

GAHC010021822026



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

Case No. : I.A.(Civil)/275/2026

ON THE DEATH OF ABDUL HAKIM HIS LEGAL HEIRS MD SHAFIK AHMED
ALIAS ORS
S/O LATE ABDUL HAKIM MAZARBHUIYA

2: MD. ROFIQUE UDDIN MAZARBHUIYA
SON OF LATE ABDUL HAKIM MAZARBHUIYA

3: MD. AFTARUN NESSA MAZARBHUIYA
SON OF LATE ABDUL HAKIM MAZARBHUIYA

4: MST. RAHANA BEGUM MAZARBHUIYA
SON OF LATE ABDUL HAKIM MAZARBHUIYA

5: MST. RINA BEGUM MAZARBHUIYA
SON OF LATE ABDUL HAKIM MAZARBHUIYA

6: MST. MONWARA BEGUM MAZARBHUIYA
SON OF LATE ABDUL HAKIM MAZARBHUIYA

7: MST. SAJAN BEGUM MAZARBHUIYA
APPELLANT NOS. 1 TO 7 ARE SONS AND DAUGHTER OF LATE ABDUL
HAKIM MAZARBHUIYA

8: ON THE DEATH OF LATE MD. ABDUL KARIM MAZARBHUIYA
HIS LEGALHEIRS

8.1: SORFUL NESSA LASKAR
WIFE

8.2: AMRUL HOQUE MAZARBHUIYA
SON

8.3: KAMRUL HOQUE MAZARBHUIYA
SON

8.4: NAZMUL HOQUE MAZARBHUIYA
SON

8.5: RUSTANA BEGAM LASKAR
DAUGHTER

8.6: SALMA BEGUM MAZARBHUIYA
DAUGHTER

8.7: RAJMIN SULTANA LASKAR
DAUGHTER

8.8: FATIMA BEGOM MAZARBHUIYA
DAUGHTER

9: MD. ABDUL AZIM MAZARBHUIYA
SONS AND DAUGHTERS OF LATE ANJOD ALI MAZARBHUIYA

10: MD. ABDUL WAHID MAZARBHUIYA
SON OF LATE ANJOD ALI MAZARBHUIYA

11: MD. ABDUL AZIZ MAZARBHUIYA
SON OF LATE ANJOD ALI MAZARBHUIYA

12: MST. SAYRA KHATUN MAZARBHUIYA
DAUGHTERS OF LATE ANJOD ALI MAZARBHUIYA

13: MST. MANIRA KHATUN MAZARBHUIYA
DAUGHTERS OF LATE ANJOD ALI MAZARBHUIYA

14: MST. HAZIRA KHATUN MAZARBHUIYA
APPELLANT NOS. 8 TO 14 ARE SONS AND DAUGHTERS OF LATE ANJOD ALI
MAZARBHUIYA

15: MD. JAYNUL HAQUE MAZARBHUIYA
S/O LATE ANFOR ALI MAZARBHUIYA
APPELLANT NOS. 1 TO 15 ARE
R/O VILL NIJ VERNERPUR PT I
P.O. VERNERPUR
P.S. LALA
DIST HAILAKANDI
ASSAM
VERSUS

ON THE DEATH OF KURSHAD ALI LASKAR HIS LEGAL HEIRS MD ABDUL

LATIF LASKAR ALIAS ORS
S/O LATE KHURSED ALI LASKAR

2:MD. ABDUL WAHAB LASKAR
S/O LATE KHURSED ALI LASKAR

3:MD. ABDUL MALIK LASKAR
S/O LATE KHURSED ALI LASKAR
PRINCIPAL RESPONDENT NOS. 1 TO 3 ARE R/O VILL NIJ VERNERPUR
P.O. VERNERPUR
P.S. LALA
DIST HAILAKANDI
ASSAM

4:MUSSTT. RAHANA BIBI
W/O MD. MUSSA MIA
R/O VILL AND P.O. GHARMOORAH
P.S. KATLICHERRA
DIST HAILAKANDI
ASSAM

5:MUSSTT. FARHANA BIBI
W/O MD. HAFIZ KHALIL AHMED VILL MOHAMMEDPUR
PART-II P.O. RONGPUR SOUTH
P.S. LALA
DIST HAILAKANDI
ASSAM

