

GAHC010089672025



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

Case No. : I.A.(Civil)/3026/2025

INDIAN INSTITUTE OF TECHNOLOGY GUWAHATI
REPRESENTED BY ITS REGISTRAR IIT GUWAHATI, NORTH GUWAHATI IN
THE DIST. OF KAMRUP, ASSAM, PIN 781039

VERSUS

ON THE DEATH OF KRISHNA CH BARUAH HIS LEGAL HEIRS TANUJA
BARUAH AND 5 ORS
W/O LATE DILIP CHANDRA BARUAH, R/O VILL. RAJADUAR, P.S. NORTH
GUWAHATI, DIST. KAMRUP, ASSAM, PIN 781030

2:HRIDOYJIT BARUAH

S/O LATE DILIP CHANDRA BARUAH
R/O VILL. RAJADUAR
P.S. NORTH GUWAHATI
DIST. KAMRUP
ASSAM
PIN 781030 (RESPONDENT NO. 1 AND 2 ARE WIFE AND SON OF LATE DILIP
CHANDRA BARUAH
ELDEST SON OF LATE KRISHNA CHANDRA BARUAH

3:RATUL BARUAH
DIST. KAMRUP

4:MUKUT BARUAH
DIST. KAMRUP

5:SAURAV BARUAH
RESPONDENT NO. 2
3 AND 5 ARE SONS OF LATE KRISHNA CHANDRA BARUAH
ALL ARE R/O VILL. RAJADUAR
P.S. NORTH GUWAHATI
DIST. KAMRUP

ASSAM
PIN 781030

6:THE COLLECTOR OF KAMRUP
AMINGAON
DIST. KAMRUP
ASSAM
PIN 78103

Advocate for the Petitioner : MR. R P KAKOTI SR. ADV., MR. S SUTRADHAR,MR A B DEY

Advocate for the Respondent : GA, ASSAM, FOR CAVEATOR,MS A GOGOI,MR. U N CHATTRY,MR. O LASKAR

Linked Case : WP/0/0

INDIAN INSTITUTE OF TECHNOLOGY
GUWAHATI
REP BY ITS REGISTRAR
IIT GUWAHATI
NORTH GUWAHATI
DIST- KAMRUP
ASSAM PIN- 781039

VERSUS

ON THE DEATH OF KRISHNA CHANDRA BARUAH HIS LEGAL HEIRS
TANUJA BARUAH
W/O- LATE DILIP CHANDRA VBARUAH
R/O- VILL- RAJADUAR
PS- NORTH GUWAHATI
DIST- KAMRUP
ASSAM PIN- 781030

Advocate for : MR SANJAY SUTRADHAR
Advocate for : appearing for ON THE DEATH OF KRISHNA CHANDRA BARUAH
HIS LEGAL HEIRS TANUJA BARUAH

Linked Case : C.APPLN/0/0

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GUWAHATI

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Advocate for : MR SANJAY SUTRADHAR
Advocate for : appearing for ON THE DEATH OF KRISHNA CHANDRA BARUAH
HIS LEGAL HEIRS TANUJA BARUAH

BEFORE
HON'BLE MRS. JUSTICE MITALI THAKURIA

Advocate for the Applicant/
Appellant

: - Mr. A. B. Dey.

Advocate for the Respondent
Nos. 1 to 5

: - Mr. O. Laskar

Advocate for the Respondent
No.6

: - Ms. D. Das Barman.
G.A., Assam

Date on which judgment is reserved : 21-01-2026

Date of pronouncement of judgment : 20-02-2026

Whether the Pronouncement is of the
operative part of the judgment? : N/A -

Whether the full judgment has been
pronounced? : Yes

JUDGMENT & ORDER (CAV)

Heard Mr. A. B. Dey, learned counsel for the applicant/appellant and Mr. O. Laskar, learned counsel for the respondent Nos. 1 to 5. Also heard Ms. D. Das Barman, learned Government Advocate, Assam for the respondent No. 6.

