

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

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

Civil Misc. Application No. 242 of 2014
in Civil Review Petition No. 16 of 2014

1. Vanlalchhunga S/o Selhmingthanga
R/o Kawnpui, Kolasib District
2. Ramliana S/o Selzidinga
R/o Kawnpui, Kolasib District
3. Hrangneihkimi D/o Lalneihkima
R/o Kawnpui, Kolasib District
4. Malsawmkimi D/o Lalthanglura
R/o Kawnpui, Kolasib District
5. Lallawmthanga S/o Lalthanglura
R/o Kawnpui, Kolasib District
6. Lalrinawmi D/o Vanlalchhunga
R/o Kawnpui, Kolasib District
7. Lalhruaii D/o V.L. Rova (L)
R/o Kawnpui, Kolasib District
8. Biakliana S/o Suakthanga
R/o Kawnpui, Kolasib District
9. Vanthangpuia S/o Thanmawia
R/o Kawnpui, Kolasib District
10. Zahmingthanga S/o Lalkhuma
R/o Kawnpui, Kolasib District
11. Ramhluna S/o Zahmingthanga
R/o Kawnpui, Kolasib District
12. Lalmangaihi D/o Lalthaa
R/o Kawnpui, Kolasib District
13. R. Lalthlamuana S/o Lalkhuma
R/o Kawnpui, Kolasib District
14. Lalthafamkima S/o Lianhlira
R/o Kawnpui, Kolasib District
15. Lalngaihzuala S/o Zahmingthanga
R/o Kawnpui, Kolasib District
16. Zohmangaihi D/o Lalmuana
R/o Kawnpui, Kolasib District

17. Remlalliani D/o Zahminglana
R/o Kawnpui, Kolasib District
18. Engmawii D/o Danga
R/o Kawnpui, Kolasib District
19. Lalrinzuali D/o Zahminga
R/o Kawnpui, Kolasib District
20. Lalremruata S/o Lalthlamuana
R/o Kawnpui, Kolasib District
21. Lalthanglana S/o Lalkhuma
R/o Kawnpui, Kolasib District
22. Lalchhanhima S/o Changlana
R/o Kawnpui, Kolasib District
23. Lalmuanpuii D/o Thansanga
R/o Kawnpui, Kolasib District
24. Lalhmingmawia S/o Lawmsanga
R/o Hortoki, Kolasib District
25. Lalchawimawia S/o Lawmsanga
R/o Hortoki, Kolasib District
26. Lalrohla S/o Thansanga
R/o Kawnpui, Kolasib District
27. Lalduhkima S/o Thansanga
R/o Kawnpui, Kolasib DistrictPetitioners

-versus-

1. District Collector, Kolasib District.
2. Deputy Chief Engineer,
N.F.Railway CON/II/SCL, Silchar,
Cahar District : Assam. Opposite Parties

APPEARANCE

For the petitioner	:	Shri C. Lalramzauva, Sr. Advocate.
For the OP No. 1	:	None appears
For the OP No. 2	:	Shri Ali Hussain, Advocate
Hearing	:	11.6.2015
Order delivered on	:	2.7.2015

ORDER

1. The application has been filed under Section 5 of the Limitation Act for condoning delay of 310 days in preferring application for review the judgment and award dated 20.8.2013 passed in L.A. Case No. 28 of 2013 passed by Shri K.L. Liana, learned District Judge, Aizawl.
2. In the instant case, the OP No. 2 filed written objection.
3. I heard the learned Counsel appearing for the petitioner. I also heard the learned Counsel appearing for the OP No.2.
4. It is the case of the petitioner that on the basis of the direction made in the Order dated 20.8.2013 by this Hon'ble Court, payment of interest was made to them for the period from 2.8.2011 to till making the Award No.1 of 2012 on 12.9.2012 and payment of solatium @ 30% of the Award was also made to them on 3.9.2013. It is submitted by the petitioners' Counsel that the petitioners were under the impression that the other claims made by them in their application would be adjudicated and they had waited for finalization of the matter. After receipt of the said interest and solatium, the petitioners waited for further information from the Court or their Counsel as to what further steps were to be taken. Since no information was received by the petitioners, they approached their Counsel on 20.6.2014, on which date, on careful perusal of the impugned order, it was found that their case was already disposed off by the said impugned order vide dated 20.8.2013. As a result, the applicants could not have approached the Hon'ble Court for review of the order earlier. In the process there occurred a delay of 275 days. It is also submitted by the petitioners' Counsel that the applicants prepared themselves or filing their connected Review Petition for which they had instructed him. The Id. Counsel took 10 days for preparation of the said Review Petition and thereafter the same could be filed only on 25.7.2014. Thus, there is another delay of 35 days in filing the connected Review Petition. The total days of delay came to 310 days. It is submitted by the Id. Counsel appearing for the petitioners that the delay of 310 days was caused not due to negligence on the part of the applicants and the same was caused to them by reasons beyond their control.

5. On the other hand, the Id. Counsel appearing for the OP No.2 submitted that the applicants claimed solatium and interest only and not land value in LA Case No. 28/2013 which was already disposed by the Hon'ble District Judge, Aizawl. According to the Id. Counsel, the delay was not caused by the petitioners intentionally and it was within their knowledge.

6. In the Hon'ble Apex Court's decision in N.Balakhkrishna 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 310 days in preferring application for review of the judgment and award dt. 20.8.2013 in L.A. Case No. 28 of 2013. Accordingly, the instant petition stands allowed. However, the Review Petition will be decided on merit.

8. The misc. application is disposed off.

Sd/- VANLALENMAWIA

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

Memo No. _____/ADJ(A)/2015 : Dated Aizawl, the 2nd July, 2015

Copy to: -

1. Vanlalchhuanga & Ors. through Counsel Shri C. Lalramzauva, Sr. Advocate.
2. District Collector, Aizawl through Shri R. Lalremruata, Addl. GA.
3. Deputy Chief Engineer, N.F.Railway CON/II/SCL, Silchar, Cahar District : Assam through Shri Ali Hussain, Advocate.
4. District Judge, Aizawl Judicial District, Aizawl.
5. Registration Section.
6. Guard File.
7. Case Record.
8. Calendar Judgment.

P E S H K A R