

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

Present:

Mr. Justice Mohi Uddin Shamim

Civil Rule No. 1076 (Con) of 2023

In the matter of:

An application under section 5 of the
Limitation Act, 1908 for condonation of
delay of 136 days in filing this Revisional
Application

In the matter of:

Abdus Samad Laskar and others
..... Defendants-appellants-petitioners

- Versus -

Md. Sajahan Mallik being died, his legal
heirs: 1(a) Aa. Halim and others

.... Defendants-respondents-opposite parties

Md. Abdur Razzaque Laskar and others

.... Defendants-respondants-opposite parties

Mst. Vanu Bibi and others

.... Defendants-respondents- proforma opposite
parties

Mr. Mohammad Mahmud Hasan, Advocate
..... For the petitioners

Md. Habibulla

.... For the opposite party No.1(a)

Heard and judgment on 28th October, 2024

Mohi Uddin Shamim, J.

This Rule was issued at the instance of the defendants-appellants-petitioners upon an application under section 5 of the Limitation Act, 1908 calling upon the opposite parties to show cause as to why the delay of 136 days in filing this revisional application under section 115 (1) of the Code of Civil Procedure, against the impugned judgment and decree dated 15.03.2023 passed by the learned Joint District Judge, 2nd Court, Rajbari in Title Appeal No.63 of 2015 should not be condoned and/or pass such other or further order or orders as to this Court may seem fit and proper.

Facts necessary for disposal of the Rule, in short, are that the petitioner filed the instant Civil Revision before this Court against the judgment and decree dated 15.03.2023 (decree signed on 16.03.2023) passed by the learned Joint District Judge, 2nd Court, Rajbari in Title Appeal No.63 of 2015, disallowing the Appeal and thereby affirming the judgment and order dated 04.06.2015 and the final decree drawn

on 22.06.2015 passed by the learned Assistant Judge, Baliakandi, Rajbari in Title Suit No.20 of 2001.

Being aggrieved by and dissatisfied with the aforesaid judgment and decree dated 15.03.2023, the petitioners filed this revision application with a delay of 136 days, hence the instant Rule.

Mr. Mohammad Mahmud Hasan, the learned Advocate appearing on behalf of the defendants-appellants-petitioners takes us through the application for condonation of delay, specifically mentioning the paragraph no.2 - 7 of the application, vehemently submits that there was no laches or negligence on the part of the petitioners in filing this revision application. The judgment and decree was passed on 15.03.2023; the petitioners applied for certified copies of the said judgment and decree on 10.04.2023, which was ready for delivery on 02.05.2023 and the said certified copies was taken delivery on the very day. But the petitioners did not get the certified

copy of the final decree of the trial Court since those were missing from the record. Then the learned advocate for petitioners gave a representation to the trial Court on 21.05.2023 through registered post with acknowledgement due (AD). Thereafter, by consecutive correspondence & representations to the Court and following several Court orders & Directions the petitioners had been able to manage to obtain the said final decree on 10.11.2013 and handed over the same to their engaged lawyers to take appropriate legal action against the said judgement and decree but in the meantime a delay of 136 days had been occurred in filling this revision application. He next submits that in this circumstances, they could not managed to file this revision application in time and the delay was very much unintentional and not inordinate one. There was no willful laches and negligence on the part of the petitioners. He finally submits that if the delay of 136 days in filling this revision application is not condoned the petitioners will

suffer irreparable loss and injury and he prays for condoning the delay of 136 days in filing the instant revision application and to pass such necessary order(s) accordingly.

No one appears for and on behalf of the opposite parties to oppose the Rule.

I have heard the submission so advanced by the learned Advocate for the petitioners, perused the application for condonation of delay and the other connected materials available on record and find that the reasons for delay has sufficiently and adequately been explained in the application for condonation of delay, very specifically in paragraph nos. 2 – 7 of the application. I do not find any willful laches or negligence on the part of the petitioners.

It is the legal periphery that, a civil revision application against any judgment and decree or order is to be filed within a period of 90 days from the date of passing of the impugned judgment and decree/order, but if a revisional application could not be filed within

the stipulated period of time, this Court in its discretion, on application made for condonation of delay, may condone the delay in suitable case, where there is no laches or negligence on the part of the petitioner, and this is the long standing practice for condoning any delay.

Considering the facts and circumstances of the case and the submissions so advanced by the learned Advocate for the petitioners as well as the submissions made in the condonation application (paragraphs 2-7), it appears to me that the cause of delay of 136 days in filing of this revision application has sufficiently been explained in the application for condonation of delay. In such view of the matter, I am inclined to condone the delay in filing the revisional application.

In the result, the **Rule is made absolute** without any order as to costs.

The delay of 136 days in filing this revisional application is, hereby, condoned.

The petitioner is directed to place the revisional application to an appropriate Bench of this Court for hearing without any delay.

Md. Eyasin, Abo.