

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. Shri V.L.peka
2. Shri Lalhmuaka
3. Shri Lalenga
4. Shri Lalyhanga
5. Shri Lalbiakthanga
6. Shri Lalkima
7. Shri Lalduhawma
8. Shri Lianzuala
9. Smt. Thanpari
10. Rev. R.Thangvunga
11. Shri Thangrikhuma
12. Shri Lalrinchhana
13. Shri R.K.Bawnga
14. Shri KawlteaPetitioners

-versus-

1. District Collector, Kolasib District.
2. N.F.Railway, Silchar. Respondents

APPEARANCE

For the petitioner : Shri Lalramhluna, Advocate.
For the respondent No. 1 : None appears.
For the respondent No.2 : 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 234 days in preferring application for review the judgment and award dated 21.11.2013 passed in L.A. Case No. 36 of 2013 passed by my predecessor.

2. I heard the learned Counsel appearing for the petitioner. Also heard the learned Counsel for the Railway respondent.

3. No written objection is submitted from the respondent No. 1 and none appears on his behalf.

4. The cases of the petitioners are that they are illiterate cultivators and are not aware of the facts that they were entitled to receive land valuation. Their lands were acquired lands for the purpose of construction of Railway line from Bairabi to Sairang. According to them, they will be deprived from claiming entitlement of compensation in respect of their lands valuation if their joint application for condoning delay of 234 days is not allowed since they are Periodic Patta Holders. They came to know their entitlement of land valuation in the beginning of the month of June, 2014 and hence there was a delay on their part.

5. On the other hand, the Railway respondent made objection to the submission of the petitioner that ignorance of law is not a sufficient ground for condoning the delay of 234 days in preferring application for review the judgment and award dated 21.11.2013 passed in L.A. Case No. 36 of 2013. The further ground of objection of the Railway respondent is that each day delay is to be explained. According to the Railway respondent, the petitioners cannot challenge the award passed by the District Collector respondent at this stage under cover of Review application. Hence, a prayer to dismiss the application.

6. The learned Counsel Shri Lalramhuna appearing for the petitioner submits 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.....'

7. I have also heard the learned counsel Shri Ali Hussain appearing for the Railway respondent.

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 234 days in preferring application for review of the judgment and award dt. 21.11.2013 in L.A.Case No. 36 of 2013. Accordingly, the instant petition is allowed. However, the Review Petition will be decided on merit.

9. 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. Sh. V.L. Peka & Ors. through Counsel Sh. Lalramhluna, Advocate.
2. District Collector, Kolasib District, Kolasib.
3. N.F. Railway, Silchar through Counsel Sh. Ali Hussain, Advocate.
4. District & Sessions Judge, Aizawl Judicial District, Aizawl.
5. Registration Section.
6. Guard File.
7. Case Record.
8. Calendar Judgment.

P E S H K A R