

GAHC010149662024



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

Case No. : I.A.(Civil)/2979/2024

ON THE DEATH OF BHANU DEY, HIS LEGAL HEIRS
NAMELY

1.1: MS. SANDHYA DEY
W/O LATE BHANU DEY
R/O J.P.R. RAILWAY COLONY
P.O. AND P.S.-JORHAT-785001

1.2: BISHNU DEY
S/O LATE BHANU DEY
R/O J.P.R. RAILWAY COLONY
P.O. AND P.S.-JORHAT-785001

1.3: MS. MONI DEY
W/O SRI KHOKAN DEY
R/O MARIANI KENNEDY PARK
MARIANI
JORHA

VERSUS

ARABINDA ROY (SINCE DECEASED)
S/O LT. AMULYA BHUSAN ROY, R/O J.P.R. RAILWAY COLONY, P.O. AND P.S.-
JORHAT-785001

Advocate for the Petitioner : DR. R SARMAH, MS P SAHA

Advocate for the Respondent : ,

Linked Case :

SRI BHANU DEY

VERSUS

SRI ARABINDA ROY

Advocate for : DR.R SARMAH
Advocate for : appearing for SRI ARABINDA ROY

BEFORE
HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

01-10-2024

Heard Mr. R. Sarmah, learned counsel for the applicants.

This application under Order XXII Rule 3 of the Code of Civil Procedure has been filed by the applicants for substituting the legal heirs of the sole appellant.

The learned counsel for the applicants has submitted that the sole appellant had died on 12.03.2024.

As the substitution petition could not be filed within a period of 90 (ninety) days, the appeal got abated.

However, it is submitted that by order dated 27.09.2024 passed in the connected I.A. (Civil) No. 3456/2017, the abatement was set aside.

The applicant has filed the instant application for substituting the legal heirs of the sole appellant. As this application has not been filed within a period of limitation of 90 (ninety) days, unless delay is condoned, this application would be barred by limitation.

What has been allowed by order dated 27.09.2024 is only for setting aside the abatement.

However, the substitution petition has not been filed within a period of limitation of 90 (ninety) days, a separate application has to be filed for condoning the delay.

Learned counsel for the applicant prays for sometime to file the application for condonation of delay.

Prayer is allowed.

Let the matter be listed after Puja vacation on a date to be fixed by the Registry.

JUDGE

Comparing Assistant