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

Case No. : I.A.(Civil)/770/2025

JITAMONI DAS
W/O LATE DWIP NARAYAN DAS,
RESIDENT OF VILLAGE MOLIGAON, PO BOITAMARI, PS ABHAYAPURI,
DIST BONGAIGAON, ASSAM 783389

2: DAISY BORUAH
D/O LATE DWEIP NARAYAN DAS

W/O MONOJ BORUAH

C/O JITAMONI DAS

RESIDENT OF VILLAGE MOLIGAON
PO BOITAMARI
PS ABHAYAPURI
DIST BONGAIGAON
ASSAM 783389

3: DIMPY ADHIKARY

D/O LATE DWEIP NARAYAN DAS

W/O MONOJ BORUAH

C/O JITAMONI DAS

RESIDENT OF VILLAGE MOLIGAON
PO BOITAMARI
PS ABHAYAPURI
DIST BONGAIGAON
ASSAM 783389

4: LILY DAS
D/O LATE DWIP NARAYAN DAS

W/O MONOJ BORUAH

C/O JITAMONI DAS

RESIDENT OF VILLAGE MOLIGAON
PO BOITAMARI
PS ABHAYAPURI
DIST BONGAIGAON
ASSAM 78338

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE DEPUTY COMMISSIONER CUM DISTRICT COLLECTOR,
BONGAIGAON, ASSAM, 783380

2:THE UNION OF INDIA

REPRESENTED BY THE GENERAL MANAGER (CONSTRUCTION) NF
RAILWAY
MALIGAON
GUWAHATI PO GOTANAGAR
DIST KAMRUP M ASSAM 78101

Advocate for the Petitioner : MS F INTAZ, MR. W A SHEIKH,MR. M A SHEIKH

Advocate for the Respondent : GA, ASSAM, MRS. R DEVI (C.G.C),MS. K PHUKAN (C.G.C.),SC,
NF RLY

Linked Case : LA App No. 15863/2024

JITAMONI DAS AND 3 ORS

VERSUS

THE STATE OF ASSAM AND ANR (A)

Advocate for : MR. M A SHEIKH
Advocate for : appearing for THE STATE OF ASSAM AND ANR (A)

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN**

ORDER

10.06.2026

Heard Mr. M. A. Sheikh, learned counsel for the applicant. Also heard Mr. M. Kalita, learned Government Advocate for the opposite party No. 1 and Ms. R. Devi, learned CGC for the opposite party No. 2.

2. This interlocutory application, under Section 5 of the Limitation Act, is preferred by the applicant for condonation of delay of 720 days in preferring the connected L.A. Appeal, against the Judgment and Order, dated 21.09.2022, passed by the learned District Judge, Bongaigaon, in Title Suit (Land Acquisition) No. 33/2016.

3. Mr. Sheikh, learned counsel for the applicant submits that the land of the applicant was acquired by the respondent authorities and he has been awarded compensation for the same. But, being unsatisfied with the compensation awarded by the respondent authorities, the applicant herein has preferred one title suit, being Title Suit (Land Acquisition) No. 33/2016; wherein, the learned District Judge, Bongaigaon, has modified the award and directed to pay a sum of Rs. 62,28,518/- and he had received the said amount on 09.07.2024. Thereafter, having not been satisfied with the said amount of compensation, on 16.07.2024, he has consulted his lawyer at

Gauhati High Court and handed over the brief to him to file the connected LA Appeal.

3.1. Mr. Sheikh further submits that after the award was passed, the applicant herein waited till receipt of the said amount, because of inadvertence and thereafter, as per instruction of his counsel, he had collected a copy of the Sale Deed, which was exhibited before the learned Trial Court to ascertain the market value of the land in question and he had collected the Sale Deed bearing No. 2234/2008, dated 11.11.2008 and handed over the same to his counsel and in the process, a delay of 720 days occurred and the same is not intentional, rather, it is circumstantial and under circumstances, Mr. Sheikh has contended to condone the delay and to admit the appeal and that the preferred L.A. Appeal has merit consideration and under such circumstances, he has contended to allow this application.

4. Per contra, Ms. Devi, learned CGC for the opposite party No. 2 has opposed the petition. Referring to the objection petition filed by the respondent No. 2, Ms. Devi submits that the petitioner seeking the condonation of delay of 720 days is wholly misconceived and devoid of merit. Ms. Devi also submits the petitioner has failed to disclose any legally sustainable, bonafide and sufficient cause covering the entire period of delay and the explanation furnished by him is vague, self-serving and not supported by any documents or records and the same does not constitute sufficient cause within the meaning of law. Moreover, the law of limitation is founded on public policy and cannot be lightly ignored and under such circumstances, Ms. Devi submits that the application is conspicuously silent regarding the steps taken by the applicant between 21.09.2022 and 09.07.2024, and there is negligence, inaction and lack of diligence on the

part of the applicant and therefore, she has contended to dismiss the same. Ms. Devi has referred to a decision of this Court, in **I.A. (Civil) No. 1833/2025, dated 26.06.2025**, to contend that the explanations, so forthcoming from the applicant's side, are not sufficient.

5. Having heard the submissions of the learned counsel for both the parties, this Court has carefully gone through the application and the documents placed on record and also gone through objection petition filed by the respondent No. 2.

