

GAHC010130842024



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

Case No. : I.A.(Civil)/2159/2024

MR DEBOJIT SAIKIA and 9 ORS
S/O LATE TUNIRAM SAIKIA,

2: MR. NABAJIT SAIKIA

S/O LATE TUNIRAM SAIKIA

3: MS. DEEPALI SAIKIA

D/O LATE TUNIRAM SAIKIA

4: MS. RUPALI SAIKIA

D/O LATE TUNIRAM SAIKIA

5: MR. ROSHESWAR KATONI

S/O LATE TEPURAM KATONI
ON THE DEATHN OF MR. BHUBAN KATONI HIS LEGAL HEIRS

6: SRI ARUP SAIKIA
S/O LATE BHUBAN KATONI

7: MS. JITA SAIKIA

D/O LATE BHUBAN KATONOI

8: ATUL KATONI

S/O LATE TEPURAM KATONI

9: BIPUL KATONI

S/O LATE TEPURAM KATONI

10: NIPUL KATONI

S/O LATE TEPURAM KATONI

ALL ARE RESIDENTS OF KATONI GAON
JORHAT
ASSAM

VERSUS

MR PRANSANT KATONI and 2 ORS
S/O LATE GOPAL CHANDRA KATONI, R/ O KATONI GAON, JORHAT,
DISTRICT JORHAT, ASSAM

2:AJIT KUMAR KATONI

S/O LATE GOPAL CHANDRA KATONI

RESIDENT OF KATONI GAON
JORHAT
ASSAM

3:MS. ALAKA DEVI KATONI

D/O LATE GOPAL CHANDRA KATONI

RESIDENT OF KATONI GAON
JORHAT
ASSAM

Advocate for the Petitioner : MR. D SARMAH, S. J. SAHARIAH, B. D. KAKATI

Advocate for the Respondent : MR. T K BHUYAN,

BEFORE
HONOURABLE MR. JUSTICE SANJEEV KUMAR SHARMA

ORDER

Date : 25.02.2026

Heard Mr. D. Sarma, learned counsel for the applicants and Mr. T.K. Bhuyan, learned counsel for the respondents.

This I.A. has been filed under Section 5 of the Limitation Act, 1963 seeking condoning the delay of 1865 days in preferring the application for substitution of the legal heirs of the deceased/ appellant No. 3, Bhuban Katoni by setting aside of abatement.

It is submitted by the learned counsel for the applicants that the deceased/ appellant No. 3, Bhuban Katoni @ Bhuban Saikia died on 02.09.2018 and accordingly, the regular second appeal is automatically abated on 01.12.2018.

The learned counsel for the applicants further submits that the appellant No. 1(ii) Smti Bharati Saikia died on 23.05.2023 and accordingly, the regular second appeal is abated.

The grounds for delay have been categorically stated in the delay petition in paragraph Nos. 2, 3, 4 and 5, which I have perused and the grounds are satisfactorily explained by the applicants.

It is further stated that due to ill health of the earlier engaged counsel, the present petitioner could not file the application in time and there is no intentional delay on their part.

No objection to the same has been filed by the learned counsel for the respondents, despite opportunity having been granted on more than two occasions. In the meantime, more than one year have elapsed, no objection has been filed. However, it is verbally submitted that the delay may not be condoned.

Having regard to the statement made in the above stated paragraphs mentioned in the instant application, I am of the view that the applicant was prevented by sufficient causes in approaching the Court within the period of limitation in filing the application for substitution. Accordingly, the delay of 1865 days is condoned.

The I.A. stands disposed of.

JUDGE

Comparing Assistant