

[2022 LiveLaw \(SC\) 252](#)

IN THE SUPREME COURT OF INDIA
EXTRAORDINARY APPELLATE JURISDICTION
INDIRA BANERJEE; J.K. MAHESHWARI, JJ.

MARCH 2, 2022

SPECIAL LEAVE PETITION (CIVIL) NOS. 32875-32876 OF 2018

F. LIANSANGA & ANR. VERSUS UNION OF INDIA & ORS.

Limitation Act, 1963 - Section 5 does not apply to suits, but only to appeals and to applications except for applications under Order XXI of the Civil Procedure Code - Limitation may harshly affect a particular party, but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds, even though the statutory provision may sometimes cause hardship or inconvenience to a particular party. The Court has no choice, but to enforce it giving full effect to the same.

Limitation Act, 1963 - Limitation Act applicable in the State of Mizoram with effect from 21.01.1972. [Referred to J. Thansiyama vs. State of Mizoram & Others]

Summary - Appeal against Gauhati High Court judgment which held that the Limitation Act was applicable in the State of Mizoram and that Section 5 did not apply to suits, but only to appeals and to applications except for applications under Order XXI of the Civil Procedure Code - Dismissed - The High Court rightly set-aside the impugned order of Trial Court holding that it could not have condoned the delay of 325 days in filing the Money Suit.

(Arising out of impugned final judgment and order dated 14-05-2018 in CRP No. 12/2011 14-05-2018 in RSA No. 1/2005 passed by the Aizawal Bench of Gauhati High Court)

For Petitioner(s) Mr. Jitendra Bharti, Adv. Mr. Deepak Goel, AOR Mr. Mithilesh Jaiswal, Adv.

For Respondent(s) Mr. Tushar Mehta, SGI Mr. Sanjay Jain, ASG Mr. Anuvrat Sharma, Adv. Mr. Rajat Nair, Adv. Ms. Harshita Sukhija, Adv. Ms. Deepabali Dutta, Adv. Mr. Rajat Nair, Adv. Mr. Arvind Kumar Sharma, AOR Mr. K.M. Nataraj, ASG Mr. Aditya Sharma, Adv. Mr. Vatsal Joshi, Adv. Mr. Navanjay Mahapatra, Adv. Mr. Amrith Kumar, AOR

ORDER

These Special Leave Petitions, filed by the Petitioners are against the impugned judgment and order dated 14th May, 2018 passed by the Gauhati High Court allowing the Civil Revisional Petition being CRP No.12 of 2011 and setting aside an order dated 25th October, 2011 passed by the Court of the Senior Civil Judge, Aizawl in C.M. Application No.104/2011 whereby the Court of Senior Civil Judge had condoned the delay of 322 days in filing Money Suit No.60/2011.

The short question in this Special Leave Petition is, whether the Court can condone the delay in filing a money suit seeking compensation for stones extracted by the concerned Respondents, from the land of the Petitioners, for the construction of a public road.

The Petitioner No.1, a resident of the State of Mizoram, belonging to a Scheduled Tribe, was allotted land bearing Village Council Pass No. 120 of 1981, which was later converted into Periodic Patta. Similarly, the Petitioner No. 2, also a resident of Mizoram belonging to the Scheduled Tribe was allotted land bearing Garden Pass No. 170 of 1980. Both the passes were renewed from time to time and are according to the Petitioners, subsisting till date.

Some time in the year 2001, the Petitioner Nos. 1 and 2 were issued Quarry Permit No. 023 dated 25.03.2001 and Quarry Permit No. 026 dated 03.04.2001, respectively, in respect of their respective plots of land.

It is the case of the Petitioners that some time in the year 2002, the Chief Engineer of the Project Pushpak, Mizoram, requested the Petitioners to allow the Respondents to quarry stones from the land covered from the said passes, for the purpose of construction of the Hnahthial-Sangau-Saiha road. The road was being constructed by the Respondent No. 1-Union of India, through its Ministry of Shipping and Surface Transport, New Delhi.

It is the case of the Petitioners that the Petitioners had verbally been requesting the Respondents for compensation for the stones removed from their land. It appears that on 20.04.2004, the Commanding Officer of the road construction issued a letter to the Petitioners stating that any application for compensation had to be made to the Revenue Department, Government of Mizoram.

It is also the case of the Petitioners that on 30.04.2007, the Petitioners submitted an application to the District Commissioner, Lunglei, District Lunglei, for assessment of the value of the stones removed from their land, and payment of compensation.

The Petitioners contend that as per the PWD Schedule of Rates, the value of the stones extracted from the quarry of the Petitioners was to the tune of Rs.40,43,000/- and Rs. 1,10,11,200/-, respectively.

On 04.11.2009, the Petitioners served legal notice under Section 80 of the Civil Procedure Code upon the Respondents calling upon them to compensate the Petitioners for the stones extracted.

