GAHC010236492023

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

Case No. : I.A.(Civil)/3850/2023

SRI URDHAB DUTTA AND 13 ORS
S/O LT. GAURANGA DUTTA, R/O CHAPARMUKH TOWN, MOUZA CHAHARI,
P.S. RAHA, DIST. NAGAON (ASSAM), PIN 782001

2: JADAV DUTTA
S/O LT. GAURANGA DUTTA
R/O CHAPARMUKH TOWN
MOUZA CHAHARI
P.S. RAHA
DIST. NAGAON (ASSAM)
PIN 782001

3: MADHAB DUTTA
S/O LT. GAURANGA DUTTA
R/O CHAPARMUKH TOWN
MOUZA CHAHARI
P.S. RAHA
DIST. NAGAON (ASSAM)
PIN 782001

4.1: SHIPRA BANIK
W/O LT. SANKAR BANIK
S/O LT. SANKAR BANIK
R/O CHAPARMUKH TOWN
P.O. CHAPARMUKH
DIST. NAGAON (ASSAM)
PIN 782001

4.2: GAUTAM BANIK
S/O LT. SANKAR BANIK
R/O CHAPARMUKH TOWN
P.O. CHAPARMUKH
DIST. NAGAON (ASSAM)
PIN 782001

4.3: SANJAY BANIK
S/O LT. SANKAR BANIK
R/O CHAPARMUKH TOWN
P.O. CHAPARMUKH
DIST. NAGAON (ASSAM)
PIN 782001

4.5: SMTI. GEETA BANIK (PAUL)
W/O SRI SIBU PAUL
R/O SANKARDEV COLONY
W/O NO. 5
P.O. MARIANI
DIST. JURHAT (ASSAM)
D/O LT. SANKAR BANIK

4.6: SMTI REETA BANIK (SINHA)
W/O SRI RAJASH SINHA
R/O HAIBORGAON
NEAR HANUMAN MANDIR
P.O. HAIBORGAON
DIST. NAGAON
ASSAM
D/O LT. SANKAR BANIK

5.1: SMTI DIPALI DUTTA
W/O LT. BIJOY DUTTA
R/O CHAPARMUKH TOWN
MOUZA
CHAHARI
P.S. RAHA
DIST. NAGAON
ASSAM.

5.2: SRI GOPAL DUTTA
S/O LT. BIJOY DUTTA
R/O CHAPARMUKH TOWN
MOUZA
CHAHARI
P.S. RAHA
DIST. NAGAON
ASSAM
PIN 782001.

5.3: SMTI PAYAL MAZUMDAR

D/O LT. BIJOY DUTTA
W/O KISHO MAZUMDER
R/O JAGIROAD KANABARI
PIN 782410.

5.4: SMTI KOYAL ROY

D/O LT. BIJOY DUTTA
W/O SADHAN ROY
R/O CHAPARMUKH MARWARIPATTI
PIN 782410

VERSUS

SRI SANKAR RANJAN PAUL AND 12 ORS
S/O LT. CHITTYA RANJAN PAUL, R/O PHAPARMUKH TOWN, MOUZA CHAHARI, P.S. RAHA, DIST. NAGAON, PIN 782001

2:KASHI PAUL
S/O LT. CHITTYA RANJAN PAUL
R/O PHAPARMUKH TOWN
MOUZA CHAHARI
P.S. RAHA
DIST. NAGAON
PIN 782001

3:GOPAL PAUL
S/O LT. CHITTYA RANJAN PAUL
R/O PHAPARMUKH TOWN
MOUZA CHAHARI
P.S. RAHA
DIST. NAGAON
PIN 782001

4.1:ON THE DEATH OF NARAYAN PAUL HIS LEGAL HEIRS
SUJATA RANI PAUL
W/O LT. NARAYAN PAUL
R/O PHAPARMUKH TOWN
MOUZA CHAHARI
P.S. RAHA
DIST. NAGAON
PIN 782001

4.2:PRIYANKA PAUL @ PUJA

D/O LT. NARAYAN PAUL
R/O PHAPARMUKH TOWN
MOUZA CHAHARI
P.S. RAHA
DIST. NAGAON
PIN 782001

5:GOBIND PAUL

S/O LT. CHITTYA RANJAN PAUL
R/O PHAPARMUKH TOWN
MOUZA CHAHARI
P.S. RAHA
DIST. NAGAON
PIN 782001

6:LAKHAN PAUL
S/O LT. CHITTYA RANJAN PAUL
R/O PHAPARMUKH TOWN
MOUZA CHAHARI
P.S. RAHA
DIST. NAGAON
PIN 782001

7:KRISHNA PAUL
S/O LT. CHITTYA RANJAN PAUL
R/O PHAPARMUKH TOWN
MOUZA CHAHARI
P.S. RAHA
DIST. NAGAON
PIN 782001

8:SHYAMAL PAUL
S/O LT. CHITTYA RANJAN PAUL
R/O PHAPARMUKH TOWN
MOUZA CHAHARI
P.S. RAHA
DIST. NAGAON
PIN 782001

9:SMTI ANJU SUTRADHAR (PAUL) @ SHUKLA
W/O LT. GAUTAM PAUL
DAUGHTER IN LAW OF LT. CHITTYA RANJAN PAUL
R/O CHAPARMUKH TOWN
MOUZA CHAHARI
P.S. RAHA
DIST. NAGAON
PIN 782001

