GAHC010205302025

2026:GAU-AS:6214

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

Case No. : I.A.(Civil)/3036/2025

SOVEN MIKIR
S/O LATE KANTIRAM MIKIR, R/O VILL. BETKUCHI (KHEPINIJAL),
GUWAHATI 781034, ASSAM.

VERSUS

SRI NALIN MIKIR ANR 9 ORS
S/O LATE BOLO RAM MIKIR, VILL. KHEPANIJAL (BETKUCHI), P.S.
GORCHUK, GUWAHATI 34, DIST. KAMRUP (M), GUWAHATI.

2:SRI MUNINDRA MIKIR
S/O LATE BOLO RAM MIKIR
VILLAGEKHEPANIJAL (BETKUCHI)
P.SGORCHUK
GUWAHATI-34
DISTKAMRUP(M)
GUWAHATI

3:SMTI RANGMILI MIKIR
S/O LATE BOLO RAM MIKIR
VILLAGEKHEPANIJAL (BETKUCHI)
P.SGORCHUK
GUWAHATI-34
DISTKAMRUP(M)
GUWAHATI

4:THE KHEPANIJAL GAON UNNAYAN SAMITEE
VILLAGEKHEPANIJAL (BETKUCHI) P.SGARCHUK
GUWAHATI-34
DISTRICT-KAMRUP(M)
GUWAHAT

5:SRI JOGEN BEY
S/O DEBARAM BEY
SECRETARY OF KHEPANIJAL GAON UNAYAN SAMITTEE
VILLAGE- KHEPANIJAL (BETKUCHI)
P.S-GORCHUK
GUWAHATI-34
DISTKAMRUP(M)
GUWAHATI

6:SRI DHARMESWAR TUMUNG
EX-PRESIDENT OF KHEPANIJAL UNNAYAN SAMITTEE
VILLAGEKHEPANIJAL (BETKUCHI)
P.SGORCHUK
GUWAHATI-34
DISTKAMRUP(M)
GUWAHATI.

7:SRI GAJEN BEY

S/O PUTI RAM BEY
EX-SECRETARY OF KHAPANIJAL GAON UNNAYAN SAMITTEE
VILLAGE- KHAPANIJAL (BETKUCHI)
P.S-GORCHUK
GUWAHATI-34
DISTKAMRUP(M)
GUWAHATI.

8:SRI PULIN MIKIR
S/O LATE JON MIKIR
VILLAGE- KHEPANIJAL (BETKUCHI)
P.S-GORCHUK
GUWAHATI-34
DIST.- KAMRUP(M)
GUWAHATI.

9:SRI INDRA MIKIR
S/O LATE JON MIKIR
VILLAGE- KHEPANIJAL (BETKUCHI)
P.S-GORCHUK
GUWAHATI-34
DIST.- KAMRUP(M)
GUWAHATI

10:SMTI BENU MIKIR
D/O LATE SUTI RAM MIKIR
VILLAGE KHEPANIJAL (BETKUCHI)
P.S-GORCHUK
GUWAHATI-34

DISTKAMRUP(M)
GUWAHATI

Advocate for the Petitioner : MR. B D DEKA, MR. A BHATRA,MR. A DEKA,N CHAUDHURY,MR. M DAS

Advocate for the Respondent : MR D TALUKDAR (R-1 TO 7), MR A UPADHYAY (R-8,9,10),MS. JYOTI CHETRY (R-8,9,10),MR P UPADHYAY (R-8,9,10),MR P CHOWDHURY(R-1 TO 7)

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 05-05-2026

Heard Mr. B.D. Deka, learned counsel for the applicant and Mr. P. Chowdhury, learned counsel for the opposite party Nos. 1 to 7.

2. This application, under Section 5 of the Limitation Act, 1965 is preferred by the applicant for condoning delay of 218 days in preferring the review petition, under Chapter X of the Gauhati High Court Rules, read with Order XLVII Rule 1 & 2 of the CPC, against the judgment and order dated 20.12.2024, passed by this Court in Regular First Appeal, herein after RFA No. 82/2018.

