

GAHC010266272025



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

Case No. : I.A.(Civil)/40/2026

GULAM HASFIR (PUTUL)
S/O ABDUL HALIM, JAMUNAMUKH, MOUZA AND P.S. JAMUNAMUKH,
DIST. NAGAON, PIN 782428, NAGAON

VERSUS

ON THE DEATH OF SAHJAHAN AHMED, HIS LEGAL HEIRS AND ORS.
NAMELY

1.1:RINA BEGUM
WIFE
R/O JAMUNAMUKH
MOUZA
P.O. AND P.S. JAMUNAMUKH
DIST. NAGAON
PIN 782428
ASSAM.

1.2:ANOWAR SHAH AHMED
SON
R/O JAMUNAMUKH
MOUZA
P.O. AND P.S. JAMUNAMUKH
DIST. NAGAON
PIN 782428
ASSAM.

1.3:AMIR SHAH AHMED
SON
R/O JAMUNAMUKH
MOUZA
P.O. AND P.S. JAMUNAMUKH

DIST. NAGAON
PIN 782428
ASSAM.

1.4:ABDUL KADIR SHAH AHMED
SON
R/O JAMUNAMUKH
MOUZA
P.O. AND P.S. JAMUNAMUKH
DIST. NAGAON
PIN 782428
ASSAM.

2:ABDULLA AHMED
S/O LATE HAFIZ ALI ULLAH
R/O JAMUNAMUKH
MOUZA
P.O. AND P.S. JAMUNAMUKH
DIST. NAGAON
PIN 782428
ASSAM.

3:AJIULLAH AHMED
S/O LATE HAFIZ ALI ULLAH
R/O JAMUNAMUKH
MOUZA
P.O. AND P.S. JAMUNAMUKH
DIST. NAGAON
PIN 782428
ASSAM.

4:GULAM KIBRIA
S/O LATE HAFIZ ALI ULLAH
R/O JAMUNAMUKH
MOUZA
P.O. AND P.S. JAMUNAMUKH
DIST. NAGAON
PIN 782428
ASSAM.

5:ESUUF AHMED
S/O LATE HAFIZ ALI ULLAH
R/O JAMUNAMUKH
MOUZA
P.O. AND P.S. JAMUNAMUKH
DIST. NAGAON
PIN 782428
ASSAM.

6:ROUSWAN AKHTAR
S/O LATE HAFIZ ALI ULLAH
R/O JAMUNAMUKH
MOUZA
P.O. AND P.S. JAMUNAMUKH
DIST. NAGAON
PIN 782428
ASSAM.

7:MUSSTT. SABINA YASMIN
D/O LATE HAFIZ ALI ULLAH
R/O JAMUNAMUKH
MOUZA
P.O. AND P.S. JAMUNAMUKH
DIST. NAGAON
PIN 782428
ASSAM.

8:AHMED MUSLEH
S/O LATE HAFIZ ALI ULLAH
R/O JAMUNAMUKH
MOUZA
P.O. AND P.S. JAMUNAMUKH
DIST. NAGAON
PIN 782428
ASSAM.

9:MEHBUBU ANSARI

S/O LATE HAFIZ ALI ULLAH
R/O JAMUNAMUKH
MOUZA
P.O. AND P.S. JAMUNAMUKH
DIST. NAGAON
PIN 782428
ASSAM.

10:SAMSUZ ZAMAN
S/O LATE AKBAR ZAMAN
R/O JAMUNAMUKH
MOUZA
P.O. AND P.S. JAMUNAMUKH
DIST. NAGAON
PIN 782428
ASSAM

Advocate for the Respondent : G UDDIN, MS. P A TALUKDAR,MR N Y KONYAK

**BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI**

ORDER

16.03.2026

Heard Ms. S. Asmi, learned counsel for the applicant/appellant. Also heard Ms. P. Adhikari, learned counsel appearing for the respondents.

By way of the present interlocutory application under Section 5 of the Limitation Act, 1963, the applicant seeks condonation of delay of 1571 days in filing the connected substitution petition for bringing on record the legal heirs of deceased respondent No.1 in RSA No. 332/2018.

It appears from the record that during the pendency of RSA No. 332/2018, respondent No.1, namely Sahjahan Ahmed, expired on 20.05.2021, leaving behind his legal heirs. Since the right to sue survives, the legal heirs of the deceased respondent were required to be brought on record by filing an appropriate substitution application within the prescribed period of 90 days, i.e., on or before 17.08.2021. However, the substitution application was not filed within the stipulated period and, consequently, the appeal stood abated by operation of law.

Learned counsel for the applicant submits that the applicant was not aware of the procedural requirements to be followed upon the death of a party to the proceedings. It is submitted that the applicant came to know about the death of respondent No.1 and the need for substitution only when he visited the chamber of his counsel on 23.11.2025 to enquire about the status of the

appeal. Upon being informed of the legal procedure, the applicant immediately took steps to ascertain the names and addresses of the legal heirs of the deceased respondent and thereafter approached his counsel for filing the appropriate applications. It is, therefore, contended that the delay occurred due to bona fide circumstances and not due to any deliberate or negligent conduct, and the same deserves to be condoned in the interest of justice.

Ms. P. Adhikari, learned counsel for the respondents, fairly submits that she has received no instruction to oppose the prayer for condonation of delay.

I have considered the submissions advanced by the learned counsel for the parties and perused the materials available on record.

The explanation for the delay has been set out in paragraph-4 of the application. A reading thereof indicates that the delay occurred in the course of the applicant coming to know about the death of the respondent and thereafter taking steps to ascertain the particulars of the legal heirs and to initiate the process of substitution. The explanation, when viewed in its entirety, does not disclose any deliberate inaction, lack of bona fides, or attempt to gain an undue advantage. Rather, it appears that the delay has occasioned on account of the circumstances stated in the application and the time taken in taking necessary steps for bringing the legal heirs on record.

It is well settled that condonation of delay is a matter within the discretion of the Court. The decisive consideration is not the length of delay but the acceptability of the explanation offered. Courts have consistently emphasized that unless the explanation indicates mala fides or a deliberate dilatory strategy, a litigant should ordinarily not be non-suited on technical grounds, particularly where the consequence would be the foreclosure of adjudication on merit.

Having regard to the explanation offered and the materials on record, this Court is satisfied that the delay has been sufficiently explained and that no element of mala fide or deliberate negligence is discernible.

Accordingly, the delay of 1571 days in filing the connected substitution petition is condoned.

Consequently, the interlocutory application stands allowed and disposed of.

JUDGE

Comparing Assistant