

GAHC010064002020



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

Case No. : I.A.(Civil)/1242/2020

FATEMA BIBI
W/O KOI MAHAMUDDIN SK, D/O LT. KASEM ALI, VILL.
MADHUSOULMARI, PT-II, P.S. GAURIPUR, DIST. DHUBRI, ASSAM, PIN-
783331

VERSUS

AKHTAR ALI AND 7 ORS
S/O LT. KASEM ALI, R/O VILL. MADHUSOULMARI PART-II, P.S. GAURIPUR,
DIST. DHUBRI, ASSAM, PIN-783331

2:SAHIDUL HOQUE
S/O AKHTAR ALI
R/O VILL. MADHUSOULMARI PART-II
P.S. GAURIPUR
DIST. DHUBRI
ASSAM
PIN-783331

3:NABIJUR ALI
S/O AKHTAR ALI
R/O VILL. MADHUSOULMARI PART-II
P.S. GAURIPUR
DIST. DHUBRI
ASSAM
PIN-783331

4:KARESH ALI
SON IN LAW OF AKHTAR ALI
R/O VILL. MADHUSOULMARI PART-II
P.S. GAURIPUR
DIST. DHUBRI

ASSAM
PIN-783331

5:ON THE DEATH OF SAIFULLA SK
HIS LEGAL HEIRS
NAMELY-

5.1:JOHIRON NESSA
W/O LT. SAIFULLA SK
R/O VILL. MADHUSOULMARI PART-II (BARUARBHITA)
P.O.- MADHUSOLMARI
P.S. GAURIPUR
DIST. DHUBRI
ASSAM
PIN-783331

5.2:SAHERA BIBI
D/O LT. SAIFULLA SK
W/O ABDUL HOSSAIN
R/O VILL. MADHUSOULMARI PART-I (CHOTAN)
P.O.- MADHUSOLMARI
P.S. GAURIPUR
DIST. DHUBRI
ASSAM
PIN-783331

5.3:HASNA BIBI
D/O LT. SAIFULLA SK
R/O VILL. MADHUSOULMARI PART-II (MESARDAIR)
P.O.- MADHUSOLMARI
P.S. GAURIPUR
DIST. DHUBRI
ASSAM
PIN-783331

5.4:SAHIDUL ALI
S/O LT. SAIFULLA SK
R/O VILL. MADHUSOULMARI PART-II (KURSHAKATI)
P.O.- MADHUSOLMARI
P.S. GAURIPUR
DIST. DHUBRI
ASSAM
PIN-783331

5.5:MOISENA BIBI
D/O LT. SAIFULLA SK
W/O EYASIN ALI
R/O VILL. AND P.O.- TAMARHAT

P.S. PALGHAT
DIST. DHUBRI
ASSAM
PIN-783332

5.6:MIZANUR
S/O LT. SAIFULLA SK
R/O VILL. MADHUSOULMARI PART-II (BARUARBHITA)
P.O.- MADHUSOLMARI
P.S. GAURIPUR
DIST. DHUBRI
ASSAM
PIN-783331

5.7:MONTI
D/O LT. SAIFULLA SK
R/O VILL. MADHUSOULMARI PART-II (NOWDA PARA)
P.O.- MADHUSOLMARI
P.S. GAURIPUR
DIST. DHUBRI
ASSAM
PIN-783331

6:HASINA BIBI
W/O SAHIDUL HOQUE
R/O VILL. MADHUSOULMARI PART-II
P.S. GAURIPUR
DIST. DHUBRI
ASSAM
PIN-783331

7:THE CIRCLE OFFICER
DHUBRI
P.O. AND P.S. DHUBRI
ASSAM
PIN-783301

8:THE STATE OF ASSAM
REP. BY
D.C. DHUBRI
P.O. AND P.S. DHUBRI
ASSAM
PIN-78330

Advocate for the Petitioner : MR. M A SHEIKH, MR A ISLAM,MR. M HUSSAIN

Advocate for the Respondent : MR G P BHOWMIK (R1-R6), MR D KALITA (R1-R6)

Linked Case :

FATEMA BIBI
W/O KOI MAHAMUDDIN SK
D/O LT. KASEM ALI
VILL. MADHUSOULMARI
PT-II
P.S. GAURIPUR
DIST. DHUBRI
ASSAM
PIN-783331

VERSUS

AKHTAR ALI AND 7 ORS

Advocate for : MR. M A SHEIKH
Advocate for : appearing for AKHTAR ALI AND 7 ORS

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 16.03.2026

Heard Mr. M. Hossain, learned counsel appearing for the applicant.
Also heard Mr. D. Kalita, learned counsel appearing for the respondent Nos.
1 to 4 and 6.

2. By way of the present petition, the petitioner seeks condonation
of a delay of 75 days in filing the connected Regular Second Appeal.

3. The petitioner is aggrieved by the judgment and decree dated
21.09.2019 passed by the learned First Appellate Court. The

connected Regular Second Appeal, however, came to be filed only on 13.03.2020, resulting in a delay of 75 days, for which the present application has been filed seeking condonation.

4. Mr. M. Hossain, learned counsel for the applicant, submits that the delay occurred due to circumstances beyond the control of the petitioner and is primarily attributable to her poor financial condition.

5. Mr. D. Kalita, learned counsel appearing for the respondents, fairly submits that he has received no instructions to oppose the prayer for condonation of delay.

6. I have considered the submissions advanced by the learned counsel for the parties and have perused the materials available on record.

7. During the pendency of the present application, respondent No. 5 (Saifulla Sk) expired, and his legal heirs have been substituted as respondent Nos. 5(a) to 5(g).

8. The grounds explaining the delay, as stated in the application, may be summarised thus: the petitioner is a widowed woman belonging to a below poverty line category and has no independent source of income. Though she has two sons, they are daily wage labourers and are barely able to maintain their own families. The petitioner herself has been suffering from ailments requiring medical treatment. Owing to strained relations with certain relatives and her precarious financial condition, she was unable to immediately arrange the funds necessary for filing the appeal and travelling to Guwahati.

9. It is further stated that after considerable hardship and with

assistance from distant relatives, the petitioner managed to arrange some money and came to Guwahati on 03.03.2020, whereupon she handed over the case records to learned counsel. The appeal was thereafter prepared and filed on 13.03.2020.

10. Upon consideration of the explanation offered, it appears that the delay has primarily occurred due to the petitioner's financial constraints and personal circumstances. The law of limitation, though founded on public policy, does not intend to foreclose the remedy of a litigant where sufficient cause is shown and where the explanation appears bona fide.

11. In the facts and circumstances of the present case, this Court is satisfied that the explanation offered constitutes sufficient cause within the meaning of the law governing condonation of delay. The delay does not appear to be deliberate or attributable to negligence or inaction.

12. Accordingly, the delay of 75 days in filing the connected Regular Second Appeal stands condoned.

13. Let the connected Regular Second Appeal be registered and numbered and thereafter be placed before the appropriate Bench.

14. In the Regular Second Appeal, the Registry shall reflect the correct name of learned counsel for the petitioner as Mr. M. Hossain, Advocate.

JUDGE

Comparing Assistant