

HIGH COURT OF SIKKIM
Record of proceedings

I.A. No.02 of 2023
IN
FAO/70/2023(Filing No.)

UMA SHANKER PRASAD & ORS. APPLICANTS

VERSUS

VIJAY KUMAR AGARWAL & ORS. RESPONDENTS

Date: 21.05.2024

CORAM :

HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, J.

For Applicants : Ms. Gita Bista, Advocate.
Ms. Pratikcha Gurung, Advocate.

For Respondent : Mr. A. Moulik, Senior Advocate with
Nos.1 & 2. Mr. Ranjit Prasad, Advocate.
Mr. Junaid Raja, Advocate.

For Respondent : None.
No. 3

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1. This is an application under section 5 of the Limitation Act, 1963 for condonation of delay in filing the present First Appeal against Order (FAO). It is stated that the delay of 257 days has been substantially caused as the applicants had initially preferred a Regular First Appeal (RFA) on 31.12.2022 but was withdrawn on 22.08.2023 as they were required to file an FAO instead of RFA. According to the learned counsel for the applicants after the withdrawal on 22.08.2023 the FAO was filed before this Court on 25.08.2023 after just three days thereafter.

2. The learned Senior Counsel for the respondent nos. 1 and 2 vehemently objects to the application for condonation of delay. It is his contention that the computation of delay has not been done correctly and in fact there are 14 days of delay which still remains unexplained.

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3. Section 14 of the Limitation Act, 1963 provides for “exclusion of time of proceeding *bonafide* in court without jurisdiction”. This Court is therefore, of the view that the applicants have been able to show sufficient cause and explain the delay. The application is allowed and delay condoned. Register the FAO.

4. List on 30.05.2024.

Judge