2. The present application has been filed under Section of the 5 Limitation Act, read with Section 14 of the said Act with a prayer to condone the delay of 334 days in preferring an appeal against the impugned orders passed against the applicant/appellant, i.e., Indian Institute of Technology, Guwahati (hereinafter referred to as IIT, Guwahati) vide common judgment and order dated 23.02.2024 delivered under the Reference Case Nos. 83/2016 and 84/2016 by the learned District Judge, Kamrup, Amingaon.

3. It is the case of the applicant/appellant i.e. the IIT, Guwahati who is represented by its Registrar. At the instance of the Central Government, the Deputy Collector acquired a huge area of land in North Guwahati under Kamrup (Rural) District in the year 1991 including two separate plots of land owned by one Krishna Ch. Baruah, predecessors in interest of the present respondent Nos. 1 to 5 for establishment of IIT, Guwahati. Pursuant to the said acquisition of land, L .A. Case No. 14/1991 was registered under the provision of Land Acquisition Act 1894. Said Krishna Ch. Baruah did not accept the compensation awarded by the District Collector for the above mentioned two plots of land and submitted separate applications for each plot of land before the Deputy Collector under Section 18 of the L.A. Act and prayed to refer the matters to the Court for determination of adequate compensation for the acquired plots of land.

4. Accordingly, the learned District Judge, Kamrup, Amingaon registered two numbers of Reference cases i.e., Reference Case Nos. 83/2016 and 84/2016. But during pendency of said two Reference Cases, the owner of the land Krishna Ch. Baruah died on 26.10.1994 and his eldest son also died on 17.09.2007. Consequent to the death of said Krishna Ch. Baruah and his eldest son, their legal

representative got their names substituted as claimants.

5. The name of the IIT, Guwahati was shown as opposite party No.2 in each case while the Deputy Collector was shown as opposite party No.1 in the above referred Reference Cases.

6. The grievance of the present applicant/appellant, i.e., IIT, Guwahati is that while registering the above noted two Reference Cases, the learned District Judge wrongly impleaded IIT, Guwahati as opposite party No.2 in each case, while the Deputy Collector was impleaded as opposite party No.1. It is stated that the IIT, Guwahati is neither a beneficiary department for the above land acquisition proceeding, nor it is a department in any manner.

7. The IIT, Guwahati is purely an Academic Institute created under the Central Act and the Institute does not have its own fund which is running with the required fund provided by the Central Government. After receiving notice, the IIT, Guwahati had filed two representations for striking out their names from the above reference cases. Both the Reference Cases were taken together by the learned District Judge for hearing and thus, by the common judgment and order dated 23.02.2024 the said petitions were disposed of. It is observed by the learned District Judge that the IIT, Guwahati is also a beneficiary as the land has been acquired by the Government for the purpose of establishing the IIT, Guwahati and as such, it is a necessary party in the Reference Cases and the IIT, Guwahati is also liable to pay compensation to the petitioners/land owners for the connected Reference Cases.

8. On being aggrieved about the findings of the common judgment dated 23.02.2024, the IIT, Guwahati initially filed a petition, being CRP No. 66/2024. However, the IIT, Guwahati never raised any objection in enhancing the award through the common judgment. The only grievances of the applicant/appellant is that the IIT, Guwahati is made one of the beneficiary for the acquisition of land and the direction given in the said judgment for the payment of the decretal amount/enhanced amount.

9. The above CRP No. 66/2024 was taken up by this Court and at the stage of motion hearing on 21.06.2024, it is observed that the L.A. Act, 1894, itself provides for preferring an appeal under Section 54 of the said Act and therefore, the revision petition is not maintainable. Accordingly, this Court vide order dated 21.06.2024 had dismissed the said CRP No. 66/2024. However liberty was granted to the petitioner therein to prefer an appeal against the said impugned order.

10. But on examination of Section 54 of the Act it was bonafide understood that appeal under that Section would lie only against the award or a part of the award. Since the Institute i.e., the revision

petitioner by filing said petition did not question the validity of the award or part of the award and only challenged the order on the issue that the IIT, Guwahati cannot be considered as a beneficiary for payment of compensation. Accordingly, it was presumed that the appeal would not lie against the above impugned orders and in such a situation the IIT, Guwahati on 19.07.2024 filed a review petition, praying for review of the order dated 21.06.2024, passed by this Court in CRP No. 66/2024. The above review petition was registered as Review Pet. No. 132/2024. The said petition was accordingly heard by this Court and vide order dated 10.03.2025, it was clarified that even those orders passed against the IIT, Guwahati in the common judgment by the learned Reference Court, would be treated as a part of the award in law and this being the position, this Court was pleased to dismiss the review petition.

