

Present:
Mr. Justice Sheikh Abdul Awal
and
Mr. Justice Md. Mansur Alam

Civil Rule No. 298 (F) of 2002

In the Matter of:

Government of Bangladesh and others

.....Appellant-petitioners.

Versus

Mis. Moshfica Kamal

.... Respondent-opposite party.

Ms. Israt Jahan, A.A.G

...For the appellant- petitioners.

No one appears

....For the respondent-opposite party.

Judgment on 04.03.2025.

Sheikh Abdul Awal, J.

This Rule was issued calling upon the opposite party to show cause as to why the delay of 90 days in filing the memo of appeal should not be condoned and/or such other or further order or orders passed as to this Court may seem fit and proper.

The short fact is that the Appellant-petitioners being aggrieved by and dissatisfied with the judgment and decree dated 30.01.2001 passed by the learned subordinate Judge, 1st Court, Gazipur in Title Suit No. 38 of 1998 decreeing the suit, preferred First Miscellaneous Appeal before this Court, which is out of time by 90 days and hence, the Rule.

Ms. Israt Jahan, the learned Assistant Attorney General appearing for the appellant-petitioners submits that the delay of 90 days has been caused due to the movement of the case file from one

officer to other officer within usual normal gap of time for observing various formalities. She further submits that the delay of 90 days in filing the First Miscellaneous Appeal is unintentional, which was beyond the control of the petitioners, unless the delay is condoned, the petitioners will suffer irreparable loss and injury.

No one appears for the respondent-opposite party.

Heard the learned Assistant Attorney General, perused the application under section 5 of the limitation Act and other materials on record.

It is true that the Government as litigant works through various departments. The petition filed under section 5 of the Limitation Act itself highlights that the delay took place specially due to the movement of the case file from one table to another table for getting opinion and approval of various authorities of the Government.

Considering the facts as stated in the application for condonation of delay and the submission of the learned Assistant Attorney General, we are of the view that the explanation for delay as given in the application under section 5 of the Limitation Act is bonafide and reasonable. Therefore, we are inclined to condone the delay of 90 days in filing the Appeal.

In the result, the Rule is made absolute. The delay of 90 days in filing the First Miscellaneous Appeal is condoned.

Md. Mansur Alam, J:

I agree.