On 25.01.2011, the Petitioners filed a Civil Suit being Civil Suit No. 04/2010 in the Court of Senior Civil Judge-03, Aizawl District, Mizoram seeking compensation. The Respondents, however, made an application under Order VII Rule 11 of the Civil Procedure Code for rejection of the plaint, solely on the ground of limitation. The application was allowed and the said Civil Suit bearing No. 04/2010 was rejected.

On or about 24.05.2011, the Petitioners filed Money Suit No. 60/2011 along with an application being C.M. Application No. 104/2011 under Section 5 of the Limitation Act, 1963, seeking condonation of delay of 325 days in filing the said suit.

By an order dated 25.10.2011, the Civil Judge allowed the said application filed under Section 5 of the Limitation Act with the observation that there was no denial of the fact that the Respondents had extracted stones from the land of the Petitioners,

and were making abortive attempts to avoid the payment of compensation to the poor and ignorant Petitioners. The Civil Judge also observed that the issue of whether the Limitation Act, 1963 applies to the State of Mizoram was pending before the Division Bench of the Gauhati High Court in RSA No. 01/2005.

The Respondents filed a Revisional Application being C.M. Application No. 104/2011 in the High Court. By a judgment and order dated 14.05.2018, the High Court set aside the order of the Civil Judge.

The High Court rightly found that the question to be decided in the suit and in the application filed under Section 5 of the Limitation Act, 1963 was, whether the delay in filing the Money Suit for damages could be condoned by filing an application for condonation of delay under Section 5 of the Limitation Act, 1963.

The High Court held rightly that the Limitation Act was applicable in the State of Mizoram and that a perusal of Section 5 of the Limitation Act, 1963 clearly showed that Section 5 did not apply to suits, but only to appeals and to applications except for applications under Order XXI of the Civil Procedure Code.

As held by this Court in **Popat Bahiru Govardhane & Others vs. Special Land Acquisition Officer & Anr.** reported in **(2013) 10 SCC 765**, on which reliance has been placed by the High Court, it is settled law that limitation may harshly affect a particular party, but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds, even though the statutory 5 provision may sometimes cause hardship or inconvenience to a particular party. The Court has no choice, but to enforce it giving full effect to the same.

The High Court rightly set-aside the impugned order of the Senior Civil Judge, Aizawl observing that the Senior Civil Judge, Aizawl could not have condoned the delay of 325 days in filing the Money Suit No. 60/2011.

In **J. Thansiam vs. State of Mizoram & Others**, being Civil Appeal No. 3536/2008, this Court held as under :-

“7. It will also require to be noticed that with effect from 29.4.1972 Part III of Para 20 of the Sixth Schedule was further amended and “the Mizo District” ceased to be a part of the tribal areas of the Union Territory of Mizoram and the Chakma, Lakher and Pawi districts came to be included in Part III as the tribal areas of the Union Territory of Mizoram. There were some further changes in the aforesaid tribal areas with which we would not be strictly concerned in the present case.

8. To make the narration of facts complete, the provisions of the State of Mizoram Act, 1986 may be referred to for the purposes of bringing on record the fact of creation of the State of Mizoram by the aforesaid Act with effect from 20.02.1987. There were certain parallel changes in the provisions of the Sixth Schedule including Para 12B and Para 20 thereof upon creation of the State of Mizoram. However, as the said facts, again, are not strictly relevant to the present case, a detailed notice thereof would not be necessary.

9. What, however, would require a pointed notice is that the Notification dated 14.03.1966 issued by the Governor of Assam excluding the operation of the Limitation Act from the tribal areas of the State of Assam ceased to be applicable to the Mizo District once the areas therein no long formed a part of the tribal areas of Assam and, instead, became a part of the tribal areas of the Union

Territory of Mizoram with effect from 21.01.1972. The further developments(historical, geographical and constitutional), namely, the exclusion/omission of the Mizo District even from the tribal areas of the Union Territory of Mizoram; the dissolution of the Mizo District Council and the addition of Pawai, Lakher and Chakma Districts to part III of Para 20 of the Sixth Schedule as the tribal areas of the Union Territory of 6 Mizoram, of which all developments had occurred subsequent to the creation of the Union Territory of Mizoram, would further fortify the above position. The aforesaid facts would demonstrate that the Notification dated 14.03.1966 ex facie would not apply to the arears within the erstwhile Mizo District of the State of Assam once the said areas ceased to be so and came to comprise the Union Territory of Mizoram with effect from 21.1.1972 by virtue of Section 6 of the Reorganisation Act.”

The judgment of this Court in **J. Thansiam vs. State of Mizoram & Others** (supra) makes it absolutely clear that the Limitation Act applied in the State of Mizoram with effect from 21.01.1972.

We, therefore, find no grounds to interfere with the impugned judgment and order passed by the Gauhati High Court.

The Special Leave Petitions, are, accordingly, dismissed.

Pending applications, if any, shall stand disposed of.

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