11. Thereafter, the claimants/respondents have also filed a review petition in the Reference Court praying for review of the award provided through the common judgment by adding some interest into the said award. The said review petition is still pending before the learned Reference Court and not yet been finalized. Thus, the pendency of the said review petition implies that the common judgment passed by the learned Reference Court has not yet attained its finality. This being the admitted position on record, the instant L. A. Appeal has been filed under Section 54 of the L. A. Act is not yet time barred. However, the applicant/appellant has filed this condonation petition as a measure of abundant caution.

12. Mr. Dey, learned counsel for the applicant/appellant further submitted that the subsequent review petition filed by the petitioner IIT, Guwahati was heard and dismissed by this Court only on 10.03.2025 and due to such dismissal of the review petition, the order dated 21.06.2024, passed in CRP No. 66/2024 has stood automatically reviewed, which had granted liberty to the petitioner/appellant to prefer an appeal under Section 54 of the L.A. Act, 1894 and thus, the instant appeal is not barred by law of limitation and delay has only occurred as the petitioner moved application in wrong forums due to bonafide mistakes committed by them in good faith and accordingly prayed for condonation of delay of 334 days in preferring the connected appeal against the reference orders and it is submitted that the delay may be condoned under Section 14 of the Limitation Act.

13. Mr. Dey, learned counsel further submitted that the land was acquired in the year 1989 for construction of the IIT, Guwahati but the Institute was made party for the first time while preferring the Reference Cases before the Reference Court.

14. Mr. Dey, learned counsel further submitted that they have not challenged the awarded

compensation or the modified awarded compensation and they have only challenged that they were unnecessarily made party with the observation of the Reference Court that the IIT, Guwahati is one of the beneficiary and hence, liable to make payment.

15. Mr. Laskar, learned counsel for the respondent Nos. 1 to 5 submitted in this regard that the land acquisition process was started in the year 1991 and he was dispossessed from the land in 1991. In the first revision petition filed by the applicant/appellant, this Court had clearly observed that as the Act provides for preferring an appeal under Section 54, the Revision is not maintainable and also giving liberty to the applicant/appellant to prefer an appeal in accordance with law, but inspite of the said direction, the appeal was not preferred by the present applicant/appellant after the rejection of their application and intentionally filed another review petition before this Court which was disposed of vide its order dated 10.03.2025 with the observation that in any case, the review for the order dated 21.06.2024 is not made out and accordingly, the petition for review was dismissed by this Court.

16. Mr. Laskar, learned counsel further submitted that the present case cannot come under Section 14 of the Limitation Act and one can prefer petition under the said Section only in good faith, but in the instant case it is seen that inspite of specific direction to the applicant while disposing the CRP No.66/2024 vide order dated 21.06.2024, the applicant/appellant did not prefer any appeal and instead of that they again filed one review petition for reviewing the order dated 21.06.2024, which was finally disposed of by this Court on 10.03.2025. Thus, it is not the case that inspite of due diligence, there was a delay of 334 days in preferring the connected appeal, rather, it is the case of the applicant/appellant that inspite of specific direction by this Court considering the provision of the law, the applicant/appellant remained silent and they preferred a review and after rejection of their review application only they have come with an application for condonation of delay under Section 5 of the Limitation Act read with Section 14 of the said Act which is not at all maintainable in the present form.

