

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).1683/2006  
(From the judgement and order dated 03/08/2005 in CRP No. 28/2004 of The HIGH COURT OF GUWAHATI ,ASSAM)

UNION OF INDIA & ORS.

Petitioner(s)

VERSUS

CAMRUS ZAMAN GHAFUR PARIAT Respondent(s)  
(With appln(s) for PERMISSION TO FILE ADDITIONAL AFFIDAVIT and permission to file reply to the additional affidavit filed by the petitioner and with prayer for interim relief and office report ))  
(for final disposal)

Date: 31/01/2008 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.K. SEMA  
HON'BLE MR. JUSTICE MARKANDEY KATJU

For Petitioner(s) Mr. B. Datta, ASG.  
Ms. Rajni Ohri Lal, Adv.  
Ms. Madhurima Tatia, Adv.  
Mr. B.K. Prasad, Adv.  
Mrs. Anil Katiyar, Adv.

For Respondent(s) Mr. Arun Jaitley, Sr. Adv.  
Mr. P.S. Narsimha, Adv.  
Mr. U. Hazarika, Adv.  
Ms. K. Khan, Adv.  
Ms. Sumita Hazarika, Adv.  
Ms. L. Roshmani, Adv.  
Mr. Satya Mitra, Adv.  
Ms. Sumita Hazarika, Adv.

UPON hearing counsel the Court made the following  
ORDER  
Leave granted.  
The appeal is disposed of in terms of the signed order.

(Sheetal Dhingra) (Anand Singh)  
Court Master Court Master  
[Signed order is placed on the file]  
IN THE SUPREME COURT OF INDIA  
CIVIL APPELATE JURISDICTION  
CIVIL APPEAL NO.871 OF 2008  
[Arising out of SLP(C)No.1683 of 2006]

UNION OF INDIA & ORS.

Petitioner(s)

VERSUS

CAMRUS ZAMAN GHAFUR PARIAT

Respondent(s)

ORDER

Leave granted.

Heard the parties at length.

In appeal preferred by Union of India before the District Judge, it is alleged

that there was a delay of 447/523 days. The District Judge after considering the facts and

circumstances supported by elaborate reasons condoned the delay. The High Court,

however, in revision application filed under Section 115 of C.P.C. interfered with the order of

the District Judge and reversed the decision.

It is now settled law that condonation of delay is the discretionary power of

the Court. If the Court of the first instance exercises the discretionary power and has

condoned the delay or refused to condone the delay, the appellate court normally does not

interfere. In the present case, the District Judge has condoned the delay after taking into

consideration the facts and circumstance recited in the condonation application supported by

reasons, allowed

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Section 5 of the Limitation application. The High Court should have restrained in such

matters to interfere with the discretionary power of the court of the first instance.

We accordingly, set aside the order of the High Court. The order passed

by the District Judge is restored. The appeal now is restored to the file of District Judge, for

disposal on merit and in accordance with law. The appeal may be expedited.

The appeal is disposed of.

.....J  
(H.K. SEMA)

.....J  
(MARKANDEY KATJU)

NEW DELHI;  
JANUARY 31, 2008.