

GAHC010011472023



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

**Case No. : I.A.(Civil)/402/2023
in
FAO No. 609/2023**

UMESH CHANDRA DAS
S/O LATE BHANTI RAM DAS,
SALBARI, WARD NO. 09, BONGAIGAON TOWN,
P.O.- BONGAIGAON,
DIST.- BONGAIGAON, ASSAM, PIN- 783380.

VERSUS

SUNIL BISWAS AND ORS.
S/O LATE NAGEN BISWAS.

2:AMAL BISWAS
S/O LATE NAGEN BISWAS.

3:RAM BISWAS
S/O LATE NAGEN BISWAS.

4:KRISHNA BISWAS
S/O LATE NAGEN BISWAS.

5:ARCHANA @ SATYABHAMA BISWAS
W/O LATE RABI BISWAS

D/O LATE NAGEN BISWAS.

6:RAMEN BISWAS
S/O LATE RABINDRA BISWAS

ALL ARE RESIDENTS OF SALBARI
SANTI NAGAR

WARD NO. 09

P.O.
P.S. AND DIST.- BONGAIGAON
PIN- 783380.

7:THE STATE OF ASSAM
REP. BY-
THE COLLECTOR

OFFICE OF THE DEPUTY COMMISSIONER

P.O. AND DIST.- BONGAIGAON
PIN- 783380
ASSAM.

8:THE CIRCLE OFFICER
BONGAIGAON REVENUE CIRCLE

P.O. AND DIST.- BONGAIGAON

PIN- 783380
ASSAM

Advocate for the Petitioner : MR. R ALI, MR M BORO,J TALUKDAR

Advocate for the Respondent : MR. B HALDAR (R-1 TO 6),

Linked Case :

UMESH CHANDRA DAS

VERSUS

SUNIL BISWAS AND ORS. E

Advocate for : MR. R ALI
Advocate for : appearing for SUNIL BISWAS AND ORS. E

BEFORE
HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA
ORDER

30-09-2024

Heard Mr. R. Ali, learned counsel for the applicant.

On perusal of the office note dated 15.02.2023, it appears that the notices issued to the respondent Nos. 7(i) and 7(ii) have been duly served. It also appears that the engaged counsel for the respondent Nos. 1, 2, 3, 4, 5 & 6 have filed their Vakalatnama.

It appears that though the name of one counsel has been shown in the cause list as the engaged counsel for the respondent Nos. 1 to 6, none has appeared for the respondents.

Hence, this application is decided as Ex-parte.

This application under Section 5 of the Limitation Act, 1963 has been filed by the applicant/appellant praying for condonation of delay of 140 days in preferring the connected First Appeal against the order whereby the appellant is impugning the judgment and order dated 31.05.2022 passed by the learned Civil Judge at Bongaigaon in Misc (J) Case No. 24/2021 arising out of Title Suit No. 17/2021.

The learned counsel for the applicant has submitted that the applicant/appellant is aged about 70 years and is suffering from old age ailment and was undergoing treatment for his various ailments.

It is also submitted that when the applicant/appellant was undergoing treatment, the said impugned order was passed and he could not take steps for preferring the appeal.

I have considered the submissions of the learned counsel for the applicant/appellant and have also considered the other causes mentioning in para Nos. 3, 4 & 5 of the application for condonation of delay wherein he has explained reasons for delay in preferring the connected appeal.

After considering the submissions as well as the grounds shown for the delay caused in

preferring the connected appeal, this Court is of the opinion that the cause of delay for 140 days has been sufficiently explained in preferring the connected appeal, is hereby condoned and this interlocutory application is allowed.

The Registry to register the connected FAO and list the same for admission after Puja vacation on a date to be fixed by it.

This interlocutory application is accordingly disposed of.

JUDGE

Comparing Assistant