

GAHC010104122024



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

Case No. : I.A.(Civil)/1807/2024

SARU KUMAR AND ORS
W/O LATE PADMA RAM KUMAR, RESIDENT OF BORIPARA MALIGAON, P.O.
and P.S. JALUKBARI, DIST. KAMRUP, GHY-781012

2: SHIVA KUMAR

3: SADANANDA KUMAR

4: DIPAK KUMAR

APPELLANT NOS 3 TO 6 ARE THE OF LATE PADMA RAM KUMAR
APPELLANT NOS 1 TO 6 ARE THE RESIDENT OF BORIPARA MALIGAON
P.O. and P.S. JALUKBARI
DIST. KAMRUP
GHY-781012

5: SMT. KADAMI KUMAR

W/O SRI RAM KUMAR
VILL. RAJAPUKHURI
P.O. RAJAPUKHURI
DIST. KAMRUP
PIN 781132

6: SMT. KANTI KUMAR

W/O SRI NIRANJAN KUMAR
VILL. PALASHBARI
P.O. PALASHBARI
DIST. KAMRUP
PIN 781128

7: SMT. BIMALA KUMAR

W/O SRI SUSIL KUMAR
VILL. BONGRA
P.O. BONGRA
DIST. KAMRUP
PIN 781015

8: SMT. REENA KALITA

W/O SRI RAMEN KALITA
VILL.RAMPUR
P.O. RAMPUR
DIST.KAMRUP
PIN 781132 APPELLANT NOS 7 TO 9 ARE TEH DAUGHTERS OF LATE
PADMA RAM KUMAR

VERSUS

PADMA NATH SARMA AND ORS
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2:SMT. ALAKA DEVI

W/O LATE UMESH SARMA

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S/O BHABANI SARMAH

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CONSTITUENT ATTORNEY OF THE PLAINTIFFS

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S/O LATE LANA PRASAD SARMA RESPONDENT NO. 1 TO 66 ARE THE
RESIDENT OF KAMAKHYA DAM
P.O.KAMAKHYA
DIST. KAMRUP M
PIN 78101

Advocate for the Petitioner : MR. U B SARMA, MR. R SARMAH

Advocate for the Respondent : MR P K KALITA, MR K TALUKDAR

Linked Case : RSA/122/2013

SARU KUMAR and 9 ORS.

2: SMT. KALI KUMAR
BOTH W/O LATE PADMA RAM KUMAR

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Advocate for : MR.P KHATANIAR
Advocate for : MR.N DAS appearing for PADMA NATH SARMA and 65 ORS.

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN**

ORDER

Date : 08.11.2024

Heard Mr. U. B. Sarma, learned counsel applicants and Mr. P.K. Kalita, learned Senior Counsel assisted by Mr. A. Talukdar, learned counsel for all the respondents.

This by the applicant under Section 5 of the Limitation Act is preferred for condonation of delay in 107 days filing the restoration application for restoration of RSA No. 122/2013.

Mr. U. B. Sarma, learned counsel for the applicants submits that the RSA was dismissed vide the order dated 05.01.2024, as on the date fixed, the applicant remained unrepresented and in fact, on that day, the name of the learned counsel was not reflected in the cause-list and that the delay in filing the petition is not international rather it is circumstantial, and therefore, it is contentent to allow the petition.

Mr. Kalita, learned Senior Counsel for the respondents submits that he has no objection in the event of condoning the delay, but Mr. Kalita insist that some cost may be imposed upon the applicants, so as to compel them to be regular

Having heard the submissions of learned Advocates of both the parties, I have gone through the petition and the documents placed on record and also perused the order dated 05.01.2024 in RSA No. 122/2013.

It appears that the applicants remained continuously absent for 2 (two) days on 08.11.2023 and 29.11.2023, for which this Court was pleased to dismiss the

petition on account of non-prosecution.

Having considered the submission of learned counsel for both the parties and also considering the facts and circumstances on the record, this Court is inclined to condone the delay of 107 days in refilling the restoration application of RSA No. 122/2013.

In terms of the above, the I.A. stands disposed of.

JUDGE

Comparing Assistant