10:SMTI ARUNABALAL PAUL
W/O LT. CHITTYA RANJAN PAUL
R/O CHAPARMUKH TOWN
MOUZA CHAHARI
P.S. RAHA
DIST. NAGAON
PIN 782001

11:SMTI PARUBALA PAUL

D/O LT. CHITTYA RANJAN PAUL
R/O CHAPARMUKH TOWN
MOUZA CHAHARI
P.S. RAHA
DIST. NAGAON
PIN 78200

Advocate for the Petitioner : MS B DEVI,

Advocate for the Respondent : MR. R K JAIN,

Linked Case : RSA/309/2018

SRI URDHAB DUTTA AND 9 ORS
S/O LT. GAURANGA DUTTA
R/O CHAPARMUKH TOWN
MOUZA CHAHARI
P.S. RAHA
DIST. NAGAON (ASSAM)
PIN 782001

2: JADAV DUTTA
S/O LT. GAURANGA DUTTA
R/O CHAPARMUKH TOWN
MOUZA CHAHARI
P.S. RAHA
DIST. NAGAON (ASSAM)
PIN 782001

3: MADHAB DUTTA
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R/O CHAPARMUKH TOWN
MOUZA CHAHARI
P.S. RAHA
DIST. NAGAON (ASSAM)
PIN 782001

4.1: SHIPRA BANIK
W/O LT. SANKAR BANIK
S/O LT. SANKAR BANIK
R/O CHAPARMUKH TOWN
P.O. CHAPARMUKH
DIST. NAGAON (ASSAM)
PIN 782001

4.2: GAUTAM BANIK
S/O LT. SANKAR BANIK
R/O CHAPARMUKH TOWN
P.O. CHAPARMUKH
DIST. NAGAON (ASSAM)
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4.3: SANJAY BANIK
S/O LT. SANKAR BANIK
R/O CHAPARMUKH TOWN
P.O. CHAPARMUKH
DIST. NAGAON (ASSAM)
PIN 782001

4.4: BAPPI BANIK
S/O LT. SANKAR BANIK
R/O CHAPARMUKH TOWN
P.O. CHAPARMUKH
DIST. NAGAON (ASSAM)
PIN 782001

4.5: SMTI. GEETA BANIK (PAUL)
W/O SRI SIBU PAUL
R/O SANKARDEV COLONY
W/O NO. 5
P.O. MARIANI
DIST. JURHAT (ASSAM)
D/O LT. SANKAR BANIK

4.6: SMTI REETA BANIK (SINHA)
W/O SRI RAJASH SINHA
R/O HAIBORGAON
NEAR HANUMAN MANDIR
P.O. HAIBORGAON
DIST. NAGAON
ASSAM
D/O LT. SANKAR BANIK

5: ON THE DEATH OF BIJOY DUTTA
HIS LEGAL HEIRS
NAMELY-

5.1: SMTI DIPALI DUTTA
W/O LT. BIJOY DUTTA
R/O CHAPARMUKH TOWN
MOUZA
CHAHARI
P.S. RAHA

DIST. NAGAON
ASSAM.

5.2: SRI GOPAL DUTTA
S/O LT. BIJOY DUTTA
R/O CHAPARMUKH TOWN
MOUZA
CHAHARI
P.S. RAHA
DIST. NAGAON
ASSAM
PIN 782001.

5.3: SMTI PAYAL MAZUMDAR

D/O LT. BIJOY DUTTA
W/O KISHO MAZUMDER
R/O JAGIROAD KANABARI
PIN 782410.

5.4: SMTI KOYAL ROY

D/O LT. BIJOY DUTTA
W/O SADHAN ROY
R/O CHAPARMUKH MARWARIPATTI
PIN 782410.
VERSUS

SRI SANKAR RANJAN PAUL AND 10 ORS
S/O LT. CHITTYA RANJAN PAUL
R/O PHAPARMUKH TOWN
MOUZA CHAHARI
P.S. RAHA
DIST. NAGAON
PIN 782001

