

Present:
Mr. Justice Md. Shohrowardi
Civil Revision No. 716 of 2020
Mayor, Dhaka North City Corporation and another....Petitioners
-Versus-
Ferdousi Sabur and others....Opposite parties
Mr. K.S. Salah Uddin Ahmed, Advocate
....For the petitioners
Mr. Muhammad Moshiul Alam (Sayem), Advocate
....For the opposite party Nos. 2 to 3
Heard on 22.07.2026
Judgment delivered on 22.07.2026

On an application under section 115(1) of the Code of Civil Procedure, 1908 Rule was issued calling upon the opposite party Nos. 1 to 3 to show cause as to why the impugned judgment and order dated 24.10.2019 passed by the District Judge, Dhaka in Title Appeal No. 262 of 2019 affirming the judgment and order dated 16.09.2018 passed by the Joint District Judge, Court No. 1, Dhaka in Title Suit No. 262 of 2014 decreeing the suit should not be set aside and/or such other or further order or orders passed as to this Court may seem fit and proper.

Relevant fact for disposal of the Rule, is that the opposite Nos. 1 to 3 filed Title Suit No. 262 of 2014 in the Court of Joint District Judge, Court No. 1, Dhaka for declaration of title in the suit land and after concluding trial, the trial Court by judgment and decree dated 16.09.2018 decreed the suit on contest against the defendant Nos. 1 and 2 and exparte against other defendants against which, the defendant Nos. 1 and 2 filed Title Appeal No. 262 of 2019 in the Court of District Judge, Dhaka and filed an application for condonation of delay of 324 days in filing the appeal. After hearing, the appellate Court by order dated 24.10.2019 rejected the application filed under section 5 of the Limitation Act, 1908 and summarily disallowed the appeal against which, the defendant-petitioners obtained the Rule.

Learned Advocate Mr. K.S. Salah Uddin Ahmed appearing on behalf of the appellant-petitioners submits that on 25.11.2018 the learned Advocate engaged on behalf of the petitioners in the trial Court obtained the certified copy of the judgment and decree passed by the trial Court and submitted to the Office of the City Corporation and due to laches of the concerned staff of the City Corporation, the delay occurred regarding instruction to file the appeal against the impugned judgment and decree passed by the trial Court. Since, the City Corporation is a statutory authority, the formal approval is required to file appeal for which, it was delayed by 324 days in filing the appeal which has been explained in the application under section 5 of the Limitation Act, 1908 and the appellate Court below without assigning any cogent reason rejected the said

application and thereby committed an error of law resulting in a error in the decision occasioning failure of justice. He prayed for making the Rule absolute.

Learned Advocate Mr. Muhammad Moshiul Alam (Sayem) appearing on behalf of the opposite party Nos. 2 to 3 submits that the defendants were aware of the judgment and decree passed by trial Court but they did not willfully take any step against the judgment and decree passed by the trial Court and failed to give any good explanation of the delay of 324 days in filing the appeal and the appellate Court considering statement made in the application under section 5 of the Limitation Act, 1908 for condonation of delay legally passed the impugned judgment and order. He prayed for discharging the Rule.

I have considered the submission of the learned Advocates of both the parties, perused the application for condonation of delay, the impugned order passed by the appellate Court below and the records.

On perusal of the impugned order passed by the appellate Court, it reveals that the appellate Court refused to condone the delay of 324 days, holding that the grounds taken in the application for condonation of delay are not satisfactory and convincing.

It is a long-standing practice of this Court that the application under section 5 of the Limitation Act, 1908 should be disposed of taking a lenient view. The petitioner is the Dhaka City Corporation and it discharged duty through the official staffs and the learned Advocate, and a reasonable time is required to decide to file appeal by the authority. I am of the view that the appellant-petitioners had given a good explanation regarding the cause of delay of 324 days in filing the appeal and the appellate Court below ought to have condoned the delay of 324 days in filing the appeal.

I find merit in the Rule.

In the result, the Rule is made absolute.

The impugned order passed by the appellate Court is hereby set aside.

The delay of 324 days in filing the appeal against the judgment and decree dated 16.09.2018 passed in Title Suit No. 262 of 2014 by the Joint District Judge, Court No. 1, Dhaka is hereby condoned.

The appellate Court is directed to hear and dispose of the appeal on merit within 6(six) months.

However, there will be no order as to costs.

Send down the lower Court's records at once.