GAHC010271762017

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

Case No. : CRP(I/O)/321/2017

JASMINE AKHTAR and 3 ORS.
D/O- LATE FARUK ISLAM, C/O- RAJIB SHARMA, R/O- BORDOLOI NAGAR, P.O AND P.S- TINSUKIA, DIST- TINSUKIA, ASSAM

2: PARVEEN AKHTAR
D/O- LATE FARUK ISLAM
C/O- RAJIB SHARMA
R/O- BORDOLOI NAGAR
P.O AND P.S- TINSUKIA
DIST- TINSUKIA
ASSAM

3: BAHARUL ISLAM
S/O- LATE FARUK ISLAM
C/O- RAJIB SHARMA
R/O- BORDOLOI NAGAR
P.O AND P.S- TINSUKIA
DIST- TINSUKIA
ASSAM

4: BADRUL ISLAM
S/O- LATE FARUK ISLAM
C/O- RAJIB SHARMA
R/O- BORDOLOI NAGAR
P.O AND P.S- TINSUKIA
DIST- TINSUKIA
ASSA

VERSUS

INDIAN OIL CORPORATION LTD and ANR.
INDIAN OIL CORPORATION LTD., HAVING ITS REGD OFFICE AT G-9, ALI YAVER JUNG MARG, BANDRAE, MUMBAI AND ALSO HAVING AND OFFICE OF ITS ASSAM OIL DIVISION AT DIGBOI, P.O AND P.S- DIGBOI,

DIST- TINSUKIA, ASSAM

2:THE EXECUTIVE ENGINEER
IOC AOD DIGBOI
P.O AND P.S- DIGBOI
DIST- TINSUKIA
ASSA

Advocate for the Petitioner : MR.R DHAR

Advocate for the Respondent : MR. N DEKA

BEFORE
HONOURABLE MR. JUSTICE MIR ALFAZ ALI

ORDER

Date : 21-12-2020

Heard Mr. S. Nath, learned counsel for the petitioner and Mr. N. Deka, learned counsel for the respondent.

2. This civil revision petition is directed against the order dated 22.08.2017, passed by the learned Civil Judge, Tinsukia in Misc.(J) Case No. 48/2013 in connection with Title Appeal No. 11/2012 whereby an application under Section 5 of the limitation Act filed by the respondent/ appellant was allowed by condoning the delay.

3. The learned counsel for the petitioner submits that the delay was not satisfactorily explained and even the petition did not disclose as to how many days delay was sought to be condoned. However, the learned Civil Judge without applying judicial mind allowed the petition and thereby condoned the delay.

4. The learned counsel for the respondent submits that though the number of days for condoning the delay was not mentioned in the petition, the date of judgment and the time required for obtaining certified copy would show that delay was not more than 60 days. The

learned Civil Judge also mentioned in the order, that the delay was less than 90 days. The impugned order shows that the learned Civil Judge has discussed elaborately the causes of delay and was satisfied that the delay has been satisfactorily explained and therefore, condoned the delay.

5. The impugned order condoning the delay and accepting the causes shown by the petitioner as ”sufficient cause” more or less falls within the discretion of the court and from the order passed by the learned Civil Judge, it cannot be said that the discretion has been exercised arbitrarily, rendering the order suffering from any illegality, or jurisdictional error. It is settled position that sufficient cause in the context of condonation of delay has to be construed liberally and technically should not be allowed to obstruct the substantial justice.

6. Having considered the facts and circumstances of the case and the causes of delay shown in the petition, the impugned order cannot be said to have suffered from any illegality or jurisdictional fault requiring interference by this court in exercising of revisional power. Therefore, this petition is held to be devoid of any merit and accordingly dismissed.

7. Considering the fact that the appeal was filed in the year 2012, the parties are directed to appear before the appellate court on or before 22.01.2021.

8. The petition is accordingly disposed of.

JUDGE

Comparing Assistant