

IN THE SUPREME COURT OF BANGLADESH  
HIGH COURT DIVISION  
(CIVIL REVISIONAL JURISDICTION)

Present:

Mr. Justice Abu Taher Md. Saifur Rahman

**Civil Rule No. 37(Con) of 2017**

Government of Bangladesh and others

...Defendants-Respondents-Petitioners

-VERSUS-

Abdul Kadir alias Shanti Miah and others

...Plaintiff-Appellant-Opposite parties

Mr. Wayesh Al Haroni, DAG

..... for the petitioner

Mr. Palash Mallik, Advocate

.... for the opposite party Nos. 1-4

Heard on: 12.11.2020 and 15.11.2020

Judgment on: 25.11.2020

**Abu Taher Md. Saifur Rahman, J:**

This Rule was issued on an application filed by the defendant-petitioner under section 5 of the Limitation Act, 1908 calling upon the opposite parties to show cause as to why the delay of 828 days in filing the revisional application against the judgment and decree dated 27.05.2012 (decree signed on 31.05.2012) passed in Title Appeal No.116 of 2003 allowing the appeal and thereby reversing the Judgment and decree 25.05.2003 passed in Title Suit No.10 of 2001 dismissing the suit should not be condoned and/or pass such other or further order or orders as to this Court may seem fit and proper.

For disposal of the Rule, the relevant facts may briefly be stated as follows:

That the opposite party No.1 as the plaintiff filed Title Suit No.10 of 2001 before the Joint District Judge, First Court, Brahmanbaria for declaration of title in the suit land against the defendant–petitioner (Bangladesh Government) and others, which was subsequently dismissed vide its judgment and decree dated 25.05.2003. Being aggrieved, the plaintiff-opposite party No.1 preferred a Title Appeal No.116 of 2003 before the learned District Judge, Brahmanbaria. On being transferred the aforesaid matter was heard by the Additional District Judge, First Court, Brahmanbaria, which was subsequently allowed the appeal vide its judgment and decree dated 27.05.2012 (decree signed on 31.05.2012) and thereby reversing the judgment and decree dated 25.05.2003 passed by the Joint District Judge, First Court, Brahmanbaria in Title Suit No. 10 of 2001. Being aggrieved, the defendant–petitioner (Bangladesh Government) preferred this Civil Revision before this Court, which was caused by the delay of 828 days, and as such, the petitioner filed an application under section 5 of the Limitation Act for condoning the aforesaid delay in preferring the revisional application and obtained the instant Rule.

Mr. Wayesh Al-Haroni, the learned Deputy Attorney General for the petitioner submits that in order to prefer a revisional application for the aforesaid delay of 828 days was caused, which was beyond the control of the petitioner and has been properly explained in the

paragraph Nos.2 and 3 to the application filed by the petitioner. He further contended that a revisional application has been filed against the judgment of reversal, which needs to be examined for the ends of justice. Accordingly, the aforesaid delay is required to be condoned for proper adjudication of this matter.

Mr. Palash Mallik, the learned Advocate for the opposite parties No.1-4 submits that the law does not make any discrimination between the government and a private litigant in respect of condoning the delay. In the instant case, the petitioner filed this application under section 5 of the Limitation Act for condoning the delay of 828 days in preferring a revisional application against the judgment and decree dated 27.05.2012 passed in Title Appeal No.116 of 2003. The aforesaid delay is an extraordinary delay, which has not been properly explained by the petitioner in his application and, as such, the instant Rule is liable to be discharged.

Heard the submissions of the learned Advocates of both sides and perused the instant application thoroughly.

In the instant case, the petitioner sought for condonation of delay of 828 days in preferring the revisional application against the judgment and decree dated 27.05.2012 passed in Title Appeal No. 116 of 2003 allowing the appeal, arising out of judgment and decree dated 25.05.2003 passed in Title Suit No.10 of 2001 dismissing the suit.

Under section 5 of the Limitation Act, the petitioner is entitled to condonation of delay, if he can satisfied the Court had sufficient cause for not making the application within the period fixed by statute. The words “sufficient cause” have to be liberally constitute, so as to advance the substantial justice.

In dealing with an application under section 5 of the Limitation Act, in the case of the Government, public interest has to be duly considered and various authorities formalities and applications are involved and, as such, the Government requires a longer time in making the decision and acting on it.

On perusal of the paragraph Nos.2 and 3 of this application, we are of the view that the reasons for the aforesaid delay has been satisfactorily explained. We have further noticed that this revisional application has been filed as against the judgment of reversal, which needs to be examined for the ends of the justice.

Under the given facts and circumstances of the case, we find substances of this Rule.

Accordingly, the Rule is made absolute.

The delay of 828 days in preferring the instant revisional application is hereby condoned.

Communicate this judgment and order at once.