

**HIGH COURT OF TRIPURA  
AGARTALA**

**RSA NO.29 OF 2017**

1. ***The Chairman cum Managing Director,***  
Tripura State Electricity Corporation Ltd. and Ors.  
Banamalipur, Agartala, District - West Tripura.
2. ***The Addl. General Manager,***  
Tripura State Electricity Corporation Ltd.  
Electrical Circle No. III, Kumarghat, Unakoti District, Tripura.
3. ***The Sr. Manager,***  
Tripura State Electricity Corporation Ltd. Electrical Sub -  
Division, Kadamtala, North Tripura.
4. ***Tripura State Electricity Corporation Ltd.*** Represented  
by the Chairman cum Managing Director, Banamalipur,  
Agartala, District - West Tripura.

-----Defendant-Appellants(s)

Versus

1. ***Md. Kutub Uddin***  
S/o. Late Makaddas Ali, resident of Vill. and P.O. -  
Kalagangarpar, P.S. - Kadamtala, District - North Tripura.
2. ***Mst. Chhaya Bibi***  
W/o. Late Makaddas Ali,
3. ***Md. Burhan Uddin***  
S/o. Late Makaddas Ali,
4. ***Md. Taj Uddain***  
S/o. Late Makaddas Ali,

All are resident of Vill- Karkhana Putni, P.O. Kukital (Putni),  
P.S. Patherkandi, District- Karimgang, Assam.

At present residing at:

Vill. P.O. Kalagangarpar, P.S. Kadamtala, District- North  
Tripura..... Plaintiff Respondents.

(The plaintiff respondent nos.3 & 4 being minor are represented by their minors and represented by their legal guardian, mother namely, Mst. Chhaya Bibi, Plaintiff respondent No.2)

**5. Mst. Monoara Begam @ Monoar Begam**

W/o. Md. Sab Uddin, D/o. Late Makaddas Ali, resident of Vill - Nagra, P.O. - Lowarpoa, District - Karimgang, Assam.

**6. Md. Fakar Uddain**

S/o. Late Makaddas Ali, resident of Vill - Karkhana Putni, P.O. - Kukital (Putni), P.S. - Patharkandi, District - Karimgang, Assam.

-----Respondent(s)

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For the Appellant(s) : None.

For the Respondent(s) : Mr. Raju Datta, Advocate.

Date of hearing and delivery of Judgment & Order : 22.02.2021

Whether fit for reporting : NO.

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**HON'BLE MR. JUSTICE ARINDAM LODH**  
**J U D G M E N T & O R D E R ( O R A L )**

None appears for the appellants. Heard Mr. Raju Datta, learned counsel appearing for the respondents.

2. This second appeal has been filed by the appellants under Section 100 of the Code of Civil Procedure being aggrieved by the Appellate Order dated 27.01.2017 passed by the learned District Judge, North Tripura, Dharmanagar in Case No. Civil Misc. 29 of 2016 arising out of Money Appeal No.02 of 2016

rejecting the application filed under Section 5 of the Limitation Act.

3. Briefly stated, the plaintiffs instituted a money suit claiming Rs.5,40,000/- payable by the defendant-Tripura State Electricity Corporation Limited (*for short 'TSECL'*) and the said suit was decreed in favour of the plaintiffs. The TSECL had preferred an appeal before the learned District Judge stating that there was some delay in preferring the appeal under Section 91 of the CPC. The said petition for condoning the delay of 253 days in preferring the appeal was dismissed by the learned First Appellate Court on the ground that the petitioners could not come out with an appropriate explanation for such delay. The learned First Appellate Court further held that the contentions of the petitioners regarding delay were not correct and supported by acceptable documentary proof. The learned First Appellate Court further observed that there was no documentary proof to support the contention of the petitioner-appellant and there was gross negligence on the part of the petitioner-appellants to take action in time.

4. Considering the period of delay and the fact that the '*TSECL*' is a Corporation supplying electricity to the State of Tripura, according to me, for the interest of justice, the delay may be condoned.

5. Accordingly, the order dated 27.01.2017 passed in Civil Misc. 29 of 2016 stands set aside and the delay of 253 days stands condoned. Accordingly, petition for condonation of delay filed before the 1<sup>st</sup> Appellate Court stands allowed. The learned District Judge shall hear the appeal on merit and disposed of the first appeal within three months from the date of receipt of the record.

6. Mr. Raju Datta, learned counsel appearing as Legal Aid Counsel in this case has submitted that in the instant case, the Appellate Court should issue notice upon the parties. Prayer is allowed. Learned District Judge shall take up the hearing of the appeal after issuance of notices to the parties of the suit.

7. Accordingly, the instant Second Appeal stands allowed and thus disposed of.

**JUDGE**

*Suhanjit*