

GAHC010046362024



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

**Case No. : I.A.(Civil)/1014/2024**

M/S INDIAN OIL CORPORATION LTD.  
(ASSAM OIL DIVISION), DIGBOI REFINERY, P.O.- DIGBOI, DIST.- TINSUKIA,  
ASSAM, REP. BY ITS MANAGING DIRECTOR.

VERSUS

HABIB ALI AND ANR.  
S/O LATE HAFIZ ALI,  
VILL.- GARIGAON, P.O.- GAUHATI UNIVERSITY, MOUZA- JALUKBARI, P.S.-  
JALUKBARI, DIST.- KAMRUP (M), ASSAM- 781014.

2:THE COLLECTOR  
KAMRUP (M)  
HENGHERABARI  
P.S.- DISPUR  
GUWAHATI- 781006

**Advocate for the Petitioner : MR. N DEKA, MR. M GOGOI**

**Advocate for the Respondent : GA, ASSAM, MR N KALITA (R-1), Mr Gias (R-1)**

**BEFORE**  
**HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

**ORDER**

**Date : 02.04.2026**

**[1]** Heard Mr. M. Gogoi, the learned counsel for the applicant. Also heard Ms. D. D. Barman, the learned Additional Senior Government Advocate appearing for the respondent No. 2 as well as Mr. N. Kalita, the learned counsel

for the respondent No. 1.

**[2]** This application under Section 5 of the Limitation Act, 1963 has been preferred by the applicant, namely, M/s Indian Oil Corporation Ltd. (Assam Oil Division) praying for condoning the delay of 4792 days in preferring the connected land acquisition appeal, impugning the judgment dated 30.10.2008, passed by the court of the learned Additional District Judge (FTC) No. 3 in Misc. (Reference) Case No. 10/2002.

**[3]** The facts relevant for consideration of the instant interlocutory application, in brief, are that in the year 1996, 63.6 Bighas of land at Betkuchi, Guwahati was acquired for the present applicant and the Collector had assessed the value of land @ Rs. 16,000/- per katha.

**[4]** The present opposite parties (private respondents) preferred an application under Section 18 of the Land Acquisition Act, 1894 before the Court of the learned District Judge, Kamrup praying for enhancement of the quantum of compensation as well as valuation of the acquired land. The said reference case was registered as Misc. (Reference) Case No. 10/2002. Thereafter, by order dated 30.10.2008 (impugned in the connected appeal), the rate of acquired land was enhanced from Rs. 16,000/- per katha to Rs. 70,000/- per katha.

**[5]** Mr. M. Gogoi, the learned counsel for the applicant has submitted that though the present applicant was the Requiring Authority, and land was acquired for them only, however, it was not made party in the Misc. (Reference) Case No. 10/2002 and they were unaware about the pendency of the aforesaid (Reference) Case.

**[6]** The learned counsel for the applicant further submits that it was only on

receipt of letter dated 01.04.2022, from the Deputy Commissioner, Kamrup (Metro) addressed to the applicant whereby, it was informed regarding pendency of Money Execution Case No. 07/2020 in respect of the impugned judgment and award and when a request was made to the applicant for depositing the decretal amount of Rs.58,34,131.80/- to facilitate the payment of compensation to the claimants/opposite parties.

**[7]** The learned counsel for the applicant has further submitted that after coming to know about the impugned judgment, the applicant preferred two review petitions in connected Reference Cases; however, both the review petitions have been dismissed.

**[8]** The learned counsel for the applicant further submitted that as the applicant came to know about the impugned judgement and award dated 30.10.2008, only in the month of April, 2022 the applicant in the month of July applied for certified copy of the impugned judgment in the Office of the Court of learned Additional District Judge, Kamrup(M).

**[9]** The learned counsel for the applicant further submitted that the application for certified copy was initially made before the learned Additional District Judge No. 2, Kamrup(M) as the execution proceeding, namely, Money Execution Case No. 07/2020 was pending before the court of the learned Additional District Judge No. 2, however, it was informed to the learned counsel for the applicant by the Office of the Court of learned Additional District Judge No. 2, that since the case was disposed of about 14 years back in the year 2008, it will take some time for tracing the records.