3. Mr. Deka, learned counsel for the applicant submits that the applicant has preferred a review petition, under Chapter X of the Gauhati High Court Rules, read with Order XLVII Rule 1 & 2 of the CPC, for reviewing the judgment and order dated 20.12.2024, passed by this Court in RFA No. 82/2018. Mr. Deka also submits that the present applicant is a necessary party in the RFA No. 82/2018.

3.1. Mr. Deka further submits that during the pendency of the RFA, the present opposite party Nos. 1 – 7 filed an interlocutory application, being I.A.(Civil) No. 4078/2019, for impleadment of the defendant Nos. 1, 2 & 3 of the Title Suit No.

277/2013, in the RFA, including the present applicant, as necessary party and this Court, vide order dated 02.12.2019, was pleased to issue notice to the defendant Nos. 1, 2 & 3, including the present applicant and on receipt of the notice, the applicant entered appearance in the said IA. But, the same was closed on 20.12.2024, for not being pressed.

3.2. Mr. Deka also submits that the present applicant was not aware about the judgment and order, passed by this court on 20.12.2024, in the aforementioned RFA and also about closing of the aforesaid IA on 20.12.2024 and that the same came to the knowledge of the applicant only on 01.04.2025, when he contacted with the Advocate to inquire about the outcome of the said IA. Thereafter, the applicant had contacted with the local counsel and also one counsel of the Hon'ble Supreme Court. Then, as per advice of the counsel of the Hon'ble Supreme Court, one Special Leave Petition, being SLP (Civil) No. 7498/2025, was filed before the Hon'ble Supreme Court. But, the same was dismissed on withdrawal on 25.07.2025. Thereafter, the applicant had applied for the order of the said SLP on 29.07.2025, but he received the same on 08.08.2025. Then, he engaged one counsel to prepare the review petition for being filed before this Court and the said counsel took 16 days time to prepare the same from the date of the pronouncement of the judgment and order in the aforementioned RFA and in that process, 218 days delay have been occurred, but there is no delay from the date of the order of dismissal of the SLP. Mr. Deka also submits that the delay is not intentional rather it is circumstantial and that the applicant has a good case and the same may be heard on merit. Otherwise the applicant would suffer serious prejudice.

3.3. Under the above mentioned circumstances, Mr. Deka has contended to allow this application.

4. Per-contra, Mr. Chowdhury, learned counsel for the opposite party Nos. 1 – 7, has vehemently opposed the application. His contention is that the applicant has suppressed material facts and pointed out that the applicant had made a false statement before the Hon'ble Supreme Court to the effect that he was inadvertently not arrayed as a Respondent in the RFA No. 82 of 2018, and the same is an incorrect statement made before the Hon'ble Supreme Court on oath.

4.1. Mr. Chouwdhury has pointed out that this Court while hearing the RFA No. 82 of 2018, vide order dated 26.11.2019 (ANNEXURE-R-2_ had directed the learned counsel for these respondents to examine as to whether the defendant Nos. 1, 2 and 3 was required to be impleaded in the R.F.A. No. 82 of 2018, filed by the present respondents. Mr. Chowdhury also submits that the defendant Nos. 1 to 3 were not made respondents in the RFA as the present respondents did not claim any reliefs against the Defendant Nos. 1, 2 and 3 before this Court. Then the respondents herein on the basis of the directions of this Court had filed an application (ANNEXURE-R-3), under Order 1 Rule 10 (2) read with Section 151 of the C.P.C., 1908, on 27.11.2019, for impleading the defendant Nos. 1, 2 and 3 in T.S. No. 277 of 2013 in the R.F.A. No. 82 of 2018, upon which I.A. (C) No. 4078 of 2019 in R.F.A. No. 82 of 2018, was registered.

