

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. 266 of 2014
in Civil Review Petition No. 21 of 2014

1. Smti. Laichhingi
2. Shri R.K. Bawnga
3. Shri Lalramchhana
4. Shri Moses Lalchawikima
5. Smt. Golden Jubilee
6. Shri R.L.Hmuaka
7. Smt. Thanpari
8. Shri R.Lalzawmliana
9. Shri P.C.Lalhruaia
10. Shri B.Zakhuma
11. Shri Hunherliana
12. Shri V.L.Peka
13. Shri Ramhlunsiami
14. Shri Lalrawngbawla
15. Smt. Sawithuami
16. Smt. Rozikpuii
17. Shri Ramhluna
18. Shri Lalhunthanga
19. Smt. Romanthangi
20. Shri Rinchhunga
21. Smt. Ruthi Laltlanthangi
22. Shri Lalhmunmawia
23. Shri Lalramtiama
24. Shri Beiseia
25. Shri Hranglawta
26. Shri R.Lalnuntluanga

27. Shri Vanlalnghaka
28. Shri Laldingluaia
29. Smt. Lalrohlui
30. Shri Lalhnehkima
31. Smt. Laisiami
32. Smt. Zakhumi
33. Shri Remlalnghaka
34. Shri Laldinglana
35. Shri Lalhruaitluanga
36. Shri Lalthazuala
37. Smti Laldinthari
38. Shri Rintluanga
39. Shri Laltlanthanga
40. Shri Vanlalhriata
41. Smt. Lalchhuangzuali
42. Shri Hunlawmawma
43. Shri Lalchungnunga
44. Shri P.Roliana
45. Smt. Lalmuanpuui
46. Smt. Vanlalpeki
47. Smt. Remsangpuui
48. Shri Khawpuimawia
49. Smt. Dathanmawii
50. Shri Lalnunfima
51. Shri David MS Tluanga
52. Smt. Lalremmawii TlauPetitioners

-versus-

1. District Collector, Kolasib District.
2. Secretary to the Govt. of Mizoram,
Land Revenue & Settlement Department,
Mizoram, Aizawl.

3. Deputy Chief Engineer,
N.F.Railway CON/II/SCL, Silchar,
Cahar District : Assam. Respondents

APPEARANCE

For the petitioner	:	Shri S.Pradhan, Advocate.
For the respondent No. 1 & 2	:	None appears.
For the respondent No.3	:	Shri Ali Hussain, Advocate.
Hearing	:	27.2.2015
Order delivered on	:	16.3.2015

ORDER

1. The application has been filed under Section 5 of the Limitation Act for condoning delay of 250 days in preferring application for review the judgment and award dated 5.12.2013 passed in L.A. Case No. 30 of 2013 passed by Smt. Marli Vankung, learned Additional District Judge, Aizawl.

2. Respondents No. 1 and 3 filed written objection. None appears for the respondents No. 1 and 2.

3. I heard the learned Counsel appearing for the petitioners. Also heard the learned Counsel for the Railway respondent.

4. The cases of the petitioners are that they did not receive the judgment and award immediately. They came to learn from their counsel that the relief claimed by them was granted, but they were made known by the Railway respondent 3 that they were paid solatium and interest only. When the petitioners came know from their earlier counsels that they were entitled to compensation in respect of their lands valuation, they approached their earlier counsels. The learned Counsel appearing for the petitioners submitted that since the petitioners had filed a joint application in L.A. Case No. 30 of 2013, the petitioners felt proper to file separate application for review of the

judgment and award in L.A. Case No. 30 of 2013 and this also took some months. Since the earlier counsel handed over the brief to the new counsel, it took sometime for the new counsel to study the case and draft the review petition. According to the learned counsel, the delay is not due to negligence on the part of the petitioners but due to unavoidable circumstances beyond their control and that if delay is not condoned, they will suffer irreparable loss and thus pray to condone the delay of 250 days in filing a review petition.

5. On the other hand, the District Collector respondent made objection to the submission of the petitioner in his written objection that ignorance of law is not a sufficient ground for condoning the delay of 250 days in preferring application for review the judgment and award dated 5.12.2013 passed in L.A. Case No. 30 of 2013. The further ground of objection of the District collector respondent is that each day delay is to be explained. According to the District Collector respondent, the petitioners cannot challenge the award passed by him at this stage under cover of Review application. Hence, a prayer to dismiss the application.

6. The Railway respondent raised similar grounds to the objection filed by the Respondents No. 1 and 2. It is further mentioned that before passing the Award, the District Collector categorized the lands into three categories such as LSC, VC Pass and Periodic Pattas. This was accepted by the petitioners and that compensation for land and Zirat were settled based on the land classifications. The applicants cannot dispute the status of their lands under the cover of review application.

7. The learned Counsel Shri S.Pradhan appearing for the petitioners submit that his explanation of delay does not smack of mala-fides. He places 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. I have also heard the learned counsel Shri Ali Hussain appearing for the Railway respondent.

9. Upon hearing the rival parties and perusing the documents submitted by them, I find that there is a sufficient ground for condoning delay of 250 days in preferring application for review of the judgment and award dt. 5.12.2013 in L.A. Case No. 30 of 2013. Accordingly, the instant petition is allowed. However, the Review Petition will be decided on merit.

10. The misc. application is disposed off.

Sd/- VANLALENMAWIA

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

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

Copy to: -

1. Smt. Laichhingi & Ors. through Counsel Sh. S. Pradhan, Advocate.
2. District Collector, Kolasib District, Kolasib.
3. Secretary to the Govt. of Mizoram, Land Revenue & Settlement Department.
4. N.F. Railway, Silchar through Counsel Sh. Ali Hussain, Advocate.
5. District Judge, Aizawl Judicial District, Aizawl.
6. Registration Section.
7. Guard File.
8. Case Record.
9. Calendar Judgment.

P E S H K A R