2:KASHI PAUL
S/O LT. CHITTYA RANJAN PAUL
R/O PHAPARMUKH TOWN
MOUZA CHAHARI
P.S. RAHA
DIST. NAGAON
PIN 782001

3:GOPAL PAUL
S/O LT. CHITTYA RANJAN PAUL
R/O PHAPARMUKH TOWN
MOUZA CHAHARI
P.S. RAHA

DIST. NAGAON
PIN 782001

4:NARAYAN PAUL
S/O LT. CHITTYA RANJAN PAUL
R/O PHAPARMUKH TOWN
MOUZA CHAHARI
P.S. RAHA
DIST. NAGAON
PIN 782001

5:GOBIND PAUL
S/O LT. CHITTYA RANJAN PAUL
R/O PHAPARMUKH TOWN
MOUZA CHAHARI
P.S. RAHA
DIST. NAGAON
PIN 782001

6:LAKHAN PAUL
S/O LT. CHITTYA RANJAN PAUL
R/O PHAPARMUKH TOWN
MOUZA CHAHARI
P.S. RAHA
DIST. NAGAON
PIN 782001

7:KRISHNA PAUL
S/O LT. CHITTYA RANJAN PAUL
R/O PHAPARMUKH TOWN
MOUZA CHAHARI
P.S. RAHA
DIST. NAGAON
PIN 782001

8:SHYAMAL PAUL
S/O LT. CHITTYA RANJAN PAUL
R/O PHAPARMUKH TOWN
MOUZA CHAHARI
P.S. RAHA
DIST. NAGAON
PIN 782001

9:SMTI ANJU SUTRADHAR (PAUL) @ SHUKLA
W/O LT. GAUTAM PAUL
DAUGHTER IN LAW OF LT. CHITTYA RANJAN PAUL
R/O CHAPARMUKH TOWN
MOUZA CHAHARI
P.S. RAHA

DIST. NAGAON
PIN 782001

10:SMTI ARUNABALAL PAUL
W/O LT. CHITTYA RANJAN PAUL
R/O CHAPARMUKH TOWN
MOUZA CHAHARI
P.S. RAHA
DIST. NAGAON
PIN 782001

11:SMTI PARUBALA PAUL
D/O LT. CHITTYA RANJAN PAUL
R/O CHAPARMUKH TOWN
MOUZA CHAHARI
P.S. RAHA
DIST. NAGAON
PIN 782001

Advocate for : MR. G C PHUKAN
Advocate for : MR. R K JAIN (R1-R3
R5-R9
R11) appearing for SRI SANKAR RANJAN PAUL AND 10 ORS

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

06.11.2026

1. Heard Ms. B. Devi, the learned counsel for the applicant. Also heard Mr. R. K. Jain, the learned counsel for the opposite parties.

2. This application under Section 5 of the Limitation Act, 1963 has been filed by the applicant for condoning the delay of 2018 days in filing application for setting aside the abatement of the connected appeal, i.e., RSA No. 309/2018 on failure to substitute the legal heirs of respondent No. 4, who had reportedly died on 18.12.2017.

3. The learned counsel for the applicant has submitted that the engaged counsel for the appellant came to know about the death of

respondent No. 4 for the first time on 03.06.2019, when the said fact was informed by the engaged counsel of the respondent before the Court.

4. She further submits that it was the advocate's clerk of the appellant's counsel, who was directed to take steps for filing Interlocutory Applications for substitution of legal heirs of deceased respondent No. 10 in RSA No. 309/2018 as well as RSA No. 306/2018, which are appeals analogous to each other.

5. However, due to inadvertent mistake, though the advocate's clerk filed the Interlocutory Applications in RSA No. 306/2018, he did not file any application for setting aside abatement and for substitution of legal heirs of respondent No. 4 in connection with RSA No. 309/2018.

6. The learned counsel for the applicant further submits that it is only on 30.08.2023, when the counsel for the appellant made an inquiry in this regard, she came to know that the Interlocutory Applications were not filed by the advocate's clerk, namely, Shri Hitesh Barman.

7. She submits that there was no mala fide on the part of the applicants, as apparently the mistake was committed by the advocate's clerk, and in this process, a delay of 2018 days in filing the connected applications occurred.

8. She, therefore, submits that as the reasons for delay in filing the application for setting aside abatement and substitution petition were beyond the control of the applicants, the same may be regarded as sufficient cause, which prevented the applicants from preferring the connected applications within the prescribed period of limitation.

9. On the other hand, Mr. R. K. Jain, the learned counsel for the opposite parties, has opposed and submitted that an inordinate delay of 2018 days has not been sufficiently explained by the applicant. As such, he prays for dismissing the instant Interlocutory Application.

10. I have considered the submissions made by learned counsel for both sides and have gone through the materials available on record.

11. On perusal of the grounds stated in paragraph Nos. 3, 6, 7, and 8 of the instant Interlocutory Application, this Court is of the considered opinion that the same may be regarded as sufficient cause within the meaning of Section 5 of the Limitation Act, 1963, which prevented the applicants from preferring the connected applications within the prescribed period of limitation.

12. As such, the delay in preferring the application for setting aside abatement and in filing application for substituting the legal heirs of deceased respondent No. 4 is hereby condoned, and this Interlocutory Application is disposed of.

JUDGE

Comparing Assistant