6. It appears that indisputably, the Judgment and Order, which is being contemplated to challenge was pronounced on 21.09.2022. But, the connected appeal with the present interlocutory application was filed only on 20.12.2024. As such there is a delay of 720 days in filing the connected LAC Appeal, For the aforesaid delay the applicant herein has offered 2 (two) explanations.

6.1. Firstly, the applicant was under the impression that only after receipt of the amount, the appeal could be filed for which he was waiting till receipt of the awarded amount. And only after receipt of the awarded amount, he had contacted his counsel at the Gauhati High Court, having found the compensation amount inadequate.

6.2. Secondly, the learned counsel had instructed him to obtain the Sale Deed bearing No. 2234/2008, dated 11.11.2008 and the same was handed over to his counsel on 13.12.2024. And thereafter, the engaged counsel took time to file the appeal.

6.3. Thus, it becomes apparent that the applicant remained silent for the period from 21.09.2022 till 09.07.2024. And after receipt of the said

amount, he approached his counsel on 16.07.2024. And as advised, he obtained the Sale Deed bearing No. 2234/2008, dated 11.11.2008, and handed over the same to his counsel on 13.12.2024, and the learned counsel took 7 days time to prepare the L.A. Appeal and filed the same on 20.12.2024.

7. It is to be noted here that the law in relation to condonation of delay is well settled in catena of decisions of Hon'ble Supreme Court. And most cited of them, amongst others, are

(i) Collector, Land Acquisition, Anantnag vs. Mst. Katiji, reported in (1987) 2 SCC 107;

(ii) N. Balakrishnan v. M. Krishnamurthy, reported in (1998) 7 SCC 123;

(iii) Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy & Ors., reported in (2013) 12 SCC 649 and

(iv) Pundlik Jalam Patil (D) by Lrs. vs. Exe.Eng. Jalgaon Medium Project & Anr., in Civil Appeal Nos.of 2008 @ SLP(C)Nos. 21011-21014 of 2007.

7.1. The proposition laid down in the said cases can be crystallized as under. The courts are not supposed to legalize injustice, but are obliged to remove injustice. Therefore, liberal, pragmatic, justice-oriented, non-pedantic approach has to be adopted while dealing with an application for condonation of delay if 'sufficient cause' is being shown. The terms 'sufficient cause' should be understood in their proper spirit, philosophy and purpose and regard being had to the fact that these terms are basically

elastic and are to be applied in proper perspective to the obtaining fact-situation. The paramount and pivotal consideration is substantial justice; the technical considerations should not be given undue and uncalled for emphasis. In respect of deliberate causation of delay the presumption is not available but, gross negligence on the part of the counsel or litigant is to be taken note of, besides lack of bona fides imputable to a party seeking condonation of delay, which is a significant and relevant fact. The courts should not adhere to strict proof, but required to be vigilant so that there is no real failure of justice. The approach of the court must be liberal but at the same time, it must be reasonable also. In case of inordinate delay, strict approach is required to be taken while in case of delay of short duration, a liberal delineation is required. The fundamental principle, being weighing the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach. While condoning delay the conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. In case of the explanation, being offered is concocted or the grounds urged in the application are fanciful, the Courts should be vigilant not to expose the other side unnecessarily to face such litigation. The entire gamut of facts are to be carefully scrutinized and the approach should be based on the paradigm of judicial discretion which is founded on objective reasoning and not on individual perception. The State or a public body or an entity, representing a collective cause, should be given some acceptable latitude. But, the law of limitation is same for citizen and for governmental authorities.

8. In the instant case, having examined the grounds for delay of 720 days, so put forwarded by the applicant, in the light of the proposition laid down

in the decisions, discussed here in above, this Court is of the view that the delay of 720 days in preferring the connected appeal has not been sufficiently explained. While the judgment was pronounced on 21.09.2022, the applicant slept over his right to prefer an appeal till 09.07.2024, on which the amount of compensation was deposited into his account, under the impression that only after depositing of the compensation amount, he would be entitled to file the appeal. This appears to be not an explanation for such inordinate delay. Rather, it appears to be an afterthought, fanciful and concocted ground. Ms. Devi, learned CGC for the opposite party No. 2 has rightly pointed this out in her argument and also in the objection petition filed by her. There appears to be substance in her submission. It is well settled that "Law assists those who are vigilant, not the indolent and lethargic (Vigilantibus Non Dormientibus Jura Subveniunt)". Court and the law generally favour people who actively and promptly protect or assist their rights, rather than those who are lazy, negligent and sleep on their rights.

8.1. Though, there is some explanation for the delay from 09.07.2024, till filing of the appeal on 20.12.2024; yet, there is gross negligence, inaction and lack of diligence on the part of the applicant, since, the judgment was pronounced on 21.09.2022. Even if a liberal approach is taken in favour of the applicant, the same would cause serious prejudice to the other side, as after elapse of the period of limitation for filing an appeal, a right has been accrued in his favour. If a liberal approach is taken in favour of the applicant, it would unnecessarily drag the other side to face such litigation.

9. In the result, this Court finds no merit in this application and accordingly, the same stands dismissed.

10. In view of the dismissal of the I.A., and L.A. Appeal No. 15863/2024 (filing number) also stands dismissed.

JUDGE

Comparing Assistant