

Present - Sri S Choudhury
Civil Judge(Jr.Division),Kailashahar.
CM 08 of 2016

22.07.2016 Learned Counsel Mr. Mridul Kanti Das
is present on behalf of the petitioner.

 Learned Counsel Mr. G De is present on
behalf of the Ops.

 Today is fixed for necessary order.

 This is a petition under Section 5 of the
Limitation Act, 1961 praying for condonation
of delay of 94 days in filing the petition under
Order IX Rule 9 CPC for setting aside the
order of dismissal dated 16.11.2015 in original
Suit No. TS 15/15.

 Perused the petition.

 In the petition the petitioner has averred
that the delay of 94 days in filing the petition
under Order IX Rule 9 CPC was due to his
illness .

 On receipt of the petition it was
registered as Misc. case No. 08 of 2016 and
notice was issued to the Ops and they duly
entered appearance through their engaged
Counsel and filed a written objection rebutting
the prayer of the petitioner.

 I have heard the Learned Counsels of
both the sides and perused the entire record.

 The expression “sufficient cause”
employed in Section 5 of the Limitation Act
has not been defined in the said Act. However
on a careful perusal of the judicial precedents
on the meaning of the expression “sufficient
cause” it would be safe to conclude that it
means a cause which is beyond the control of
the party invoking the aid of the Limitation

Act. The test whether or not a cause is sufficient is to see whether it is a bona fide cause, in as much as nothing shall be taken to be done bona fide or in good faith which is not done with due care and attention .

In the present case the petitioner has pleaded that his illness caused the delay of more than 3 months in filing the petition under Order IX Rule 9 CPC . However the petitioner has failed to furnish any medical report or any other document to show that he was ill during the relevant period .

In the light of the above discussion I am of the reasoned opinion that the instant petition deserves to be rejected and I do so accordingly.

The instant case is disposed of on contest.

Make necessary entries in the TR.

As dictated.