GAHC030005042025

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

Case No. : I.A.(Civil)/124/2025

R.Lalruatfela
Proprietor, RLC Business Enterprise, Aizawl

VERSUS

Sh H.Lalramfawna and 3 Ors.
S/o H.Ngulvunga (L), R/o Lawngtlai AOC Veng,
Mizoram

Advocate for the Petitioner : Mr Zoramchhana

Advocate for the Respondent : Mr. C. Zoramchhana Sr. Adv. for R2

Linked Case : MACApp./14/2025

R.Lalruatfela
Proprietor
RLC Business Enterprise
Aizawl

VERSUS

1. Sh H.Lalramfawna and 3 Ors.
S/o H.Ngulvunga (L) R/o Lawngtlai AOC Veng
Mizoram

2:Sh R.Lallianrawna
S/o R.Zosanga
R/o New Siaha West
Mizoram

3:Sh TBC Lalringzela (now dead)
r/b His wife Smt K.Zonunmawii
R/o New Siaha
Mizoram

4:SBI Gen. Insurance Co. Ltd.
Aizawl

Advocate for the Petitioner : Mr Zoramchhana
Advocate for the Respondent : Mr. C Lalfakzuala for R1

BEFORE

HON'BLE MR. JUSTICE SANJEEV KUMAR SHARMA

O R D E R

06.10.2026

Heard Mr. Zoramchhana, learned counsel for the applicant. Also heard Ms. H. Lalrosangi, learned counsel for the respondent No. 2.

2. This IA has been preferred under Section 5 of the Limitation Act, 1963 seeking condonation of delay of 149 days in filing the connected MAC appeal against the impugned judgment and order dated 05.12.2024 passed by the Presiding Officer, MACT, Aizawl Judicial District in MACT Case No. 24 of 29.

3. The following reasons have been stated in the instant application for the delay:-

a) That the Applicant has come to learn about the impugned Judgment & Order dt. 15.12.2024 only on 5.5.2025 after he had received a summon in connection

with Execution Case No. 2 of 2025 filed by the instant Respondent No. 1/Claimant. The Applicant immediately contacted his previous counsel who in turn informed him that he had mistakenly failed to inform the Applicant about the passing of the impugned Judgment & Order dt. 5.12.2024. Therefore, when the Applicant had gained knowledge of the impugned Judgment & Order dt. 5.12.2024 the period of limitation had already expired and there is already a delay of 60 days.

b) That the Applicant upon receiving summon had appeared before the Tribunal Court on the fixed date i.e. 23.5.2025. Immediately, the Applicant had sought advised from his present counsel who advised him to file an appeal against the Judgment & Order dt. 5.12.2024. However, the Applicant upon realising that a liability of a huge sum of money amounting to Rs. 22,42,286/- (Rupees Twenty lakhs forty two hundred eighty six) had an impact upon his health and thus the Applicant was unable to immediately pursue his case. In fact the Applicant had medical check-up at BN Hospital on 5.6.2025 wherein he was advised to take rest. *A copy of the medical certificate is at Annexure-2.*

c) That the Applicant had finalised his engagement with his present counsel on 13/5/2025 and the counsel for the Applicant had immediately applied certified copy of the Judgment & Order along with the material on records in MACT Case No. 24/2019. The certified copy of the impugned Judgment & Order was furnished to the Applicant counsel on 17.7.2025 during which time there is already a delay of 134 days.

d) That the counsel for the Applicant upon receiving the required documents from the Tribunal Court had studied the case of the Appellant and prepared the memorandum of appeal which took approximately 15 days. As such, when the appeal was ready for filling, there is a delay of 149 days.

4. Learned counsel for the applicant further submits that the applicant has a good case on merits as the I.O had submitted final report in the case wherein it was stated that the accident was caused due to slippery road and that there was no negligence on the part of the driver who also died in the same accident.

5. The learned counsel has referred to the decision of the Apex Court in ***N. Balakrishnan Vs. M. Krishnamurthy,*** reported in ***(1998) 7 SCC 123*** and also a decision of this Court in I.A.(C) No. 14 of 2025, dated 12.06.2026 wherein the decision of the Apex Court in ***State of Nagaland Vs. Lipok Ao and Ors.,*** reported in ***(2005) 3 SCC 752*** has been referred to and wherein it was held that if refusal to condone the delay results in a grave miscarriage of justice, it would be a ground to condone the delay.

6. Per contra, learned counsel for the opposite party/respondent has submitted that the instant application ought to be dismissed at the threshold. It is contended by filing objection that the statement of the applicant regarding delayed knowledge of the impugned judgment and order is false and that notice has been served to the counsel for the present applicant who represented him at the trial and that the applicant however, failed to appear before the learned Tribunal in the execution case on the appointed day.

7. Notice was also served on the staff of the office of the applicant on 05.05.2026, but the applicant failed to take requisite steps. Attention has been drawn to the annexure-3 of the affidavit-in-opposition filed by the respondent, which is an extract copy of order dated 03.04.2025 passed by the learned Executing Court, which is stated to have been served upon the applicant on 07.04.2025, but the applicant has falsely claimed that he had knowledge of the judgment only on 05.05.2025 in connection with the execution case, submitted

learned counsel.