4.2. It is the further submission of Mr. Chowdhury that the respondent herein also, along with the present application filed an amended Memo of Appeal wherein the defendant Nos. 1, 2 and 3 were made as respondent Nos. 4, 5 and 6 in R.F.A. No. 82 of 2018. The present applicant who was arrayed as defendant No.3 in the Suit was arrayed as respondent No.6. in the R.F.A. No. 82 of 2018. The Applicant is totally silent about the Orders passed in I.A. (C) No. 4078 of 2019 before the Hon'ble Supreme Court. Then this court vide order dated

02.12.2019 in (C) No. 4078 of 2019 in R.F.A. No. 82 of 2018 had issued show cause notices to the defendant Nos. 1, 2 and 3 as respondent Nos. 4, 5 and 6 respectively.

4.3. Mr. Chowdhury also pointed it out that then as directed the respondents had effect service of notice by dasti mode upon them as respondent Nos. 4 to 6 respectively. Then the impleaded respondents including defendant No.3/respondent No.6 (RFA No.82 of 2018), the present applicant had filed his Vakalatnama (ANNEXURE-R-7) before this Court on 24.02.2020. And as the impleaded respondents including the present applicant are being represented by their Advocates, it was for this reason the present respondents did not press the I.A. No. 4078 of 2019 in R.F.A. No. 82 of 2018 on 20.12.2024 as the relief sought for in the said application had materialised in the R.F.A. No.82 of 2018. Further the Order dated 20.12.2024 passed by this Hon'ble Court in I.A. No. 4078 of 2019 in R.F.A. No. 82 of 2018 had showed that the said Respondent No.6/present Applicant, namelyn Souven Mikir had been represented by his Advocate in the proceeding of RFA No. 82 of 2018.

4.4. It is the further submission of Mr. Chowdhury that the applicant, thus, has not moved to this Court with clean hands and he is guilty of suppressing material fact and thereby, projecting false picture before this Court and also before the Hon’ble Supreme Court and on such count, the applicant is not entitled to any equitable relief from this Court.

4.5. Mr. Chowdhury also submits that the contentions made in paragraph Nos. 3 – 6 of the present application are incorrect and misleading. He further submits that Hon’ble Supreme Court did not condone the delay of 110 days in filing the SLP (Civil) No. 7498/2025 and that the order of the SLP was passed on 25.07.2025 and the same was uploaded in the official website of the Hon’ble

Supreme Court on the same day and the certified copy of the said order was available on the same day after it was being uploaded and that the applicant received the certified copy of the same on 08.08.2025, from his counsel at Delhi cannot be said to be properly explained.

4.6. Mr. Chowdhury further submits that the averments made in the remaining paragraphs are also incorrect and misleading and under such circumstances, he has contended to dismiss this petition.

4.7. Mr. Chowdhury has also referred to a decision of a co-ordinate bench of this Court, in the case of **Union of India (Railways) vs. Manipur Tea Trading Company**, reported in **2008 (4) GLT 897**, to contend that condonation of delay in filing review petition is discretionary and it should be exercised only when there are reasonable explanations or sufficient cause and the same is to be decided on the facts and circumstances of the given case.

4.9. Referring to another decision of Hon'ble Supreme Court, in the case of **Commissioner of Wealth Tax, Bombay vs. Amateur Riders Club, Bombay**, reported in **1994 Supp (2) Supreme Court Cases 603**, Mr. Chowdhury submits that the applicant must furnish judicially reasonable grounds for condonation of delay and as the applicant herein has failed to explain the delay, the same cannot be condoned to the prejudice of the respondent herein. Therefore, he has contended to dismiss the application.

5. Having heard the submissions of learned counsel for both the parties, this Court has carefully gone through the petition as well as the documents placed on record and has also perused the decisions referred by Mr. Chowdhury, learned counsel for the opposite party Nos. 1 – 7.

