

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. 223 of 2014
in Review Case No. 15 of 2014

1. Smti. Chaldailovi
D/o Lailiana,
R/o Phulmawi, Aizawl District.
2. Shri Zakunga
S/o Thangchhunga,
R/o Tlungvel, Aizawl District.
3. Shri Lalhmingliana
S/o Thangzuala
R/o Tlungvel, Aizawl District.Petitioners

-versus-

1. Oil India Limited.
2. District Collector, Aizawl. Respondents

APPEARANCE

For the petitioners	:	Shri K.Kawlkhuma, Advocate.
For the respondent No. 1	:	Shri A.R.Malhotra, Advocate.
For the respondent No.2	:	Shri R.Lalremruata, Advocate.

Hearing	:	11.6.2015
Order delivered on	:	16.6.2015

ORDER

1. The application has been filed under Section 5 of the Limitation Act to condone delay of 61 days in filing review application against the Order dated 16.4.2014 passed in L.A. Case No. 413 of 2013 passed by Smt. Helen Dawngliani, learned Additional District Judge, Aizawl.
2. Respondent No. 1 filed written objection.
3. I heard the learned Counsel Shri K.Kawlkhuma appearing for the petitioner. Also heard the learned Counsel Shri A.R.Malhotra for the Oil India Ltd. respondent.
4. The case of the petitioners is that reference application under Section 18 of L.A. Act for land valuation of their lands under Award No. 11 of 2012 was submitted by them before the District Collector, Aizawl and the same was referred to the District Judge, Aizawl, and it was registered as L.A. Case No. 43 of 2013. It is submitted that the petitioners also submitted reference application for interest and solatium for the same award and it was also registered as L.A. Case No. 40 of 2013. The grievance of the petitioners what I find from the petitioners' application is that the learned Counsel who appeared for the petitioners without informing them withdrew L.A. Case No. 43 of 2013 on 16.4.2014 on the ground that similar prayers were made in L.A. Case No. 40 of 2013 respectively, and his prayer was allowed.
5. According to the petitioners, they came to know after 61 days that the order of withdrawal in L.A. Case No. 43 of 2013 was passed by the learned Additional District Judge, Aizawl. Hence, it is their prayer to condone the delay 61 days in filing review petition against the order dated 16.4.2014.
6. On the other hand, the respondent Oil India submitted that improper communication between the lawyer and client cannot be a ground for giving the benefit of Section 5 of the Limitation Act apart from other grounds.

7. It is held in the Hon'ble Apex Court's decision in N.Balakrishna v. M.Krishnamurthi AIR 1998 SC 3222 at Paragraph 13 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.....'**

8. Upon hearing the rival parties and perusing the documents submitted by them, I find that there is a sufficient ground for condoning delay of 61 days in preferring application for review of the order dated 16.4.2014 in L.A. Case No. 43 of 2013. Accordingly, the instant petition is allowed. However, the Review Petition will be decided on merit.

9. The misc. application stands disposed off.

Sd/-VANLALENMAWIA
Addl. District Judge,
Aizawl Judicial District,
Aizawl, Mizoram.

Memo No._____/AD&SJ(A)/2015 : Dated Aizawl, the 16th June, 2015

Copy to: -

1. Chaldailovi & Ors. through Counsel Sh. K. Kawlkhuma, Advocate.
2. Oil India Ltd. through Counsel Sh. A.R. Malhotra, Advocate.
3. District Collector, Aizawl District through Counsel Sh. R. Lalremruata, Addl. GA.
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