

GAHC010204742025



2026:GAU-AS:6357

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

Case No. : I.A.(Civil)/3071/2025

ON THE DEATH OF SHRI RAJEN GOSWAMI ,
HIS LEGAL HEIRS

1.1: SMTI TARUNI GOSWAMI
W/O LATE RAJEN GOSWAMI
RESIDENT OF VILLAGE KHARKHOWAPARA
PO DEOMORNOI
MANGALDAI
DIST DARRANG
ASSAM 784147 ASSAM

1.2: SMTI ANANDITA GOSWAMI
D/O LATE RAJEN GOSWAMI
RESIDENT OF VILLAGE KATAHI
PO SANTIPUKHURI
DIST DARRANG
ASSAM

1.3: SMTI PIKUMANI GOSWAMI
D.O LATE RAJEN GOSWAMI
RESIDENT OF BHEBARGHAT NO. 2
BAMUNPARA
MANGALDAI
DIST DARRANG
ASSAM 784125 ASSAM

2: SRI PARESH GOSWAMI
S/O LATE MANIK GOSWAMI
RESIDENT OF VILLAGE KHARKHOWAPARA
MOUZA SARABARI
PS MANGALDOI
DIST DARRANG
ASSAM

3: SMTI BHARATI GOSWAMI
D/O LATE MANIK GOSWAMI
RESIDENT OF VILLAGE KHARKHOWAPARA
MOUZA SARABARI
PS MANGALDOI

DIST DARRANG
ASSAM

4: SRI MAHENDRA GOSWAMI
S/O LATE MANIK GOSWAMI
RESIDENT OF VILLAGE KHARKHOWAPARA
MOUZA SARABARI
PS MANGALDOI
DIST DARRANG
ASSAM

5: SHRI BUDHU GOSWAMI
S/O NARAYAN GOSWAMI
RESIDENT OF VILLAGE KHARKHOWAPARA
MOUZA SARABARI
PS MANGALDOI
DIST DARRANG
ASSA

VERSUS

SRI KANAK CH. DEKA AND ORS
S/O LATE GANA KOCH AND RESIDENT OF VILLAGE KHARKHOWAPARA,
MOUZA SARABARI, PS MANGALDOI, DIST DARRANG, ASSAM

2:SRI RANJIT DEKA
S/O LATE GANA KOCH AND RESIDENT OF VILLAGE KHARKHOWAPARA
MOUZA SARABARI
PS MANGALDOI
DIST DARRANG
ASSAM

3:SRI DANDA DEKA
S/O LATE GANA KOCH AND RESIDENT OF VILLAGE KHARKHOWAPARA
MOUZA SARABARI
PS MANGALDOI
DIST DARRANG
ASSA

Advocate for the Petitioner : MR. S P ROY, JYOTISH DAS,MS. V RAI,MS. P AGARWALA

Advocate for the Respondent : MR. S C BISWAS,

**BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI**

ORDER

Date : 08.05.2026

Heard Mr. J. Das, learned counsel for the applicant. Also heard Mr. D. Mazumdar, learned counsel for the respondent Nos.1 to 4.

By way of filing this Interlocutory Application under Section 5 of the Limitation Act, 1963, the applicant is seeking condonation of delay of 1134 days for setting aside the abatement against the deceased appellant No.1.

It appears that during the pendency of the regular Second Appeal, the applicant No.1, i.e., Shri.Rajen Goswami died leaving behind his legal heirs, namely, 1(i).Smti. Taruni Goswami, 1(ii) Smti. Anandita Goswami and 1(iii) Smti. Pikumani Goswami, who were required to be substituted as legal heirs in his place. However, the same having not been done within the statutory period of time, the case was abated against the appellant No.1.

Learned counsel for the respondents submits that he has received no instructions to oppose the prayer of condonation.

Accordingly, the present Interlocutory Application has been filed for condoning the delay for setting aside the abatement.

The grounds of delay as urged in the application, reads as under:

“3. That after the death of ShriRajenGoswami, the Applicants were occupied in performing the post-death rituals and also faced severe financial hardship due to the sudden demise of Late RajenGoswami. This resulted in a situation of extreme distress, leaving them unable to pursue legal matters or visit the court.

4. That the Applicants being his legal heirs were not aware of the pendency of the instant appeal. The Applicants are simple laymen, residing in rural area and are not conversant with court proceedings or legal technicalities.

5. That due to their lack of knowledge about the pending proceedings, the Applicants could not approach their Ld. Counsel or take necessary steps within the prescribed time for substitution of legal heirs.

6. That the Applicants only came to know about the pendency of the instant appeal only on 30.08.2025, when Mr. N.G. Goswami, Advocate of this Hon'ble Court, friend of Late RajenGoswami recently visited the house of the Applicants and he randomly asked about the status of the case but the Applicants were completely unaware about the pendency of the case and they were completely surprised to know that a case is pending in the name of Late RajenGoswami and thereafter, they immediately approached their Learned Counsel and took steps for filing the present application.

7. That thereafter the Applicants approached the Learned Counsel Mr. S.P. Roy on 31.08.2025 who advised them that three applications are needed to be filed immediately and then the Applicants paid the requisite fee for drafting and filing of the same.

8. That it took three days' time to draft the applications as such there is a delay of 1134 days and as such the Applicants have come with these three applications."

I have perused the grounds of delay as extracted above, the same appears to be sufficient and bona fide.

Accordingly, the delay of 1134 days in filing the substitution petition for substitution of legal heirs of the deceased appellant No.1 is hereby condoned.

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

JUDGE

Comparing Assistant