

HIGH COURT OF SIKKIM
Record of Proceedings

RSA No.07 of 2020

DACHIMA TAMANG

APPELLANT

VERSUS

RAN MAYA SHERPA & ANR.

RESPONDENTS

Date: 06.04.2021

CORAM :

THE HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE

For Appellant

Mr. N. Rai, Senior Advocate.
Ms. Malati Sharma, Advocate.

For Respondents
R-1

Mr. Zangpo Sherpa, Advocate.

R-2

Mr. Thinlay Dorjee Bhutia,
Government Advocate.

ORDER

Learned Counsel Mr. Zangpo Sherpa is present for Respondent No.1 and undertakes to file Vakalatnama.

Heard on I.A. No.01 of 2020 which is an application filed by the Appellant seeking condonation of 41 (forty-one) days' delay in filing the instant Appeal.

It is submitted by Learned Senior Counsel for the Appellant that the Appellant's father, aged about 76 (seventy-six) years, had medical issues from 05.06.2020 and was hospitalized thereafter. That, due to the COVID-19 pandemic, he had to be kept in Siliguri, West Bengal, for medical treatment up to 06.08.2020. On 07.08.2020, they returned to Gangtok but were kept under home isolation as per the COVID-19 protocol. The Appellant was free to look for a Counsel only from 30.08.2020 when eight days was left for the period of limitation to be over but she failed to meet the deadline. Hence, the delay occurred on genuine grounds which may be condoned.

Learned Government Advocate for Respondent No.2 has no objection.

Learned Counsel for Respondent No.1 seeks time to file objection.

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Having considered the submissions of Learned Counsel for the parties today and in view of the Order passed by the Hon'ble Supreme Court in *Suo Motu Writ Petition (Civil) No(s).3/2020 (In Re: Cognizance for Extension of Limitation)*, dated 23.03.2020, wherein the period of limitation has been extended with effect from 15.03.2020, the instant I.A. which was filed on 23.10.2020 is duly covered by the Order *supra*. Delay stands condoned.

I.A. No.01 of 2020 accordingly stands disposed of.

Heard Learned Senior Counsel for the Appellant on admission.

The following substantial questions of law are formulated;

- (i) Whether the Learned Trial Court and the Learned First Appellate Court gave undue weightage to "Exhibit 14," an unproved private document and thereby rendered erroneous decisions?
- (ii) Whether the Learned Trial Court and the Learned First Appellate Court could have ignored the Sale Deed dated 07.08.2011, marked Exhibit D1-A, which is a public document proved by the attesting witness DW-4?

Admit the Appeal.

Records of the Learned Trial Court have already been received.

Registry to prepare Paper Books.

List on 24.05.2021.

Judge
06.04.2021