

GAHC040003882025

2026:GAU-AP:176



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

CRP/21(AP)/2025

Shri Solim Manyu,
S/o – Late Gojolum Manyu,
R/o- Manyugam,
PO- Hayuliang, PS- Khupa
Dist.- Anjaw, Arunachal Pradesh.

....PETITIONER

VERSUS

- 1. Shri Benglum Manyu**
S/o – Late Tapingso Manyu,
R/o- Hayugam,
PO- Hayuliang, PS- Khupa
Dist.- Anjaw, Arunachal Pradesh.

....RESPONDENT

BEFORE
HON'BLE Mr. JUSTICE BUDI HABUNG

Advocate for the petitioner : Mr. C. Modi

Advocate for the Respondent : Mr. T. Pertin, ld. Adv.

Date on which Judgment is reserved : 18.02.2026

Date of Hearing : 18.02.2026

Date of Judgment and Order : 24.02.2026

Whether the pronouncement is of the Operative part of the Judgment? :No

Whether the full Judgment has been pronounced ? : Yes

JUDGMENT & ORDER
(CAV)

Heard Mr. C. Modi, learned counsel for the petitioner. Also heard Mr. T. Pertin, learned counsel for the sole respondent.

2. The present civil revision petition is filed under Article 227 of the Constitution of India, *read with* Section 115 of the Code of Civil Procedure, 1908, challenging the judgment dated 23.12.2024 passed by the learned Civil Judge (Senior Division), Tezu, Lohit District [in short 'learned Appellate Court'] in Misc. Petition No.01/2024 in Title Appeal No.01/2024, whereby the application for condonation of delay of 804 days in filing the connected civil appeal against the Kebang decision dated 17.04.2022 was rejected.

3. The learned Appellate Court (Civil Judge) while rejecting the petition under section 5 of the Limitation Act recorded its finding that there was an inordinate

delay of about 804 days in filing the appeal. The petitioner has not furnished proper explanation; he did not apply for a certified copy of the impugned Kebang decision within reasonable time; the applicant failed to show due diligence, thereby slept over his right. As such, no sufficient cause was made out for condonation of delay.

4. Assailing the said order, the petitioner contends that the petitioner had no knowledge of the Kebang decision dated 17.04.2022, and therefore could not obtain a certified copy of the said order in time, resulting in a delay of 804 days in filing the connected appeal before the learned Appellate Court. He further submits that, while considering the application for condonation of delay, the learned Appellate Court did not properly appreciate the petitioner's contention that he had no knowledge of the second Kebang decision and, therefore, could not obtain the certified copy of the impugned Kebang decision.

5. However, during the course of hearing, the learned counsel for the petitioner fairly submitted he could not satisfy this Court that, while filing the civil revision petition, he has not taken the ground of lack of jurisdiction, failure to exercise jurisdiction, or exercise of jurisdiction beyond the limits prescribed by law.

6. On the other hand, Mr. Pertin, learned counsel for the respondent, raises objection as to the maintainability of the petition under Article 227 of the Constitution of India *read with* Section 115 of Civil Procedure Code. He contends that the only order challenged is the refusal to condone the delay of 804 days and the consequential dismissal of the appeal as time-barred. Such an order does not suffer from any jurisdictional error, but is a decision rendered within the jurisdiction of the Court. It is also submitted that a revision under Section

115 of the CPC does not lie against a decree, as the scope of Section 115 is confined to jurisdictional errors alone. It is not the case of the petitioner that the learned Appellate Court lacked jurisdiction. He further submits as the order impugned is one passed in exercise of discretion within jurisdiction and that supervisory jurisdiction under Article 227 or revisional jurisdiction under section 115 CPC cannot be invoked to re-open findings on limitation or to revive a dismissed appeal.

7. In support of his submission the learned counsel placed reliance upon the decision in ***Kamla Devi v. Khushal Kanwar***, reported in ***(2006) 13 SCC 295***, wherein it was held that “*a revision cannot be used as a substitute for an appeal which the petitioner failed to pursue within limitation. The order refusing to condone delay is a ‘final order’ that results in dismissal of the appeal itself. This order is appealable, not revisable. Therefore, on the first ground itself, the revision petition is liable to be rejected at the threshold*”.

8. The learned counsel for the respondent further submits that the Kebang dated 17.04.2022 was held in the presence of all the parties. Both parties actively participated in the Kebang and gave their respective statements. He further submits that no one objected to the holding of the Kebang and that the parties had subjected themselves to the jurisdiction of the Kebang held on 17.04.2022.

9. He submits that the petitioner did not prefer the appeal within the prescribed limitation period of 90 days. The appeal was eventually filed after an inordinate delay of 804 days, accompanied by an application under Section 5 of the Limitation Act, 1963, seeking condonation of delay, which was rightly rejected by the learned Appellate Court on 23.12.2024.

10. I have heard and considered the submission of both the learned counsel for parties and perused the impugned order as well as the pleadings.

11. The scope of interference under Article 227 of the constitution is supervisory and not appellate. The Court does not re-appreciate evidence or substitute its own discretion for the discretion exercised by the trial court/first appellate court unless the order suffers from patent perversity, manifest illegality, or jurisdictional error.

12. Similarly, under section 115 CPC, interference is confined to jurisdictional errors, namely where the subordinate Court has exercised jurisdiction not vested in it, failed to exercise jurisdiction vested in it, or acted in exercise of jurisdiction illegally or with material irregularity.

13. In the present case the appellate Court apparently had jurisdiction to consider the application for condonation of delay in preferring the connected appeal. The issue of sufficient cause in while considering the condonation petition is essentially discretionary in nature. The impugned order reflects the appellate Court considered the grounds urged by the petitioner and it had recorded the reason for rejection. It has passed order in exercise of the discretion within the jurisdiction and no jurisdictional infirmity is demonstrated in the impugned order.

14. By filing this petition the petitioner essentially seeks re-appreciation of the sufficiency of explanation for delay and reconsideration of factual findings of the appellate Court. Such exercise falls within the appellate forum and it is impermissible in supervisory/revisional jurisdiction.

15. In view of the above and in light of the principle laid down in ***Kamala Devi v. Khushal Kumar*** (supra), this Court finds no ground to interfere with the

impugned order in exercise of jurisdiction under Article 227 of the Constitution of India or Section 115 CPC.

16. The Civil Revision Petition is dismissed as not maintainable.

17. It is clarified that this Court has not expressed any opinion on the merit of the original dispute between the parties.

18. However, liberty is granted to the petitioner to avail such remedy as may be available to him before the appropriate forum, if so advised, in accordance with law.

19. With the above observations, the revision petition stands disposed of.

JUDGE

Comparing Assistant