

**IN THE COURT OF ADDL.DISTRICT JUDGE-I
AIZAWL JUDICIAL DISTRICT, AIZAWL**

***Civil Misc. Application No.3/2014,
A/o RFA 3/2014.***

Hrangtinkungi & Ors	:	Appellant
	Vrs	
C.Lalhmingthanga & Ors	:	Respondent

**BEFORE
Vanlalmawia
Addl.District & Sessions Judge-I**

PRESENT

For the Appellant	:	C.Lalramzauva
For the Respondent	:	W.Sam Joseph
Date of hearing	:	3.7.2015
Date of order	:	14.7.2015

ORDER

Parties are present through counsel and heard argument. Mr. A.Rinliana Malhotra submitted that 239 days are delayed in both the case for the reasons stated in the petition para 2(a-h) in this Civil Misc. Application No.3 and the same reason is also given in the Civil Misc. application No.4. that due to bonafide but inadvertent reasons the appeal is being filed beyond the period of limitation prescribed by law which are stated below :

a) The Id. Trial court had passed the impugned judgment & Order dt. 26.4.2013 in the absence of the appellants/applicants and no copy of the judgment & order dt. 26.4.2013 was issued to the appellants/applicants because

the respondent had failed to implead the appellants/applicants even though they were necessary parties to the suit.

b) That the fact that no copy of the impugned judgment & order dt. 26.4.13 was issued to the appellants/applicants can be verified from the judgment and order dt.26.4.13 itself.

c) That the appellants/applicants came to know about the existence of the impugned judgment and order dt.26.4.13 only when the proforma respondent No.2 had informed them about it on 17.10.13, after he was informed about the same by his counsel.

d) That thereafter the appellants/applicants after getting a copy of the impugned judgment and order dt.26.4.13 had considered the matter amongst themselves and they had decided to seek legal opinion about the options/remedies available to them.

e) That as per the decision taken by them they had approached their counsel for legal advice sometime towards the last part of October, 2013. Their lawyer had told the appellants/applicants to obtain copies of the pleadings as well as evidence adduced during the trial, in order to get a proper understanding of the case.

f) That there after the appellants/applicants had taken about two weeks for obtaining copies of the pleadings and evidence adduced during the trial and after this appellants/applicants had again approached their counsel for advice in the second week of November, 2013.

g) That the counsels for the appellants/applicants had applied for a certified copy of the impugned judgment and order dtr.26.4.13 on their behalf on 18.11.13 and the same was issued on 20.1.14.

h) That the counsel for the appellants/applicants had taken about a month for drafting the appeal and the condonation of delay due to the break for Christmas and New year holidays.

The counsel for appellant has nothing more to say beyond the petition as condonation of delay is only up to the discretion of the court, and prayed to condon the delay.

Mr W. Sam Joseph, counsel for respondent, has on the other hand, submitted that there are two application, and in one application Hrangtinkungi is applicant, and one case she is respondent Order 41 Rule 3(a) of Civil Procedure code is not follow and appeal cannot be entertained.

Upon hearing of both parties and on perusal of Apex court ruling submitted by both the parties, and nature of the case, I am in the opinion of condoning the delay of 239 days for the end of justice.

Next date is fixed for further proceeding of the appeal.

Give copy of this order to all concern.

(VANLALMAWIA)
Addl.District Judge
Aizawl Judicial District,Aizawl

Memo No ____/ADJ-I(A)/2015 : Dated Aizawl the, 14th July 2015

Copy to :-

1. District Judge.
2. Hrangtinkungi & Ors C/o C.Lalramzauva, Advocate.
3. C.Lalhmingthanga & Ors C/o W.Sam Joseph,Advocate.
4. Judicial Section
5. Case record.
6. Guard

PESHKAR