

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

Present:

Mr. Justice Mohi Uddin Shamim

**Civil Rule No. 412 (Con) of 2016**

IN THE MATTER OF:

An application under section 5 of the  
Limitation Act, 1908

AND

IN THE MATTER OF:

Mizanur Rahman @ Danesh Khalifa

... Pre-emptor-respondent-petitioner

- Versus -

Abdul Ali Talukder and others

.... Pre-emptee purchasers-appellants-  
opposite parties

Farida Begum

... Seller-proforma respondent-opposite  
party

Md. Yunus Khalifa and others

... Pro-forma opposite parties-respondents-  
opposite parties

Mr. Mohammad Shafiqul Islam, Advocate

.... For the Pre-emptor-respondent-petitioner

Ms. Sayeda Rafika Khatun, Advocate

.... For the opposite party No.1 & 2

**Heard and Judgment on 28.10.2024**

On an application under section 5 of the Limitation Act, 1908, the  
Rule was issued calling upon the opposite parties No.1-4 to show cause as  
to why the delay of **101 days** in filing the revisional application under

section 115 (1) of the Code of Civil Procedure against the impugned judgment and order dated 14.05.2015 passed by the learned Joint District Judge, 1<sup>st</sup> Court, Shariatpur in Miscellaneous Appeal No. 9 of 2012 should not be condoned and/or such other or further orders pass as to this Court may seem fit and proper.

No one appears for either of the parties to press or oppose the Rule. Since the Rule is an old pending rule of 2016, I do believe that justice will be done if I do dispose of the application and that of the rule on merit. With such view, the Rule is taken up for hearing.

I have gone through the condonation application filed under section 5 of the Limitation Act, the revisional application, the impugned order and other documents appended with the applications, and have perused the same carefully and meticulously.

It appears from the record that, the present petitioner preferred the instant civil revision application under section 115 (1) of the Code of Civil Procedure challenging the judgment and order dated 14.05.2015 passed by the learned Joint District Judge, 1<sup>st</sup> Court, Shariatpur in Miscellaneous Appeal No.09 of 2012, allowing the Miscellaneous Appeal and thereby reversing the judgment and order dated 29.04.2012 passed by the learned Senior Assistant Judge, Zajira, Shariatpur in Miscellaneous Suit No.09 of 2008, decreeing the suit.

Thereafter, being aggrieved, the petitioner preferred this revisional application against the said judgment and order dated 14.05.2015 under section 115 (1) of the Code of Civil Procedure before this Court with an application for condonation of delay under section 5 of the Limitation Act for condoning the delay of 101 days in preferring this revisional application, thus the instant Rule.

Since no one appears for and on behalf of the parties, I have carefully scrutinized the application for condonation of delay and all other documents with the suit dockets. It stated in the application that there was no willful laches or negligence on the part of the petitioner. Delay of 101 days in filing this revision application was not an inordinate one. According to the application, it was due to physical illness of the petitioner. Though the application is not well founded and well explained but the delay is only for 101 days, which is not a very long delay.

Moreover, since the suit is for a judgment of reversal, thus the petitioner might have a good arguable case to agitate. Therefore, I do think that it would be reasonable to allow the petitioner to place his case before this court and agitate his grievance there.

There is a long standing practice that a revisional application is to be filed within the period of 90 days, prescribed by law for appeal and this

Court may in its discretion entertain an application made for condonation of delay in a suitable case, where there is no negligence or laches on the part of the petitioner. The long standing practice does not call for any departure. The statements made in the application for condonation of delay are sufficient to condone the delay. The petitioner fulfills the requirement under section 5 of the Limitation Act. Since the explanation for condonation of delay is satisfactory, I am inclined to condone the delay.

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

The delay of **101 days** in filing the revisional application is hereby condoned. The petitioner is directed to place this revisional application before an appropriate bench of this court for hearing.

The office is directed to do the needful.