

GAHC010268402022



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

**Case No. : RSA/18/2023**

REJIYA KHATUN  
D/O LATE MATAB KHA,  
W/O NUR MIYA,  
RESIDENT OF VILLAGE SHEWRACHARA, MOUZA TITAPANI, PS  
KALGACHIYA, DIST BARPETA, ASSAM, 781319

VERSUS

AKBAR KHA AND 6 ORS .  
S/O ALTAB KHAN.  
RESIDENT OF VILLAGE SHEWRA RESERVE, MOUZA TITAPANI, PS  
KALGACHIYA, DIST BARPETA, ASSAM 781319

2: MOMREJ KHA  
S/O ALTAB KHAN.  
RESIDENT OF VILLAGE SHEWRA RESERVE  
MOUZA TITAPANI  
PS KALGACHIYA  
DIST BARPETA  
ASSAM 781319

3: KASHEM KHA  
S/O ALTAB KHAN.  
RESIDENT OF VILLAGE SHEWRA RESERVE  
MOUZA TITAPANI  
PS KALGACHIYA  
DIST BARPETA  
ASSAM 781319

4: SHIRAJ KHA  
S/O ALTAB KHAN.  
RESIDENT OF VILLAGE SHEWRA RESERVE  
MOUZA TITAPANI  
PS KALGACHIYA

DIST BARPETA  
ASSAM 781319  
5:DULUMAN NESSA  
D/O ALTAB KHAN.  
W/O FARHAN ALI

RESIDENT OF VILLAGE SHEWRA RESERVE  
MOUZA TITAPANI  
PS KALGACHIYA  
DIST BARPETA  
ASSAM 781319

6:SHAMINA KHATUN  
D/O ALTAB KHAN

W/O SAMSUL  
RESIDENT OF VILLAGE TARAKANDI  
MOUZA BAGHBAR, PS BAGHBAR  
DIST BARPETA, ASSAM 781321

7:KHORSED KHA  
S/O PARAN KHA

RESIDENT OF VILLAGE TARAKANDI  
MOUZA BAGHBAR, PS BAGHBAR, DIST BARPETA  
ASSAM 78132

**Advocate for the Petitioner** : MR. K R PATGIRI

**Advocate for the Respondent** :

**BEFORE**  
**HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

**ORDER**

**Date : 17.2.2023**

Heard Mr.K. R. Patgiri, learned counsel for the appellant .

The present appeal is filed against the order dated 7.9.2022 passed by learned Civil Judge, Barpeta, in Misc.(J) Case No.148/2019 arising out of Title Appeal No. 25/2019 whereby the prayer for condonation of delay of 70 days in

preferring the aforesaid Title Appeal against the judgment and order dated 29.8.2019 passed in Title Suit No. 201/2013 was not interfered with.

The present appeal is admitted for hearing on the following substantial question of law:

- (i) Whether the first Appellate Court is justified in dismissing the application for condonation of delay by not construing Section 5 of the Limitation Act in its proper perspective resulting in the dismissal of the appeal?

Issue notice returnable on 21.3.2022.

The appellant shall take steps on the respondents within a period of five days from today both by way of registered post with A/D as well as by usual process.

LCR be called for

**JUDGE**

**Comparing Assistant**