

GAHC010107992019



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

Case No. : I.A.(Civil) 1676/2019

1:RENUBALA GHOSH AND 4 ORS.
W/O- LATE HARBHAJAN GHOSH, R/O- HILL LINE COLONY, WARD NO. 1,
BADARPUR TOWN, P.S. BADARPUR, DIST.- KARIMGANJ, ASSAM.

2: LILA SAHA
W/O- LATE DULAL CH. SAHA
R/O- BADARPURGHAT
P.O. BADARPUR
DIST.- KARIMGANJ
ASSAM.

3: CHANDRA SAHA
D/O- LATE DULAL CH. SAHA
R/O- BADARPURGHAT
P.O. BADARPUR
DIST.- KARIMGANJ
ASSAM.

4: DIPANKAR SAHA
S/O- LATE DULAL CH. SAHA
R/O- BADARPURGHAT
P.O. BADARPUR
DIST.- KARIMGANJ
ASSAM.

5: DEBASISH SAHA
S/O- LATE DULAL CH. SAHA
R/O- BADARPURGHAT
P.O. BADARPUR
DIST.- KARIMGANJ
ASSAM

VERSUS

1:KRISHNALAL GHOSH AND 6 ORS.

S/O- LATE HARENDRA KUMAR GHOSH, R/O- VILL.- CHALEBARI
(SREENAGAR), P.O. BADARPUR, DIST.- KARIMGANJ, ASSAM, PIN- 788806.

2:MORON KUMAR GHOSH

S/O- LATE HARENDRA KUMAR GHOSH
R/O- VILL.- CHALEBARI (SREENAGAR)
P.O. BADARPUR
DIST.- KARIMGANJ
ASSAM
PIN- 788806.

3:MISSION KUMAR GHOSH

S/O- LATE HARENDRA KUMAR GHOSH
R/O- VILL.- CHALEBARI (SREENAGAR)
P.O. BADARPUR
DIST.- KARIMGANJ
ASSAM
PIN- 788806.

4:MANJU KUMAR GHOSH

D/O- LATE HARENDRA KUMAR GHOSH
R/O- VILL.- CHALEBARI (SREENAGAR)
P.O. BADARPUR
DIST.- KARIMGANJ
ASSAM
PIN- 788806.

5:ANJU RANI GHOSH

D/O- LATE HARENDRA KUMAR GHOSH
R/O- VILL.- CHALEBARI (SREENAGAR)
P.O. BADARPUR
DIST.- KARIMGANJ
ASSAM
PIN- 788806.

6:SANJU RANI GHOSH

D/O- LATE HARENDRA KUMAR GHOSH
R/O- VILL.- CHALEBARI (SREENAGAR)
P.O. BADARPUR

DIST.- KARIMGANJ
ASSAM
PIN- 788806.

7:RABINDRA KR. GHOSH @ RABI
S/O- LATE HARBHAJAN GHOSH
R/O- HILL LINE COLONY
WARD NO. 1
BADARPUR TOWN
PIN- 788806
P.O. BADARPUR
DIST.- KARIMGANJ
ASSAM

Advocate for the Petitioner : MS. R CHOUDHURY

Advocate for the Respondent : MRS. U BARUAH

Linked Case : RSA 3035/2019

1:RENUBALA GHOSH AND 4 ORS

VERSUS

1:KRISHNALAL GHOSH AND 6 ORS

Advocate for the Petitioner :
Advocate for the Respondent :

Linked Case : I.A.(Civil) 3391/2019

1:RENUBALA GHOSH AND 4 ORS.
W/O LATE HARBHAJAN GHOSH
R/O HILL LINE COLONY
WARD NO. 1

BADARPUR TOWN
P.S. BADARPUR
DIST. KARIMGANJ
ASSAM.

2: LILA SAHA
W/O DULAL CH. SAHA
R/O BADARPURGHAT
P.S. BADARPUR
DIST. KARIMGANJ
ASSAM.

