

**P R E S E N T**  
Mrs. Helen Dawngliani  
Addl. District & Sessions Judge

Versus

Date of Order ..... 28.04.2014

For the Applicant	.....	K. Kawlkhuma C. Lalramchhana, Advocates
For the Respondent	.....	C. Lalramzauva, Sr. Advocate. Zoramchhana, Advocate

This application is filed u/s 5 of the Limitation Act for condoning the delay of 78 days in filing an Appeal against the Judgment and Decree dt.4.4.2013 passed by Dr. HTC Lalrinchhana, Senior Ciiwl Judge, Aizawl in Civil Suot No. 11/2012.

Heard the Id. Counsels.

Mr. C. Lalramchhana, Id. Counsel for the Applicant submitted that the Applicant came to know about the Impugned Order only on 20.6.2013 when the Respondent approach him and informed him on their intention to take steps as per the Decree passed by the Id. Trial Court. Thereafter, the Applicant sought legal advice but by the time, decision was taken to file an Appeal 78 days had already lapse. The Id. Counsel also submitted that the delay is because the Applicant does not understand the law of limitation and the meaning and implication of the Impugned Order and when they came to know about it, 78 days delay had already occasion. The Id. Counsel submitted that there is no willful negligence in the delay and prays that the said delay may be condoned.

On the other hand, Mr. Zoramchhana, Id. Counsel for the Respondent strenuously objected the prayer by submitted that ignorance of law is not an excuse. The Id. Counsel also submitted that the Appellant/Applicant who was the Respondent before the Id. Trial Court was duly represented by the very same Counsel. As such, the submisison of the Id. Counsel for the Applicant that they

came to know about the Order only on 20.6.2013 is unbelievable. The Id. Counsel submitted that no sufficient ground has been made out to condone the delay and prays that the application be rejected.

On the question made by this Court to the Id. Counsel for the Applicant regarding of them repreenting the Applicant before the Id. Trial Court, the Id. Counsel admitted that they represented the Applicant before the Id. Trial Court. The Id. Counsel further submitted that purely due to inadvertance, they have misplace a copy of the Order which was given to them and as such they could not give early intimation to the Applicant.

Heard the Id. Counsels. It appears from the submission of both the Id. Counsels that delay in filing the Appeal is attributable to the fault of the Id. Counsels for the Applicant/Appellant who has misplaced the copy of the Order and failed to give intimation to their client. It has been held in a number of cases by the High Courts and even by the Hon'ble Apex Court that a litigant cannot be made to suffer for the fault of his Counsel. Adopting he same view, I am of the considered opinion that it would not be just and proper if the delay is not condoned and the matter is not examined on its merit purely due to the lapse on the part of the Counsel.

Accordingly, the delay of 78 days is condoned.

With this Order, the application stands disposed off.

**Sd/- HELEN DAWNGLIANI**  
Addl. District & Sessions Judge  
Aizawl Judicial District : Aizawl

**Memo No. AD & SJ/2014 : Dated Aizawl, the 28<sup>th</sup> April, 2014**  
**Copy to :**

1. Lalsangzuala through Counsel Mr. C. Lalramchhana, Advocate.
2. Dengngura through Counsel Mr. Zoramchhana, Advocate.
3. Registration Section.
4. Guard File.
5. Case Record.
6. Calendar Judgment.

**P E S H K A R**