17. Mr. Laskar, learned counsel further relied on a decision of the Hon'ble Supreme Court in the case of **Rabindra Nath Samuel Dawson Vs. Sivakasi and Ors.**, reported in (1973) 3 SCC 381 wherein, it has been expressed the view that petition under Section 14 of the Limitation Act cannot be considered if it is not filed due to ignorance of law or bonafide mistake. In that context he emphasized on paragraph 4 of the said judgment which reads as under:--

"4. After the suit was dismissed the plaintiff gave a suit notice to the Government under Section 80 of the Code of Civil Procedure and thereafter filed a suit in the Court of the Principal Subordinate Judge, Nagargoil, of a similar nature as that earlier filed in the District Munsifs

Court. During the pendency of the suit the plaintiff died and plaintiffs Nos. 2 - 6 were impleaded as his legal representatives who are the appellants in this case. Defendants Nos. 1 - 5 as also the State of Madras, the 7th defendant, apart from raising the various defences, contended that the suit was barred by limitation in respect of which an issue was raised. The Subordinate Judge held on this issue that the suit which was filed on March 26, 1957, though filed long after the expiry of 12 years from the dates of next revenue sales nonetheless, was not barred because the plaintiff would be entitled to exclude under Section 14 the time spent in prosecuting the earlier suit in computing the period of limitation and after this period was excluded the suit would be in time. Some of the other issues were also decided in favour of the plaintiff. Consequently the Subordinate Judge decreed the suit with past and future mesne profits. In appeal the High Court of Madras, as stated earlier, came to a different conclusion on the question of limitation. It held, agreeing with the findings of the Subordinate Judge, that the auction purchasers in revenue sales never took possession nor were their alienees or plaintiff ever in possession of the suit properties. After this finding the High Court proceeded to consider whether the appellant was entitled to exclude the time taken in the prosecution of the previous suit under Section 14 of the Limitation Act. It was contended before that court that the plaintiff was bona fide in filing his suit and prosecuting it and the appeal, and therefore, he was entitled to exclude that period under Section 14 of the Limitation Act. This contention was negatived with these observations :

"From what we have stated above, it will be plain that the appellant took objection to the non-impleading of the Government as a party at earliest possible opportunity. The respondents would not take note of that objection. They persisted in their attitude till ultimately the High Court of Travancore-Cochin held that the suit will have to fail for the non-impleading of the necessary party. A request was made to the High Court to permit the respondents herein to remedy the defect. The learned Judges held that they could not accede to that request and that the suit has to be dismissed as in spite of timely objection raised by the defendant on the ground of non-joinder of parties the plaintiff persisted in proceeding with the suit undertaking to bear the risk of not impleading the sircar. This attitude on the part of the respondents is sufficient to dispose of the question of bona fides against them. Mr. V. V. Raghavan argues that the fact that two Subordinate Courts in the previous litigation had held that there was no need to implead the Government as a party to the suit would itself show that the respondents were acting under bona fide mistake. As we have pointed out earlier the defendants took objection to the non-impleading of the necessary party even at the earliest stage. The matter went up to the Travancore High Court. The respondents did not want the High Court to decide the question as to whether the Government was a necessary party or not on the ground that they were prepared to take the risk of their omission to implead the Sircar and on that ground got a dismissal of the revision petition filed by the appellants. Under these circumstances we cannot accept the contention now urged on behalf of the respondents herein that they bona fide instituted the previous suit.

"The reasons given by the High Court are in our view cogent. Section 14 of the repealed Limitation Act which is applicable to this case gives benefit to a party who has been prosecuting with due diligence another civil proceeding whether in a court of first instance or in a court of first appeal against the defendant, where the proceeding is founded upon the same cause of action and is prosecuted in good faith in a court which from the defect of jurisdiction and is prosecuted in good faith in a court which from the defect of jurisdiction or other cause of like nature is unable to entertain it. The