3: CHANDRA SAHA
D/O DULAL CH. SAHA
W/O DULAL CH. SAHA
R/O BADARPURGHAT
P.S. BADARPUR
DIST. KARIMGANJ
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4: DIPANKAR SAHA
S/O LATE DULAL CH. SAHA
W/O DULAL CH. SAHA
R/O BADARPURGHAT
P.S. BADARPUR
DIST. KARIMGANJ
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5: DEBASISH SAHA
S/O LATE DULAL CH. SAHA
W/O DULAL CH. SAHA
R/O BADARPURGHAT
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DIST. KARIMGANJ
ASSAM.
VERSUS

1:KRISHNALAL GHOSH AND 6 ORS.
S/O LATE HARENDRA KUMAR GHOSH
R/O CHALEBARI (SREENAGAR)
P.O. BADARPUR
DIST. KARIMGANJ (ASSAM)
PIN 788806

2:MOROM KUMAR GHOSH
S/O LATE HARENDRA KUMAR GHOSH
R/O CHALEBARI (SREENAGAR)
P.O. BADARPUR

DIST. KARIMGANJ (ASSAM)
PIN 788806

3:MISSION KUMAR GHOSH
S/O LATE HARENDRA KUMAR GHOSH
R/O CHALEBARI (SREENAGAR)
P.O. BADARPUR
DIST. KARIMGANJ (ASSAM)
PIN 788806

4:MANJU RANI GHOSH
D/O LATE HARENDRA KUMAR GHOSH
R/O CHALEBARI (SREENAGAR)
P.O. BADARPUR
DIST. KARIMGANJ (ASSAM)
PIN 788806

5:ANJU RANI GHOSH
D/O LATE HARENDRA KUMAR GHOSH
R/O CHALEBARI (SREENAGAR)
P.O. BADARPUR
DIST. KARIMGANJ (ASSAM)
PIN 788806

6:SANJU RANI GHOSH
D/O LATE HARENDRA KUMAR GHOSH
R/O CHALEBARI (SREENAGAR)
P.O. BADARPUR
DIST. KARIMGANJ (ASSAM)
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7:RABINDRA KR. GHOSH @ RABI
S/O LATE HARBHAJAN GHOSH
R/O HILL LINE COLONY
WARD NO. 1
BADARPUR TOWN
PIN 788806
P.S. BADARPUR
DIST. KARIMGANJ
ASSAM.

Advocate for the Petitioner : MR. R CHOUDHURY
Advocate for the Respondent : MRS. U BARUAH

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 18-11-2019

Heard Ms. R. Choudhury, learned counsel for the appellant and Mr. T.U. Laskar, learned counsel for respondent nos. 1 – 6.

This application is filed seeking condonation of delay of 63 (sixty three) days in preferring the connected appeal under Section 100 read with Order XLII, Code of Civil Procedure against the judgment and decree dated 21.08.2018 passed by the learned Civil Judge, Karimganj in T.A. No. 04/2001 whereby the appeal preferred by the applicants was dismissed.

Ms. Choudhury, learned counsel has referred to the averments made in the application, more particularly, to paragraph 2, 3 and 4 thereto, so as to buttress the submission that the applicants were prevented due to reasons beyond their control in preferring the connected appeal in time and the same could only be filed after 63 (sixty three) days beyond the period of limitation of 90 (ninety) days. It is submitted by her that the certified copy of the judgment and order dated 21.08.2018 was received by them only on 19.11.2018 though application was made on 23.08.2018.

Though immediate consultation was made after receipt of the certified copy for preferring an appeal but because of non-availability of certain exhibits which were essential to file the connected appeal, certain time had elapsed in obtaining the certified copies of the said exhibits.

The applicant no. 4 who was entrusted to take steps for filing the connected appeal had, in the meantime, has suffered from Jaundice which was just prior to the expiry of period of limitation. As a result, he, a resident of Badarpur, could ultimately hand over the necessary documents by travelling to Guwahati, to the engaged counsel only after the expiry of the period of limitation.

Mr. T.U. Laskar, learned counsel for the respondent nos. 1 -6 by referring to the objection filed against the application, has submitted that the grounds shown by the

applicants cannot be considered to be sufficient explanation and this application shall not be entertained.

I have considered the submissions made by the learned counsel for the parties and also perused the rival contentions made in the application seeking condonation of delay as well as in the objection. Upon consideration of the materials in its entirety, I am of the considered opinion that the applicants have, in my considered opinion, provided sufficient explanation with sufficient cause to condone the delay. Accordingly, the delay of 63 (sixty three) days in preferring the connected appeal and the said shall be required to be condoned for ends of justice, to consider the connected appeal on merit.

Accordingly, the said period of delay of 63 (sixty three) days that had occurred in preferring the connected appeal stands condoned.

This I.A. is, accordingly, disposed of.

JUDGE

Comparing Assistant