**[10]** The learned counsel for the applicant further submits that in the second

week of December, 2022, the applicant was informed that the original judgment dated 30.10.2008, was not available in the Executing Court and hence, the certified copy could not be furnished to him.

**[11]** Thereafter on 09.12.2022, the applicant applied for a fresh certified copy in the Office of the Court of the learned Additional District Judge No. 3, Kamrup (M) which passed the impugned order in the year 2008.

**[12]** The learned counsel for the applicant submits that on several occasions thereafter, the learned counsel for the applicant visited the Office of the learned Additional District Judge, however, the certified copy of the impugned judgement and award was not furnished to it. As original record could not be traced out. Ultimately, the applicant, on 27.02.2023, filed a complaint before the District & Sessions Judge, Kamrup(M) regarding non-furnishing of certified copy of the impugned judgment to the applicant in spite of filing application for the same.

**[13]** He further submits that in spite of filing complaint before the District & Sessions Judge, Kamrup (M), nothing was done and certified copy was not furnished to the applicant. Ultimately, the applicant filed the connected appeal without furnishing the certified copy of the impugned judgment and decree by taking a leave of the court for dispensing with the certified copy of impugned judgment and decree and as such, the delay of 4792 days have occurred in preferring the connected appeal.

**[14]** He further submits that the applicant was not negligent in approaching this court by filing the connected appeal beyond the period of limitation and main reasons for delay in filing of the connected appeal is non-furnishing of the

certified copy of the impugned judgement to the applicant.

**[15]** The learned counsel for the applicant submits that the document produced by the learned Additional Senior Government Advocate today in the court is only a piece of paper without having any seal of the Office of the applicant, acknowledging the receipt of the aforesaid letter. Hence, same may not be relied upon.

**[16]** He further submits that since the applicant were not a party in the Misc. (Reference) Case and since they came to know about the impugned judgement and award only when they receive the notice of the Execution Case, there is no negligence and laches on the part of the applicant in preferring the connected appeal. He submits that the applicant has sufficiently explained the delay and as such, the delay of 4,792 days in preferring the connected appeal may be dispensed with.

**[17]** The learned counsel for the applicant has further submitted that in the meanwhile, the applicant, i.e. Indian Oil Corporation Ltd. has already deposited the decretal amount before the Collector, in pursuant to the impugned judgement and award.

**[18]** On the other hand, Ms. D. D. Barman, the learned Additional Senior Government Advocate has submitted that the applicant has failed to properly explain the huge delay in this case. She has also produced the original service book maintained by the Office of the Deputy Commissioner, in pursuant to the directions of this court issued on 10.03.2026. She submits that the delay in filing the connected appeal is an inordinate delay of more than 4700 days, hence, same may not be condoned.

**[19]** On the other hand, the learned counsel for the respondent No. 1/claimant has submitted that the applicant was intimated about the impugned judgment by the Additional Deputy Commissioner, Kamrup (M) by its letter dated 07.10.2010.

**[20]** He submits that the said letter was addressed to the Government pleader, Kamrup, Guwahati by the Additional Deputy Commissioner, Kamrup (M) seeking opinion about the impugned judgment, passed in Misc. (Reference) Case No. 10/2002, wherein it has been clearly stated that the judgment passed on 30.10.2008, the opinion was sought for by the Government pleader as to whether the case is a fit case for filing appeal against the impugned order or not. He further submits that a copy of the said letter was also sent to the Area Manager of IOC (Assam Oil Division) for favour of information and for necessary action, along with a photocopy of judgment. He further submits that said letter was served on the Area Manager of IOC (Assam Oil Division) on 08.10.2010.