appellants advocate points out that under Section 2(7) nothing shall be deemed to be done in good faith which is not done with due care and attention and that in this case the appellant was bona fide in purchasing the suit properties from an auction purchaser who also purchased them in revenue sales bona fide and that without notice to either of them the sale has been set aside which is totally without jurisdiction and injuriously affects the appellant. That the appellant was caught in this predicament may be unfortunate but insofar as the question whether he bona fide prosecuted the earlier suit and appeal there could be no two opinions on the undisputed facts which have been clearly and forcefully stated by the High Court. It is clear that no suit for declaration and possession could have been filed against the defendants in respect of the revenue sales which was set aside without impleading the Government. The objection as to the maintainability of the suit was taken at the very initial stage but that was resisted and the appellant invited a decision by the District Munsif. Even at the stage of revision against that order in the High Court he took the risk of proceeding with the suit. This was, therefore, not a case of prosecuting the previous proceedings bona fide. But on the other hand, he deliberately did so may be for obvious reason that if he had to withdraw the suit he would have to give notice under Section 80, C.P.C. to the Government, wait for the expiry of the period of notice of two months and thereafter file a fresh suit. To avoid this he though he would taken a chance but that chance boomeranged against him. It is not a case where he prosecuted due to ignorance of law or bona fide mistake nor can it be said that he had misconceived the suit. None of the cases cited by the learned advocate can assist the appellant because in all of them it was either a case of mistake of law on a doubtful point such as in the case of Bishambhur Haldar v. Bonomali Haldar and Others, (ILR (1899) 26 Cal 414 : 3 CWN 233) or ignorance of law."

18. Mr. Laskar, learned counsel further submitted that the review filed by the applicant/appellant seeking interest on the awarded amount had already been disposed of by the learned Reference Court on 13.06.2025 and thus, the subject matter of the present appeal is also not in existence. The order of the learned Reference Court had already attained finality as the review filed by the applicant/appellant has already been disposed of.

19. Ms. Barman, learned G.A. submitted in this regard that from the pleadings of the parties it is very much evident that there is no bonafide mistake on the part of the applicant/appellant and even after the specific direction by this Court they again preferred a review petition and hence that cannot be considered as a bonafide mistake to condone the delay by application of provision under Section 14 of the Limitation Act.

20. Mr. Dey, learned counsel for the applicant/appellant submitted in this regard that till the date of filing of the connected appeal, the review was not decided and it was decided only on 13.06.2025 which does not cause any prejudice to either of the parties and liberty given to the present applicant/appellant for preferring an appeal is also not taken back vide order of the review dated

10.03.2025.

21. I have considered the submission made by the learned counsel for the parties and also perused the records as well as the annexures filed along with this petition.

22. From the record as well as the submissions of the learned counsel for the parties, it is seen that initially at the instance of the Central Government, the Deputy Collector acquired the land at North Guwahati in the year 1991 for establishing the IIT, Guwahati and in pursuance of the said land acquisition one L.A. Case No. 14/1991 was also registered under the provision of the Land Acquisition Act, 1894. In those land acquisition cases, the compensation was accordingly awarded in two dags, but the claimant Krishna Ch. Baruah and thereafter, on his death his representatives had filed two Reference Cases before the learned District Judge, Kamrup, Amingaon and in the above noted reference cases, the name of the present applicant was shown as respondent/opposite party No.2 and the Deputy Collector was shown as respondent/opposite party No.1.

23. Further, it is seen that there is no dispute or grievances in awarding compensation to the claimants but the only grievance of the applicant/appellant is that the learned District Judge had made an observation that the IIT, Guwahati is also a beneficiary as the land has been acquired by the Government for the purpose of establishing IIT, Guwahati and the direction was made for payment of the compensation by the present applicant/IIT, Guwahati to the claimants. But on being aggrieved to the said judgment and order dated 23.02.2024, passed in the common judgment, the applicant preferred a petition, being CRP No. 66/2024 and it is seen that while disposing of the said CRP No. 66/2024 there was a direction to the present applicant/appellant to prefer an appeal with an observation that Section 54 of the L. A. Act had specific provision for appeal and accordingly it was held that the CRP is not maintainable in the present form. While passing the order the applicant was directed to prefer an appeal. That order was passed on 21.06.2024, but without preferring any appeal, the applicant again filed a review petition on 19.07.2024 praying to review of the order dated 21.06.2024 which was accordingly registered as Review Pet. No. 132/2024, which was dismissed vide order dated 10.03.2025. Thus, it is not the case of the applicant/appellant that inadvertently or due to mistake they have preferred a wrong forum for filing the application against the order of the learned Reference Court.

