

GAHC010134622021



2026:GAU-AS:6304

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

**Case No. : I.A.(Civil)/698/2022**

KUSHA HAZARIKA  
S/O LT. NENAI BONIA, R/O PAKHIMORI GAON, MOUZA KHONGIA, DIST.  
JORHAT, ASSAM

VERSUS

KIRAN HAZARIKA @ CHANDRA HAZARIKA AND 4 ORS.  
S/O LATE DEHIRAM HAZARIKA, R/O PAKHIMORA KHONGIA MOUZA, P.O.  
GATANGA, DIST. JORHAT

2:ON THE DEATH OF SRI DANDIRAM KAIBATRA DAS  
HIS LEGAL HEIR SMT. SARU DAS

W/O LT. DANDIRAM KAIBATRA DAS.

3:SRI NIRMAL DAS  
S/O LT. DANDIRAM KAIBATRA DAS.

4:SRI SON DAS  
S/O LT. DANDIRAM KAIBATRA DAS.

5:SRI ANIL DAS  
S/O LT. DANDIRAM KAIBATRA DAS.  
ALL ARE R/O PANICHAKUA GAON  
KHARANGI MOUZA  
P.O-PANICHAKUA  
DIST-JORHAT  
ASSAM.

6:SMTI. SORUMAI KAIBATRA DAS  
D/O-LT. MAGAN KAIBATRA DAS  
R/O-PANICHAKUA GAON

KHARANGI MOUZA  
P.O-PANICHAKUA  
DIST-JORHAT  
ASSAM.

7:SMTI PARUL BORA KAIBATRA DAS  
D/O-LT. MAGAN KAIBATRA DAS  
R/O-PANICHAKUA GAON  
KHARANGI MOUZA  
P.O-PANICHAKUA  
DIST-JORHAT  
ASSAM.

8:SRI GUNANATH HAZARIKA  
S/O LATE NENAI BONIA  
R/O PAKHIMORA GAON  
KHANGIA MOUZA  
P.O. GOTONGA  
DIST. JORHAT  
ASSA

**Advocate for the Petitioner** : MR.T J MAHANTA, MS. P BHATTACHARYA

**Advocate for the Respondent** : P.P BARUAH, R. SARMA

**BEFORE**  
**HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI**

**ORDER**

**07.05.2026**

Heard Ms. P Bhattacharya, learned counsel for the applicant. Also heard Mr. R Sharma, learned counsel for the respondent No. 1.

Office Note dated 24.03.2026 indicates that service in respect of respondent Nos. 2(b), 2(c), 2 (d). 3, 4 & 5 is complete. As regards respondent No. 2(a), it appears that during pendency of the present application, the respondent No. 2 (a) in the meantime has expired.

Ms. P Bhattacharya, learned counsel for the applicant submits that the respondent No. 2 (a) is the wife of respondent No. 2 who having been expired during the pendency of the connected RSA, the application for setting aside the abetment and substitution were required

to be filed. However, while doing so, a delay having been occurred, the present interlocutory application has been filed.

It is observed that the sons and daughters of the respondent No. 2 has already been served, who are arrayed as respondent Nos. 2(b), 2(c) and 2 (d). However, there is no representation on behalf of the said respondents on call.

Accordingly, the present interlocutory application filed for condoning the delay of 544 days in filing the substitution petition for substitution of the legal heirs of the deceased respondent No. 2 it taken for final disposal.

It appears that during pendency of the connected RSA, the respondent No. 2, i.e., Dandiram Kaibatra Das expired and since the legal heirs of the said respondent having not brought on record within the time prescribed, the case stood abated against the respondent No. 2. Accordingly, the application for substitution is time barred. Situated thus, the present condonation of delay application.

Ms. P Bhattacharya, learned counsel for the applicant submits that the grounds for delay as urged in the application is sufficient and bonafide and ought to be condoned in the interest of justice.

Mr. R Sharma, learned counsel for the respondent No. 1 fairly submits that he has received no instruction to oppose the prayer for condoning the delay.

I have heard the learned counsels for the parties and have perused the materials available on record.

The grounds for delay as urged in the instant application read as under-

*“2. That the applicant begs to state that during the pendency of the RSA No. 147/2015 before this Hon’ble Court, when the matter came up before the Hon’ble Court on 22/11/2019, then it was noticed from the order of Lawazima Court that Proforma Respondent No. 2 (Dandiram Kaibatra Das) expired and as such the counsel for the applicant sought time before this Hon’ble Court on that day in order to take instructions and to take appropriate steps in this regard, which was granted by the Hon’ble Court. The counsel for the applicant on 29//2019 sent a letter by registered post to the residential address of the applicant requesting him to come to Guwahati with necessary information regarding the details of date of death and legal heirs of Late Dandiram Kaibatra Das. Buit, since the applicant was posted as Head Constable at Sepon Police Station, Lakua, District-Charaideo,*

*Assam, he was not aware about the letter sent to him by his counsel. Later on, when the applicant came to know about the letter in the first week of January, 2020, then the applicant contacted his counsel and came to Guwahati from Charaideo district in the second week of February, 2020 after collecting all information regarding Late Dandiram Kaibatra Das and submitted the same to his counsel at Guwahati. The applicant informed his counsel that Dandiram Kaibatra Das (Proforma Respondent No. 2) expired on 20/04/2018 leaving behind his legal heir.”*

The aforesaid grounds appears to be sufficient and bonafide.

Accordingly, the delay of 544 days in filing the substitution petition for substitution of the legal heirs of the deceased respondent No. 2 is hereby condoned.

With the above observation, the instant interlocutory application, stands allowed and disposed of.

**JUDGE**

**Comparing Assistant**