6. It appears that the judgment in RFA was passed on 20.12.2024 and the

Review Petition was filed on 26.08.2025. The Registry, as directed has calculated the delay as under:-

Sl. No.	Months	Days
01.	December, 2024	11 days
02.	January, 2024	31 days
03.	February, 2024	28 days
04.	March, 2025	31 days
05.	April, 2025	30 days
06.	May, 2025	31 days
07.	June, 2025	30 days
08.	July, 2025	31 days
09.	August, 2015	22 days(preceding 3 days being holidays
Total		245 days
Limitation		30 days
Delay in filing Review Petition		215 days (245-30 = 215)

6.1. Further, the steps taken by the applicant on different dates indicated in the chart below:-

Sl. No.	Relevant dates	Activities
01.	20.12.2024	Judgment in RFA delivered and I.A. for impleadment closed
02.	01.04.2025	Applicant came to know about the outcome of the case when enquired about the same from his counsel
03.	24.04.2025	SLP (Civil) No. 7498/2025 filed in Supreme Court
04.	25.07.2025	SLP dismissed on withdrawal
05.	29.07.2025	Applicant applied for the order of the SLP on 29.07.2025
06.	08.08.2025	Received certified copy
07.	26.08.2025	Review petition filed

7. It is to be noted here that in the case of **Manipur Tea Trading Company**

(supra), a Coordinate Bench of this Court has held that it is well settled proposition of law that question as to whether or not there is sufficient cause or reasonable explanation for condonation of delay, the same is to be decided on the facts and circumstances of a given case and that the power to extend the prescribed period of limitation, on the concerned application, is a discretionary one and could be exercised only when there are reasonable explanations or sufficient cause as contemplated under Section 5 of the Limitation Act.

7.1 Further, Hon'ble Supreme Court, in several earlier cases, has laid down the principles for condonation of delay and the same are discussed herein below:-

7.2. In the Case of **Collector, Land Acquisition, Anantnag and Anr. vs. Mst. Katiji and Others**, reported in **(1987) 2 SCC 107**, has observed as under:-

> "**3. The legislature has conferred the power to condone delay by enacting Section 5 of the Indian Limitation Act of 1963 in order to enable the courts to do substantial justice to parties by disposing of matters on "merits". The expression "sufficient cause" employed by the legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which sub-serves the ends of justice - that being the life purpose for the existence of the institution of courts. It is common knowledge that this Court has been making a justifiably liberal approach in matters instituted in this Court. But the message does not appear to have percolated down to all the other courts in the hierarchy, and such a liberal approach is adopted on principle as it is realized that:**
>
> **1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.**
> **2. Refusing to condone delay can result in a**

meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.

3. "Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.

4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non deliberate delay.

5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.

6. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so.

Making a justice-oriented approach from this perspective, there was sufficient cause for condoning the delay in the institution of the appeal. The fact that it was the "State" which was seeking condonation and not a private party was altogether irrelevant. The doctrine of equality before law demands that all litigants, including the State as a litigant, are accorded the same treatment and the law is administered in an even-handed manner. There is no warrant for according a step-motherly treatment when

the "State" is the applicant praying for condonation of delay. In fact experience shows that on account of an impersonal machinery (no one in charge of the matter is directly hit or hurt by the judgment sought to be subjected to appeal) and the inherited bureaucratic methodology imbued with the note-making, file-pushing and passing-on-the-buck ethos, delay on its part is less difficult to understand though more difficult to approve. In any event, the State which represents the collective cause of the community does not deserve a litigant-non-grata status. The courts therefore have to be informed with the spirit and philosophy of the provision in the course of the interpretation of the expression "sufficient cause". So also the same approach has to be evidenced in its application to matters at hand with the end in view to do even- handed justice on merits in preference to the approach which scuttles a decision on merits.----------"

7.3. Again in the case of **N. Balakrishnan vs. M. Krishnamurthy**; reported in **(1998) 7 SCC 123**, Hon'ble Supreme Court went a step further and made the following observations:-

"**It is axiomatic that condonation of delay is a matter of discretion of the court. Section 5 of the Limitation Act does not say that such discretion can be exercised only if the delay is within a certain limit. Length of delay is no matter; acceptability of the explanation is the only criterion. Sometimes delay of the shortest range may be un-condonable due to a want of acceptable explanation whereas in certain other cases, delay of a very long range can be condoned as the explanation thereof is**

satisfactory. Once the court accepts the explanation as sufficient, it is the result of positive exercise of discretion and normally the superior court should not disturb such finding, much less in revisional jurisdiction, unless the exercise of discretion was on wholly untenable grounds or arbitrary or perverse. But it is a different matter when the first court refuses to condone the delay. In such cases, the superior court would be free to consider the cause shown for the delay afresh and it is open to such superior court to come to its own finding even untrammelled by the conclusion of the lower court.

