

**Present:**  
**Mr. Justice Sheikh Abdul Awal**  
**and**  
**Mr. Justice Md. Rafizul Islam**

First Miscellaneous Appeal No. 240 of 2001

In the Matter of:

Md. Babul Mondol alias Babul Hossain  
and others

.....Appellants.

-Versus-

Md. Mozammel Haq and others

..... Respondent.

No one appears

....For the appellants.

No one appears

....For the respondents.

Mr. Abdul Mannan Abid, D.A.G.

**Judgment on 02.07.2026**

**Sheikh Abdul Awal, J:**

This First Miscellaneous Appeal is directed against the order dated 05.06.1997 passed by the learned District Judge, Kushtia in Micellaneous Apeal No. 33 of 1994 rejecting the application for setting-aside the order dated 24.08.1994 under Order 41, Rule 19 of the Code of Civil Procedure for restoring the case after setting-aside the order dated 24.08.1994 dismissing the case on the ground of limitation.

On scrutiny of the record, it appears that the miscellaneous case was dismissed mainly on the ground that no one found present to press the application on repeated calls.

In a case of this nature again long lapse of 24 years no one found present to press the appeal on repeated calls. Therefore, we find no difficulties whatsoever to dismiss the appeal. Further in this connection the lower Court observed as follows-

"নথি পর্যালোচনা করিয়া দেখা যায় যে, অত্র দরখাস্তটি ৫ মাস বিলম্বে দাখিল করা হইয়াছে কিন্তু কোন সন্তোষজনক কারণ পরিলক্ষিত না হওয়ায় অত্র দরখাস্তটি বিবেচনা করা যায় না। এখন বেলা ১১.০৫ মিনিট।

অতএব, আদেশ হইল যে, অত্র মিস মোকদ্দমাটি মুভ না করায় ও তা তামাদি দ্বারা বারিত হওয়ায় নাকচ করা হইল।" This finding of the case appears to be well founded in law and fact. No interference, is therefore, called for.

In the result, the First Miscellaneous appeal is dismissed without any order as to costs.

Communicate this order at once.

**Md. Rafizul Islam, J:**

I agree.