

District-Jamalpur.

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

Present:

Mr. Justice Md. Toufiq Inam

Civil Revision No.3145 of 2019.

Md. Abdus Salam.

----- Defendant-Petitioner.

-Versus-

S.M. Sohrab Uddin is being dead his legal heirs:

1(ka) Dr. Sayma Sultana Smrity and others.

----- Plaintiff-Opposite-Parties.

Mr. Mohammad Ali Zinnah, Advocate.

----- For the Defendant-Petitioner.

Mr. Md. Bodruddoza, Senior Advocate with

Mr. Md. Suruzzaman Akanda, Advocate.

-----For the Plaintiffs-Opposite-Parties.

Heard and Judgment Delivered on: 18.08.2025.

Md. Toufiq Inam, J.

This Rule was issued calling upon the opposite party No. 1 to show cause as to why the order dated 09.09.2015 passed by the learned Joint District Judge, 1st Court, Jamalpur, in Other Class Suit No. 237 of 2012, allowing the application of the plaintiff under Order VI Rule 17 of the Code of Civil Procedure for amendment of the plaint after passing of the judgment and decree, should not be set aside and/or pass such other or further order or orders as this Court may deem fit and proper.

The facts, in short, are that the opposite party No. 1 as plaintiff instituted Other Class Suit No. 237 of 2012 for specific performance

of contract in the Court of learned Joint District Judge, 1st Court, Jamalpur, in which the present petitioner was the defendant. The suit was decreed on 28.11.2013 in favour of the plaintiff in respect of 27 decimals of land in two dag numbers. Originally, the agreement was for 31 decimals of land, but as the defendant's sister was in occupation of 4 decimals, both parties agreed that the decree may be confined to 27 decimals. Pursuant to the decree, the plaintiff got the registered sale deed executed for 27 decimals in two dags and has been in possession of the decretal land.

Subsequently, the plaintiff filed an application for amendment of the plaint, seeking to correct the schedule of the suit land from 31 decimals to 27 decimals in order to bring it in conformity with the decree and to ensure accuracy in the official records. The Court below, by the impugned order dated 09.09.2015, allowed the amendment on the ground that it was merely procedural in nature. Against this order, the defendant-petitioner moved the present revisional application after a delay of 1408 days and obtained this Rule.

Mr. Mohammad Ali Zinnah, learned Advocate for the petitioner, submits that the Court below had no authority to allow an amendment of the plaint after passing of the decree. He contends that once the decree is passed, the plaint merges with the decree, and no amendment is permissible thereafter. According to him, the Court committed an error of law resulting in failure of justice.

On the other hand, Mr. Md. Bodruddoza, learned Senior Advocate appearing for the opposite party No. 1, contends that the amendment neither changes the nature and character of the suit nor affects any substantive right of the defendant. Rather, it was necessary to bring the plaint in conformity with the decree, which has already been executed and acted upon.

He further submits that the amendment is merely procedural to facilitate mutation and other official record-keeping. He also raises serious objection against the inordinate delay of 1408 days in filing this revisional application, contending that no reasonable explanation has been provided in the application under section 5 of the Limitation Act, and such gross delay cannot be condoned.

Having considered the submissions of the learned Advocates and upon perusal of the record, it appears that the suit for specific performance of contract was decreed in 2013, and pursuant thereto, the plaintiff has already obtained registered conveyance and possession of the property in respect of two plots and is enjoying possession thereof. The original agreement, which formed the basis of the suit, covered 31 decimals of land; however, as the defendant's sister subsequently occupied 4 decimals out of the 31 decimals, the decree was ultimately passed in respect of 27 decimals across two Dag numbers.

The amendment allowed by the impugned order was purely procedural in nature and did not in any way affect the substantive rights of the defendant-petitioner. While ordinarily amendment of the plaint is not permissible after passing of a decree, in the present case, the amendment was procedural, intended solely to facilitate official processes, including mutation and record correction. It further appears that, at the time of issuance of the Rule, there was a delay of 1,408 days in filing this revisional application. The amendment allowed by the trial Court did not introduce any new claim or alter the nature of the decree. It merely sought to rectify the schedule to reflect the actual decretal land of 27 decimals in two dags/plots instead of 31 decimals.

Ordinarily no amendment of plaint can be entertained after passing of a decree, since the proceedings attain finality. However, where the amendment is purely clerical or procedural in nature and is necessary to give effect to the decree already passed, such amendment does not prejudice the judgment-debtor nor affect the substantive rights of the parties. The amendment allowed in the instant case falls in this category.

As regards the issue of limitation, the revisional application has been filed after an inordinate delay of 1408 days. Section 5 of the Limitation Act requires sufficient cause to be shown for condonation of delay. In the instant case, no plausible or satisfactory explanation

has been offered by the petitioner to justify such a long delay. Permitting such stale challenge would not only defeat the principle of finality of litigation but also encourage indolence, which the Court cannot endorse.

Accordingly, this Court finds no illegality or impropriety in the impugned order of the learned Joint District Judge. The amendment being procedural in nature, and the revision being hopelessly barred by limitation without satisfactory cause, the Rule merits no substance.

In the result, the Rule is discharged. The impugned order dated 09.09.2015 passed by the learned Joint District Judge, 1st Court, Jamalpur, in Other Class Suit No. 237 of 2012 is hereby affirmed. The application under section 5 of the Limitation Act for condonation of delay of 1408 days is rejected.

Let a copy of this judgment be communicated to the Court below at once for information and compliance.

(Justice Md. Toufiq Inam)