24. Liberty was granted to the applicant by this Court while passing the order in CRP No. 66/2024 vide its order dated 21.06.2024. Thus, filing the revision petition instead of preferring an appeal under Section 54 of the Land Acquisition Act can be considered as a bonafide mistake on the part of the

applicant in choosing a wrong forum. But the subsequent application for review filed by the applicant before this Court cannot be considered as a bonafide mistake, rather it is an intentional approach only with a view to delay in satisfying the award as per the direction of the learned Reference Court and the submission made by the learned counsel for the applicant/appellant that on dismissal of the review petition vide order dated 10.03.2025 would automatically review the order dated 21.06.2024 also cannot be considered. Merely, dismissal of the review petition which was filed even after the specific direction of this Court cannot be considered that liberty was granted to the present applicant to approach the appellate forum after dismissal of the review as well as CRP No. 66/2024.

25. Section 14 requires that the prior proceeding should have been prosecuted in good faith and with due diligence. The definition of good faith as found in Section 2(h) of the Limitation Act would indicate that nothing shall be deemed to be in good faith which is not done with due care and attention.

26. The Hon'ble Supreme Court in the case of **Consolidated Engineering Enterprises Vs. Principal Secretary, Irrigation Department and others** reported in (2008) 7 SCC 169 had held in para 31 of the said judgment, which read as under:

“19. To attract the provisions of [Section 14](#) of the Limitation Act, five conditions enumerated in the earlier part of this Judgment have to co-exist. There is no manner of doubt that the section deserves to be construed liberally. Due diligence and caution are essentially pre-requisites for attracting [Section 14](#). Due diligence cannot be measured by any absolute standards. Due diligence is a measure of prudence or activity expected from and ordinarily exercised by a reasonable and prudent person under the particular circumstances. The time during which a court holds up a case while it is discovering that it ought to have been presented in another court, must be excluded, as the delay of the court cannot affect the due diligence of the party. [Section 14](#) requires that the prior proceeding should have been prosecuted in good faith and with due diligence. The definition of good faith as found in [Section 2\(h\)](#) of the Limitation Act would indicate that nothing shall be deemed to be in good faith which is not done with due care and attention. It is true that [Section 14](#) will not help a party who is guilty of negligence, lapse or inaction. However, there can be no hard and fast rule as to what amounts to good faith. It is a matter to be decided on the facts of each case. It will, in almost every case be more or less a question of degree. The mere filing of an application in wrong court would not prima facie show want of good faith. There must be no pretended mistake intentionally made with a view to delaying the proceedings or harassing the opposite party. In the light of these principles, the question will have to be considered whether the appellant had prosecuted the matter in other courts with due diligence and in good faith.”

27. Here in the instant case also considering all the aspects of the case it is seen that it cannot be considered that the applicant/appellant had chosen the wrong forum only on good faith to save the period of limitation under Section 14 of the said Act, rather, it was intentional only with a view to delay

the proceeding. It cannot be considered that even after specific direction, passed by this Court for preferring an appeal under Section 54 of the L.A. Act, they did not prefer any appeal only on good faith and choose a wrong forum and came before the Court with a petition for review. Thus, it is not the case that after due diligence the case was filed in wrong forum only on good faith to consider the case of the applicant/appellant under Section 14 of the Limitation Act, read with Section 5 of the said Act.

28. Further, from the submission made by the learned counsel for the respondent, it is seen that the review application filed by the claimant seeking interest on the awarded compensation has already been disposed of and thus, the order of the Reference Court in regards to the awarded compensation had already attained finality and the said Reference Cases are not pending at this stage. Thus, the purpose of filing the connected appeal also become infructuous in view of the fact that the L.A. Reference Cases have already been disposed of and the appeal was only filed for the observation made by the learned Reference Court impleading the present applicant/appellant as opposite part No.2/beneficiary with a direction for payment of the compensation.

29. In view of the above discussion made, this Court is of the opinion that the delay of 334 days in preferring the connected appeal against the order of the learned Reference Court dated 23.02.2024 cannot be condoned and Section 14 of the Limitation Act also does not cover the case of the applicant.

30. In view of the above, this interlocutory application stands dismissed.

JUDGE

Comparing Assistant