

GAHC010238402025



2026:GAU-AS:189

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

Case No. : I.A.(Civil)/3790/2025

ON THE DEATH OF PRADIP CHAKRABORTY HIS LEGAL HEIRS ARATI
CHAKRABORTY AND 2 ORS
WIFE OF LATE PRADIP CHAKRABORTY
RESIDENT OF PRINCE ROAD
SONAI ROAD
PS- SILCHAR
DISTRICT- CACHAR
ASSAM

2: MISS PUJA CHAKRABORTY
DO- LATE PRADIP CHKLABORTY
RESIDENT OF PRINCE ROAD
SONAI ROAD
PS- SILCHAR
DISTRICT- CACHAR
ASSAM

3: MISS PRIYA CHAKRABORTY
DO- LATE PRADIP CHKLABORTY

RESIDENT OF PRINCE ROAD
SONAI ROAD
PS- SILCHAR
DISTRICT- CACHAR
ASSAM
VERSUS

SHRI BIPRAJIT CHAKRABORTY
SON OF LATE BIDHU BHUSAN CHAKRABORTY
RESIDENT OF GUNOMOYEE ROAD
TARAPURSILCHAR TOWN PS- SILCHAR DISTRICT- CACHAR
ASSAM

Advocate for : MR. P K ROYCHOUDHURY
Advocate for : MR. S K GHOSH appearing for SHRI BIPRAJIT CHAKRABORTY

Linked Case : RFA/123/2019

SHRI PRADIP CHAKRABORTY
S/O- LATE JADAV CHAKRABORTY
PRINCE ROAD
SONAI ROAD
P.S. SILCHAR
DIST.- CACHAR
ASSAM.

VERSUS

SHRI BIPRAJIT CHAKRABORTY
S/O- LATE BIDHU BHUSAN CHAKRABORTY
GUNOMOYEE ROAD
TARAPUR
SILCHAR TOWN
P.S. SILCHAR
DIST.- CACHAR
ASSAM
PIN- 788001.

Advocate for : MR. P K ROY
Advocate for : MR. S K GHOSH appearing for SHRI BIPRAJIT CHAKRABORTY

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

07.01.2026

Heard Mr. R. Chakraborty, learned counsel for the applicants and Mr. S. K. Ghosh, learned counsel for the opposite party.

2. This interlocutory application, under Section 5 of the Limitation Act, is

preferred by the applicants for condonation of delay of 279 days, in preferring the application for setting aside abatement.

3. Mr. Chakraborty, learned counsel for the applicants submits that Mr. Pradip Chakraborty, the appellant in RFA No. 123/2019, had suffered demise on 20.10.2024, leaving behind three legal heirs, namely, Ms. Arati Chakraborty, Ms. Puja Chakraborty and Ms. Priya Chakraborty; and the aforementioned legal heirs are required to be brought on record by filing a substitution petition. But, there has already been a delay of 279 days in preferring the substitution petition.

3.1 Further, Mr. Chakraborty submits that Mr. Pradip Chakraborty, the appellant in RFA No. 123/2019, was suffering from Cancer and was undergoing treatment at Madras and Calcutta, and ultimately, he suffered demise on 20.10.2024 and as such, there is a requirement for bringing on record the legal heirs of late Mr. Pradip Chakraborty, and that the applicants were not aware about the pending cases and after contacting one of their counsel, they came to know about the status of the case, and that the delay in preferring the application is not intentional, but rather, circumstantial and under such circumstances, he has contended to allow this petition.

4. Mr. Ghosh, learned counsel for the opposite party submits that he has no objection in the event of allowing this petition.

5. Accordingly, taking note of the submissions of the learned counsel for both the parties and also considering the explanations put forward for the delay of 279 days in preferring the application for setting aside abatement, this Court is inclined to allow this application.

6. The delay of 279 days in preferring the substitution petition and setting aside the abatement is allowed.

7. In terms of the above, this interlocutory application stands disposed of.

JUDGE

Comparing Assistant