**[21]** He further submits that the original copy of the service book produced by the learned Additional Senior Government Advocate, in pursuant to this Court's order clearly shows that the aforesaid letter was served on the Area Manager (IOC) on 10.08.2010 and therefore, he submits that the applicant were aware about the impugned judgement in the year 2010 itself, however, from 2010 to 2022, it did not take any steps for preferring appeal against the impugned judgment and award dated 30.10.2008 passed in Misc. (Reference) Case No. 10/2002.

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

**[23]** In the instant case, apparently, the delay in preferring the connected land acquisition appeal is a huge delay of 4792 days, the main contentions of the applicants praying for condonation of the aforesaid period of delay is that it was not aware of the impugned judgment and award till the year 2022. Thereafter, in the month of July, 2022, it had applied for certified copies of the impugned judgment and award. However, till date, same has not been received. Whereas, the contention of the other side is mainly that the applicants were aware about the impugned judgment and award in the year 2010 itself when the copy of the letter dated 17.10.2010, written by Additional Deputy Commissioner, Kamrup(M) was served on the Area Manager, Indian Oil Corporation, (Assam Oil Division), on 08.10.2010.

**[24]** On perusal of the original copy of the receipt of the notice by the Area Manager, Indian Oil Corporation, (Assam Oil Division) produced before this court by the learned Senior Additional Government Advocate, it appears that though said receipt bore an illegible signature dated 08.10.2010 against the name Area Manager, IOC Assam. However, no seal of Indian Oil Corporation or that of the present applicant is there in the said receipt.

**[25]** It also appears that the report of the process server, which is there on the back side of that receipt, is also not supported by any affidavit. Hence, same may not be treated as due service of letter dated 07.10.2010 on the present applicant or any officer of the applicant.

**[26]** However, admittedly, the applicant was aware about the impugned judgment and award in the month of April, 2022. Thereafter, though it is contended by the applicant that it had applied for issuance of certified copy of the aforesaid impugned judgment and award, however, there is no proof of such

an application for certified copy being filed by the applicant. What is there on record is only a photocopy of complaint dated 27.02.2023 made by the engaged counsel for the applicant before the District and Sessions Judge, Kamrup(M) regarding non-receipt of the certified copies of the impugned judgment and award, without there being any material on record to indicate that such an application for certified copy was ever made by the present applicant.

**[27]** The Gauhati High Court Civil Rules and Orders provide in Rule No. 470 in Chapter-25 that all application for copies of paper and documents shall be made in Form No. (M)49, Volume-II signed in each case by the party requiring the copy or by his pleader or authorized agent and presented to Judge In-charge of copying department or some other officer designated by him for the purpose during first two hours of the court's daily sitting, except applications which on expedition fees have been paid, which may be presented at any hours during the court sitting.

**[28]** If we peruse the High Court Form No. (M) 49, it carries a note that all inquiries and complaint shall be accompanied by counter-folio.

**[29]** In the instant case, no such counter-folio of application for certified copy has been produced by the applicant before this court. Further, in the photocopy of the complaint dated 27.02.2023 addressed to the District and Sessions Judge, Kamrup(M) at Guwahati regarding non-receipt of the certified copies of the impugned judgment and decree, though, it has been mentioned therein that the photocopy of the application is enclosed, however, no such copy has been produced by the applicant before this court.

**[30]** Thus, though the applicant has taken the plea that main reason for

delayed filing of the connected appeal is non-receipt of the certified copy of the impugned judgment and award, however, it has failed even to prove that such a certified copy was applied for. As the counter-folio of the application for certified copy would have been the best evidence of the applicant having applied any such certified copy, in absence of the said counter-folio or any other document indicating that the certified copy of the impugned judgment was applied for by the applicant, this court is of the considered opinion that the applicant has failed to satisfy this court that he was prevented by sufficient cause in filing the connected appeal within the prescribed period of limitation.

**[31]** Accordingly, the delay of 4792 days in filing the connected appeal is not condoned and this instant interlocutory application is dismissed.

**[32]** The Original Peon Book produced by the learned Government Advocate, Assam may be returned back to the learned Senior Additional Government Advocate, Assam by the Court Master.

**JUDGE**

**Comparing Assistant**