016.

26. Thereafter, after obtaining relevant opinion from the Law Department, the concerned Department then appointed a senior advocate as special counsel to prepare a draft appeal against the order dated 16.02.2016 passed by the Learned Assistant to the Deputy Commissioner in Misc. Case No. 12 (T) of 2014. The said appeal was then filed on 23.02.2018. Apparently, since the appeal is delayed by time permissible, the related application for condonation of delay of 707 days in filing such appeal was preferred before the Court of the learned District Judge.

27. The explanation given for the said delay is that the same is not intentional, but due to the circumstances stated, that is, that the department is of the belief that the proper remedy lies in filing of the writ appeal (supra), but it was only on the advice of the learned Senior counsel that it was realized that the remedy is indeed by filing the appeal against the said impugned order dated 16.02.2016 (supra)

28. The learned District Judge, in the impugned order has allowed the application for condonation of delay and the explanation given therein by holding that “...*Since the matter has moved horizontally and vertically till it gravitates towards conclusion, the same can be considered as good cause for*



condonation of delay. This Court finds that the intention of the applicant was bonafide, there was no deliberate inaction on the part of the applicant in taken up the matter and they have not slept over their right or waive it and it also shows that they are interested to pursue the matter. As such, this court finds that in the interest of justice, the delay of 707 days is hereby condoned.”

29. Though the learned District Judge has not spelt out in great details the reasons cited by the State/applicant for the delay caused, yet as indicated above, it is seen that the main cause for the delay in filing the said appeal is because of conflicting advice given by the learned counsel, first that filing of the said intra-court appeal would suffice, but then it was eventually found out that an appeal against the said order dated 16.02.2016 is the proper remedy. In the process, the time for filing of the said appeal has run out.

30. The relevant authorities cited by the learned Sr. counsel for the petitioner herein as regard the conduct of State machineries or departments in trying to explain delay on account of procedural or bureaucratic dilly-dally, such action cannot be condoned by a court, yet the fact remains that each case has to be looked into on its own particular facts and circumstances and the reasons cited. Here, to the extent of repetition, what has been cited as the main ground for the delay is the heeding to a wrong advice of a counsel until the error was corrected by the decision to file the related appeal before the proper court, that is, the Court of the learned District Judge/Additional Deputy



Commissioner. This, would form sufficient cause, in the considered opinion of this Court.

31. Another aspect of the matter is that on an overall consideration of the impugned order, it is noticed that the same has not been passed arbitrarily or that it was a perverse and capricious order based on irrelevant consideration. The exercise of discretion in this regard cannot be overturn by this Court under such circumstances. Accordingly, this Court finds no reason to interfere with the impugned order. The same is hereby upheld.

32. In the light of the above observations, this revision petition is hereby dismissed as devoid of merits and the same is disposed of accordingly. No costs.

Judge