Rules of limitation are not meant to destroy the rights of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The law of limitation fixes a lifespan for such legal remedy for the redress of the legal injury so suffered. Time is precious and wasted time would never revisit. During the efflux of time, newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the courts. So a lifespan must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The law of limitation is thus founded on public policy. It is enshrined in the maxim *interest reipublicae up sit finis litium* (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the rights of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.

It must be remembered that in every case of delay, there can be some lapse on the part of the litigant concerned. That alone is not enough to turn down his plea and to shut the door against him. If the explanation does not smack of mala fides or it is not put forth as part of a dilatory strategy, the court must show utmost consideration to the suitor. But when there is reasonable ground to think that the delay was occasioned by the party deliberately to gain time, then the court should lean against acceptance of the explanation. While condoning the delay, the court should not forget the opposite party altogether. It must be borne in mind that he is a loser and he too would have incurred quite large litigation expenses. It would be a salutary guideline that when courts condone the delay due to laches on the part of the applicant, the court shall compensate the opposite party for his loss."

7.4. In the case of **Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy & Others**, reported in **(2013) 12 SCC 649**, Hon'ble Supreme Court, referring to earlier authorities, broadly culled out the principles of condonation of delay as under:-

"**21.1.i) There should be a liberal, pragmatic, justice-oriented, non- pedantic approach while dealing with an application for condonation of delay, for the courts are not supposed to legalise injustice but are obliged to remove injustice.**

ii) The terms "sufficient cause" should be understood in their proper spirit, philosophy and purpose regard being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining

fact- situation.

iii) Substantial justice being paramount and pivotal the technical considerations should not be given undue and uncalled for emphasis.

iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.

v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.

vi) It is to be kept in mind that adherence to strict proof should not affect public justice and cause public mischief because the courts are required to be vigilant so that in the ultimate eventuate there is no real failure of justice.

vii) The concept of liberal approach has to encapsule the conception of reasonableness and it cannot be allowed a totally unfettered free play.

viii) There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.

ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of

balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.

x) If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation.

xi) It is to be borne in mind that no one gets away with fraud, misrepresentation or interpolation by taking recourse to the technicalities of law of limitation.

xii) The entire gamut of facts are to be carefully scrutinized and the approach should be based on the paradigm of judicial discretion which is founded on objective reasoning and not on individual perception.

Xiii) The State or a public body or an entity representing a collective cause should be given some acceptable latitude.

7.5. In addition to aforesaid principles, Hon'ble Supreme Court also added some more guidelines taking note of the present day scenario, in the aforesaid case and these are: **-**

"**a) An application for condonation of delay should be drafted with careful concern and not in a half hazard manner harbouring the notion that the courts are required to condone delay on the bedrock of the principle that adjudication of a lis on merits is seminal to justice dispensation system.**

b) An application for condonation of delay should not be dealt with in a routine manner on the base of

individual philosophy which is basically subjective.

c) **Though no precise formula can be laid down regard being had to the concept of judicial discretion, yet a conscious effort for achieving consistency and collegiality of the adjudicatory system should be made as that is the ultimate institutional motto.**

d) **The increasing tendency to perceive delay as a non-serious matter and, hence, lackadaisical propensity can be exhibited in a non-challant manner requires to be curbed, of course, within legal parameters.**

7.6. Again in the case of **Pundlik Jalam Patil (supra),** while dealing with the issue of condonation of delay, Hon'ble Supreme Court has held as under:-