8. The learned counsel for the respondent in support of her contentions has referred to the following decisions of the Hon'ble Apex Court:-

1) ***Pundlik Jalam Patil (dead) by LRS Vs. Executive Engineer, Jalgaon Medium Project and Another***, reported in ***(2008) 17 SCC 448***;

2) ***Basawaraj and Another Vs. Special Land Acquisition Officer*** reported in ***(2013) 14 SCC 81***;

3) ***Pathapati Subba Reddy (died) by LRS and Others Vs. Special Deputy Collector (LA)*** reported in ***2024 SCC Online SC 513***.

9. It is evident from the unrebutted document annexed to the affidavit-in-opposition filed by the respondent, i.e., the copy of the summons dated 03.04.2025 issued by the learned Executing Court, which is annexed as annexure-2, that the applicant received the same on 07.04.2025. The applicant does not deny his signature appearing on the copy of the said summons and the same also matches with the signature of the applicant in his Vakalatnama. Yet the applicant has stated in paragraph 2(a) of the instant application that he came to learn about the impugned judgment and order dated 05.12.2024 only on 05.05.2025 after he had received a summon in connection with the execution case filed by the instant respondent No. 1 /claimant.

10. There is no explanation as to what took the applicant more than a month to gather knowledge about the impugned judgment even after he received the

summon on 07.04.2025. After contacting his previous counsel, who according to the applicant mistakenly failed to inform the applicant about the said judgment, the applicant sought advice from his present counsel and thereafter, the certified copy was applied for only on 13.05.2025. Thus, it appears that there is no explanation at least for the period commencing from 07.04.2025 when the applicant received the summons till 05.05.2025 when he allegedly came to learn about the said judgment.

11. From the above, the negligent attitude of the applicant appears to be well demonstrated.

12. In ***Pundlik Jalam Patil (dead) by LRS*** (Supra), the Hon'ble Apex Court has held at para 14 as follows:-

> "*14. It is true that the power to condone the delay rests with the court in which the application was filed beyond time and decide whether there is sufficient cause for condoning the delay and ordinarily the superior court may not interfere with such discretion even if some error is to be found in the discretion so exercised by the court but where there is no sufficient cause for condoning the delay but the delay was condoned, it is a case of discretion not being exercised judicially and the order becomes vulnerable and susceptible for its correction by the superior court. The High Court having found that the respondent in its application made incorrect submission that it had no knowledge of the award passed by the Reference Court ought to have refused to exercise its discretion. The High Court exercised its discretion on wrong principles. In that view of the matter we cannot sustain the exercise of discretion in the manner done by the High Court."*

13. In ***Basawaraj and Another*** (Supra), it was held at para 15 as follows:-

> "*15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to*

what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature."

14. In ***Pathapati Subba Reddy (died) by LRS and Ors.*** (Supra), the Hon'ble Apex Court held at para 26 as follows:-

"*26. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:*

(i) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;

(ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;

(iii) The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;

(iv) In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of

limitation contained in Section 3 of the Limitation Act;

(v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;

(vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;

(vii) Merits of the case are not required to be considered in condoning the delay; and

(viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamount to disregarding the statutory provision".

15. In the instant case, far from showing sufficient cause, the applicant has in fact failed to mention any cause so as to explain as to what action he had taken after receipt of the summons from the Executing Court on 07.04.2025 till he approached his previous lawyer and his present one which was about one month later.

16. Although learned counsel for the applicant had referred to the order of this Court dated 12.06.2026 in IA (Civil) No. 14 of 2025 wherein reference was made to the ***State of Nagaland Vs. Lipok Ao and others*** (Supra) wherein the Apex Court has held that if refusal to condone the delay results in a grave miscarriage of justice, it would be a ground to condone the delay, the perusal of the record does not indicate that any such grave miscarriage of justice would be

caused if the delay is not condoned. The reference to ***N. Balakrishnan*** (Supra) does not really help the applicant. Although in the said case it has been observed that there is no presumption in law that the delay in approaching the Court is always deliberate, the same does not dispense with the necessity of explaining the cause of the delay.

17. There is no cavil with the proposition that rules of limitation are not meant to destroy the rights of the parties, but to see that parties do not resort to dilatory tactics, but seek their remedy promptly and the idea is that every legal remedy must be kept alive for a legislatively fixed period of time. In the same case, it has been held that when there is reasonable ground to think that the delay was occasioned by the party deliberately to gain time, then the Court should lean against acceptance of the explanation, but in the instant case, there appears to be no explanation whatsoever in respect of a considerable part of the delay as adverted to above. Moreover, there appears to be force in the submission of learned counsel for the respondent No. 1 that the applicant has sought to suppress material facts by avoiding to mention receipt of the summons of the Executing Court on 07.04.2025 and by falsely claiming to have had notice of the impugned judgement only on 05.05.2025.

18. In view of the above discussion, I am of the view that no sufficient cause has been made out for condonation of the delay.

19. Accordingly, the Interlocutory Application stands dismissed.

JUDGE

Comparing Assistant