GAHC040011062025

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : IA(C)/176/2025

The Union of India and 3 Ors
represented by the Defence Secretary, Sena Bhawan, Govt of India, New Delhi 110011

2: The Director General Defence Estates
Age:
Occupation :
Raksha Sampada Bhawan
Ulaan Baatar Marg
Delhi Cantt 110010

3: The Defence Estates Officer
Age:
Occupation :
Rail Gage No.01
Ward No 18
Hazarapar
Tezpur
Sonitpur District
Assam 784001

4: The Brigade Commander
Age:
Occupation :
40 Mountain Brigade
Indian army
C/o 99 APO
LSG (Glanggroh) PO and PS Tawang
District Tawang
Arunachal Pradesh 79010

VERSUS

Tsering and 2 Ors
Son of Late Dondup Tsering, permanent resident of Bomdir Village, PO and PS Tawang, District Tawang, Arunachal Pradesh 790104

2:Lobsang Tashi
Age: 0
Occupation :
son of Late Tsering Dorjee
permanent resident of Bodmir Village
PO
PS and District Tawang
Arunachal Pradesh.

3:Tenzin Norbu
Age: 0
Occupation :
Son of Lham Tsering
permanent resident of Bodmir Village
PO
PS and District Tawang
Arunachal Pradesh. 79010

Advocate for the Petitioner : KeekeLoya, CGC
Advocate for the Respondent : Binter Picha, Jumgam Jini,Tao Tarin

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI
HONOURABLE MR. JUSTICE BUDI HABUNG

ORDER

Date : 03.09.2026
(Sanjay Kumar Medhi, J.)

Heard Mr. Keeke Loya, learned CGC, who, by means of this interlocutory application, has prayed for condonation of delay of 82 days in preferring the connected appeal.

2. The appeal has been preferred against the order dated 12.03.2025 passed in WP(c)407(AP)2023, by which rental compensation has been directed to be paid for past use.

3. Mr. Loya, learned CGC, has submitted that the delay has occasioned for reasons which were beyond their control. He has further submitted that before preferring of the appeal, necessary communications had to be exchanged and approval obtained and in the process, delay has been occasioned which is not due to any negligence or laches.

4. Strenuously objecting to the prayer for condonation of delay, Mr. Binter Picha, learned counsel for the Opposite Parties/writ petitioners, has submitted that the reasons prescribed are neither adequate nor justified. He has further submitted that the time taken for internal communications cannot be a ground for condonation of delay and the same, rather would establish the laches and negligence on the part of the applicants in approaching the Court within the time prescribed. The learned counsel has also drawn the attention of this Court to the written objection filed in this regard. He has additionally contended that in the contempt proceeding instituted *qua* the order dated 12.03.2025, the respondents have given an undertaking for compliance of the order and therefore, the present interlocutory application as well as the connected appeal has been rendered infructuous.

5. In his rejoinder, Mr. Loya, learned CGC, has submitted that the correctness of the order dated 12.03.2025 passed by the learned Single Judge in WP(c)407(AP)2023, has been challenged in this appeal and their statements in the contempt petition, will not make the appeal, infructuous.

6. The rival submissions advanced in the Bar, have been duly considered.

7. An application for condonation of delay has to be adjudicated on the touchstone of fairness which would require that the reasons prescribed are to be seen from a pragmatic and justice oriented approach. The delay, in the present case, has been explained by the applicants in paragraph Nos. 8, 9, 10, 11 & 12. Though the learned counsel for the Opposite Parties/writ petitioners has strongly objected by contending that internal communications may not be a reason, we are of the opinion that considering the issue involved and also the length of the delay, a case for condoning the delay in preferring the connected appeal, is made out. After all, technicalities should give way to substantial justice.

8. The application, accordingly, stands allowed and the delay of 82 days in preferring the connected appeal, is condoned.

9. Registry shall list the appeal for admission accordingly.

JUDGE **JUDGE**

Comparing Assistant