> "**29. It needs no restatement at our hands that the object for fixing time-limit for litigation is based on public policy fixing a lifespan for legal remedy for the purpose of general welfare. They are meant to see that the parties do not resort to dilatory tactics but avail their legal remedies promptly. Salmond in his *Jurisprudence* states that the laws come to the assistance of the vigilant and not of the sleepy.**
>
> **30. Public interest undoubtedly is a paramount consideration in exercising the courts' discretion wherever conferred upon it by the relevant statutes. Pursuing stale claims and multiplicity of proceedings in no manner sub-serves public interest. Prompt and timely payment of compensation to the land losers facilitating their rehabilitation/ resettlement is equally an integral part of public policy. Public interest demands that the State or the beneficiary of acquisition, as the case may be, should not be allowed to indulge in any act to unsettle the settled legal rights accrued in law by resorting to avoidable litigation unless the claimants are guilty of**

deriving benefit to which they are otherwise not entitled, in any fraudulent manner. One should not forget the basic fact that what is acquired is not the land but the livelihood of the land losers. These public interest parameters ought to be kept in mind by the courts while exercising the discretion dealing with the application filed under Section 5 of the Limitation Act. Dragging the land losers to courts of law years after the termination of legal proceedings would not serve any public interest. Settled rights cannot be lightly interfered with by condoning inordinate delay without there being any proper explanation of such delay on the ground of involvement of public revenue. It serves no public interest.

31. It is true that when the State and its instrumentalities are the applicants seeking condonation of delay they may be entitled to certain amount of latitude but the law of limitation is same for citizen and for governmental authorities. The Limitation Act does not provide for a different period to the Government in filing appeals or applications as such. It would be a different matter where the Government makes out a case where public interest was shown to have suffered owing to acts of fraud or collusion on the part of its officers or agents and where the officers were clearly at cross purposes with it. In a given case if any such facts are pleaded or proved they cannot be excluded from consideration and those factors may go into the judicial verdict. In the present case, no such facts are pleaded and proved though a feeble attempt by the learned counsel for the respondent was made to suggest collusion and fraud but without any basis. We cannot entertain the submission made across the Bar without there being any proper foundation in the pleadings."

8. The legal proposition, which can be crystallized from the aforesaid

decisions and discussion, is that courts are not supposed to legalize injustice, but are obliged to remove injustice. Therefore, liberal, pragmatic, justice-oriented, non- pedantic approach has to be adopted while dealing with an application for condonation of delay if 'sufficient cause' is being shown. The terms 'sufficient cause' should be understood in their proper spirit, philosophy and purpose and having regard to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining fact- situation. The paramount and pivotal consideration is substantial justice; the technical considerations should not be given undue and uncalled for emphasis. In respect of deliberate causation of delay the presumption is not available but, gross negligence on the part of the counsel or litigant is to be taken note of, besides lack of bona-fides imputable to a party seeking condonation of delay, which is a significant and relevant fact. The courts should not adhere to strict proof, but are required to be vigilant so that there is no real failure of justice. The approach of the court must be liberal but at the same time it must be reasonable also. In case of inordinate delay, a strict approach is required to be taken while in case of delay of short duration, a liberal delineation is required. The fundamental principle, being weighing the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach. While condoning delay the conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. In the case of the explanation, being offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such litigation. The entire gamuts of facts are to be carefully scrutinized and the approach should be based on the paradigm of judicial discretion which is founded on objective

reasoning and not on individual perception. The State or a public body or an entity, representing a collective cause, should be given some acceptable latitude. But, the law of limitation is same for citizen and for governmental authorities.

9. Thus, having informed ourselves about the proposition of law presently holding the field in respect of condonation of delay, now an endeavour will be made how far the applicant has been able to explain the delay of in preferring the connected review petition.

10. It is not in dispute that this Court has pronounced the judgment in RFA No. 82/2018 on 20.12.2024. It is also not in dispute that the period of limitation for filing a review petition is 30 days. And from the calculation sheet of the Registry at in para No. 6, herein above, that total delay is 245 days. And after deducting 30 days the period, which the applicant is entitled to, the period remained is 215 days are required to be explained by the applicant. And even for the sake of argument and as contention of the supplicant, if we deduct the period of pendency of the SLP before the Hon'ble Supreme Court from the date of filing on 24.04.2025 till 25 07.2025, on which the same was dismissed, then also from the there is delay of 129 days, which the applicant herein has to explain in the present application.

