

(2025) 05 TP CK 0613
In the Tripura High Court
Case No : Revision Petition No. 30 Of 2025

Krishna Nama & Ors.

APPELLANT

Vs

Aratibala Shil & Ors.

RESPONDENT

Date of Decision : 16-05-2025

Acts Referred:

Citation : (2025) 05 TP CK 0613

Bench : Single Bench

Advocate : Aparesh Kumar Singh, CJ

Final Decision : Dismissed

Judgement

Aparesh Kumar Singh, CJ

Heard Mr. Pradip Chakraborty, learned counsel appearing for the petitioners.

Petitioners are the defendants Nos.9 to 12 and 14 to 16 against whom the suit has been ordered to proceed ex parte. The Title Suit No.18 of 2022 has proceeded ex parte vide order dated 22.11.2022. The prayer for condonation of delay of 546 days for vacation of the ex parte order has been rejected by the learned Civil Judge (Sr. Div.) Court No.1, Sepahijala District, Sonamura vide impugned order dated 21.03.2025. Being aggrieved, the petitioners have approached this Court.

Mr. Pradip Chakraborty, learned counsel for the petitioner, submits that the delay may be inordinate, but it has been caused due to lack of diligence on the part of the engaged counsel of the petitioners since the petitioners are poor villagers ignorant of the legal position. It is also submitted that on two earlier occasions, applications were made by the defendants for vacation of the ex parte order and acceptance of the written statement but both were dismissed due to non-furnishing of affidavit in support of the applications or for non-prosecution. The defendants-petitioners would be highly prejudiced if they are not allowed to file written statement and the ex parte proceedings against them is recalled.

I have considered the submission of the learned counsel for the petitioners and taken note of the materials placed form record and also gone through the impugned order. Upon hearing the learned counsel for the petitioners and taking into consideration the relevant materials on record, this Court finds that the petitioners have not been able to provide sufficient cause to condone such an inordinate and gross delay of 546 days in filing an application to set aside the ex parte order dated 22.11.2022 passed in TS No.18/2022. It is also apparent that applications for vacation of the ex parte order and acceptance of written statement were moved for the first time on 29.03.2023 without the supporting affidavit which lead to its dismissal. Even then the second application for vacating ex parte order and condonation of delay were dismissed due to non-prosecution. This kind of conduct on the part of a party to a suit cannot be condoned. In effect, such non diligent approach of defendants-petitioners have led to a delay of 546 days in once again approaching the learned Court for acceptance of their written statement. Though the provisions of Order VIII Rule 1 have been read to be directory in ordinary suits other than commercial suit but such inordinate delay in the circumstances noted above, cannot be condoned as it will lead to undue encouragement to non-serious parties in a proceeding like this. It also has the effect of prolonging the disposal of the main suit at the behest of a party which is not diligent. The reasons for rejection of the application for condonation of delay by the learned trial Court cannot be said to be perverse or suffering from any jurisdictional error.

As such, this Court does not find any reason to interfere in the impugned order. Accordingly, the instant petition is dismissed. Pending application(s), if any, shall stand disposed of.