

IN THE COURT OF ADDITIONAL DISTRICT JUDGE
AIZAWL JUDICIAL DISTRICT, AIZAWL, MIZORAM.

Present : Shri Vanlalenmawia, MJS
Additional District Judge,
Aizawl Judicial District, Aizawl.

Civil Interlocutory Application No. 285 of 2015
in Civil Review Petition No. 9 of 2015

J.H. Lalhmangaihi
D/o Ralaithanga
R/o Kolasib, MizoramPetitioner

-versus-

1. The District Collector, Kolasib District.
2. The Secretary to the Govt. of Mizoram,
Revenue Department, Aizawl, Mizoram.
3. The Under Secretary to the Govt. of Mizoram,
Land Revenue & Settlement Department,
Aizawl, Mizoram.
4. The Director, Land Revenue & Settlement
Department, Aizawl, Mizoram.
5. Deputy Chief Engineer, Northern Front Railway,
Silchar. Opposite Parties

APPEARANCE

For the petitioner	:	Shri K. Laldinliana, Advocate.
For the OP No. 1	:	None
For the OP No.2-4	:	None
For the OP No.5	:	Shri Ali Hussain, Advocate

Hearing	:	2.12.2015
Order delivered on	:	3.12.2015

ORDER

1. The application has been filed under Section 5 of the Limitation Act for condoning delay of 636 days in preferring application for review the judgment and award dated 13.9.2013 passed in L.A. Case No. 23 of 2013 passed by Smt. Marli Vankung, learned Addl. District & Sessions Judge, Aizawl.

2. OP No. 5 filed written objection. OPs No. 1-4 did not file written objection.

3. I heard the learned Counsel appearing for the petitioner. I also heard the learned Counsel appearing for the OP No.5.

4. It is the case of the petitioner that he files the connected Review Petition for review of the Order dated 13.9.2013 by which the case was disposed off without adjudicating upon his claim except to the extent of making a direction for payment of solatium and interest as per law. The ground shown by the petitioner in this application is that the petitioner approached his Counsel on 25.4.2015 since he had waited for finalization of his claim in respect of land value. Thereafter, the case was studied by his Counsel. Thereafter, the Review Petition was filed before the Court. According to the petitioner, the delay was not due to the negligence of the petitioner and the same have been caused by reason beyond his control.

5. On the other hand, both the OPs No.1 & 2 state that the petitioner failed to explain the delay of 636 days in filing Review Petition and they pray to dismiss the present application for condoning delay.

6. In the Hon'ble Apex Court's decision in N.Balakrishna v. M.Krishnamurthi AIR 1998 SC 3222 at Paragraph 13 it is stated that '**It must be remembered that in every case of delay, there can be some lapse on the part of the litigant concerned. That alone is not enough to turn down his plea and to shut the door against him. If the explanation does not smack of mala-fides or it is not**

put forth as dilatory strategy, the Court must show utmost consideration to the suitor.....'

7. Upon hearing the rival parties and perusing the documents by them, I find that there is a sufficient ground for condoning delay of 636 days in preferring application for review of the judgment and award dt. 13.9.2013 in L.A. Case No. 23 of 2013. Accordingly, the instant petition is allowed. However, the Review Petition will be decided on merit.

8. The Interlocutory Application is disposed off.

Sd/- VANLALENMAWIA

Addl. District Judge,
Aizawl Judicial District,
Aizawl, Mizoram.

Memo No. _____/ADJ(A)/2015 : Dated Aizawl, the 3rd December, 2015

Copy to: -

1. J.H. Lalhmangaihi through Counsel Shri K. Laldinliana, Advocate.
2. The District Collector, Kolasib through Smt. Rose Mary, Addl. GA.
3. The Secretary to the Govt. of Mizoram,
Revenue Department, Aizawl, Mizoram.
4. The Under Secretary to the Govt. of Mizoram, Land
Revenue & Settlement Department, Aizawl, Mizoram.
5. The Director, Land Revenue & Settlement Department,
Aizawl, Mizoram.
6. The Deputy Chief Engineer, N.F. Railway, Silchar through Standing Counsel Shri Ali Hussain.
7. District Judge, Aizawl Judicial District, Aizawl.
8. Registration Section.
9. Guard File.
10. Case Record.
11. Calendar Judgment.

through Shri Joseph
Lalfakawma, Addl. GA

P E S H K A R