6:MUSSTT. NEPURJAN BIBI
W/O LATE ABDUL RASID

7:MUSSTT. SIRAJUN NESSA
W/O LATE AJMAT ALI

8:MD. IMRUL HUSSAIN LASKAR
S/O LATE AJMAT ALI

9:MD. SAJID HUSSAIN LASKAR
S/O LATE AJMAT ALI

10:MUSSTT. SALINA AKTAR LASKAR
D/O LATE AJMAT ALI

11:MUSSTT. SAMIMA AKTAR LASKAR
D/O LATE AZMOT ALI

12:FOIZUL HAQUE MAZARBHUIYA
S/O LATE ANFOR ALI MAZARBHUIYA

PROF. OPP. PARTY NOS. 6 TO 12 ARE
R/O VILL NIJ VERNERPUR PT-I
P.O. VERNERPUR
P.S. LALA
DIST. HAILAKANDI
ASSAM

13:MD. SALIM UDDIN LASKAR
S/O MD. SIRAJ UDDIN LASKAR

14:MD. SIRAJ UDDIN LASKAR
S/O LATE ANJOD ALI LASKAR
PROF OPP. PARTY NOS. 13 AND 14 ARE
R/O VILL MOHAMEDPUR PT-I
P.S. LALA
P.O. PONGPUR SOUTH
DIST. HAILAKANDI
ASSAM

15:MST. TAIMUN NESSA
W/O MD. BASIR AHMED CHOUDHURY
R/O VILL KACHARI THAL
P.S. LALA
P.O. VERNERPUR
DIST HAILAKANDI
ASSAM

Advocate for : MS. B. HAZARIKA
Advocate for : MR. N H BARBHUIYA appearing for ON THE DEATH OF
KURSHAD ALI LASKAR HIS LEGAL HEIRS MD ABDUL LATIF LASKAR
ALIAS ORS

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 08.05.2026

Heard Ms. B. Hazarika, learned counsel for the applicant. Also heard Mr. N. H. Barbhuiya, learned counsel for the respondents.

2. By way of this interlocutory application under Section 5 of the Limitation Act, 1963, the applicant is seeking condoning delay of 1895 days in filing the connected substitution application for substituting the deceased/appellant No. 8

by his legal heirs in RSA No. 56/2016.

3. It appears that during the pendency of the regular first appeal, the appellant No. 8 died on 22.06.2020, leaving behind his legal heirs, who, the right to sue having been survived, were required to be substituted within 90 days, i.e., on or before 20.09.2020, but the same having not been able to be done in time, the appeal stood abated in respect of the deceased/appellant No. 8 by operation of law after the expiry of 90 days, i.e., after 20.09.2020. Accordingly, the instant interlocutory application for condoning the delay of 1895 days in filing the appropriate application for substituting the deceased/appellant No. 8 by his legal heirs and setting aside abatement is filed.

4. Upon hearing the learned counsel for both the parties and having perused the material available on record, it appears that the grounds for delay read as under: -

“4. That the applicants beg to state that there are no negligence and/or laches on the part of the applicant in filing the petitions in time but the delay so occurred is due to communication with the engaged counsel. But the applicant when visited the chamber of his engaged counsel on 18.12.2025 to enquire about the status of the appeal, then only during conversation the applicant informed his counsel that the appellant No.8 also died and his name is required to be removed from the case. The engaged counsel informed him about the procedure of substitution of appellant also. The applicant immediately returned to his native place and tried to collect the name and address of the legal heirs of deceased appellant No.8. Thereafter, somehow, he managed to collect the signatures, name and address of the legal heirs of the appellant No.8 within a month. Thereafter the applicant immediately came to Guwahati on 18.01.2026 to fulfil the procedures and thereafter their engaged counsel took some time in preparation of the applications. Therefore, in the interest of justice, this Hon'ble Court may be pleased to allow the substitution after setting aside the abatement and condoning the delay so occurred, in respect of the deceased appellant, otherwise the applicants will suffer irreparable loss and injury.”

5. The aforesaid grounds appears to be sufficient and bonafide.

6. Accordingly, the delay of 1895 days in filing the substitution petition for substitution of the legal heirs of the deceased/appellant No. 8 is hereby condoned.

7. With the above observation, the instant interlocutory application, stands allowed and disposed of.

JUDGE

Comparing Assistant