10.1. Now, it is to be seen how the applicant has explained this much of delay. From the statements and averments made in the application and also from the submission of Mr. Deka, learned counsel for the applicant, it appears that though the judgment of the RFA was pronounced on 20.12.2024, the applicant came to know about the same only on 01.04.2025, when he inquired about the

outcome of the said RFA from his counsel. Thereafter, he preferred one SLP before the Hon'ble Supreme Court. But, the same came to be dismissed on 25.07.2025. And as per submission of Mr. Deka, the certified copy of the said order was issued on 29.07.2025, and it was sent to the applicant by his counsel from Delhi to Guwahati and he received the same only on 08.08.2025. But, in support of the aforesaid contentions, the applicant had failed to produce any supporting document.

10.2. Though the applicant and his counsel has contended that he had received the certified copy of the order of Hon'ble Supreme Court on 08.08.2025, and his counsel started to prepare the review petition on 09.08.2025 and took 16 days time to file the same before this Court and from the date of dismissal of his SLP, on 25.07.2025 there is no delay, as the review petition was filed on 35.08.2025, yet this contention of Mr. Deka left this Court unimpressed as pointed it out by Mr. Chowdhury, learned counsel for the opposite party Nos. 1 – 7 that Hon'ble Supreme Court has never condoned the delay in filing the SLP. Article 124 of the Limitation Act provides that the period of limitation in filing the review petition is 30 days. And the period has to be counted from the date of pronouncement of the judgment or order.

10.3. As pointed out by Mr. Chowdhury, the learned counsel for the respondent, it appears that the applicant had made a false statement before the Hon'ble Supreme Court. He stated that he was inadvertently not arrayed as a Respondent in the RFA No. 82 of 2018. Thus, it appears that the applicant has not approached the Court with clean hands. It is the categorical submission of Mr. Chowdhury that the applicant is guilty of suppressing material fact and thereby, projecting false picture before this Court and on such count, the

applicant is not entitled to any equitable relief from this Court. There appears to be considerable force in the submission of Chowdhury.

11. It is apparent from the facts and circumstances placed on record that in the said RFA, the respondent herein, as per direction of this court has filed one IA for the impleadment of defendant No.1, 2 and 3 and this Court, vide order dated 02.12.2019, issued notice to the defendant No. 1, 2 and 3 and the defendant No.3, the present applicant had entered appearance by filing his Vakalatnama (ANNEXURE-R-7) before this Court on 24.02.2020. And as the impleaded respondents including the present applicant, are being represented by their Advocate the said I.A. was not pressed for which, on 20.12.2024, the same was closed. These facts were suppressed by the applicant before the Hon'ble Supreme Court and he had projected a false picture before the Hon'ble Supreme Court and also before this court on such count, the applicant is not entitled to any equitable relief from this Court.

12. Thus, it appears that the applicant herein has demonstrated lackadaisical propensity and that too in a non-challant manner towards the I.A. and also in filing the review petition. There is gross negligence on his part, besides there is also lack of bona fides, which is a very significant and relevant fact. Even without adhering to strict proof, also it cannot be said that the delay is satisfactorily explained. Whatever ground the applicant has assigned is deemed unreasonable. Under such circumstances is the delay is condoned by taking a liberal approach then there will be failure of justice.

13. Further, it appears that he has suppressed some material facts and approached this Court with unclean hands seeking equitable relief which is not at all permissible. Even if there is merit in the petition, as submitted by Mr.

Deka, learned counsel for the applicant, his approach to this court with unclean hands, override the same.

14. Thus, applying the proposition of law in respect of condonation of delay, as discussed and crystallized in para No.8, herein above, to the given facts and circumstances of the present case, this Court find that the applicant herein has failed to furnish judicially acceptable grounds for the delay of 139 days in filing the review petition, with I.A. for delay condonation.

15. In the result, this court finds this application devoid of substance and accordingly the same stands dismissed, leaving the parties to bear their own costs.

JUDGE

Comparing Assistant