

IN THE SUPREME COURT OF BANGLADESH

HIGH COURT DIVISION

(CIVIL REVISIONAL APPLICATION)

Present:

Mr. Justice Mohi Uddin Shamim

Civil Rule No. 840 (Con) of 2023

IN THE MATTER OF:

An application under section 5 of the
Limitation Act, 1908

AND

IN THE MATTER OF:

Momzed Mattubor

... Plaintiff-respondent-petitioner

- **Versus** -

Government of Bangladesh, represented by the
Deputy Commissioner, Faridpur and another
... Defendants-appellants-opposite parties

Mr. Muhammad Ali Murtaja, Advocate with
Mr. Shyam Sundor Sinha, Advocate

... For the plaintiff-respondent-petitioner

None appears on behalf of the opposite parties.

Heard and Judgment on 16.10.2024

On an application under section 5 of the Limitation Act, 1908 this
Rule was issued calling upon the opposite parties to show cause as to why
the delay of 4941 days in filing the revisional application should not be
condoned and/or pass such other or further order or orders as to this
Court may seem fit and proper.

It appears from the record that, the present petitioner preferred the instant civil revisional application under section 115 (1) of the Code of Civil Procedure, 1908 challenging the judgment and decree dated 12.11.2009 (decree signed on 17.11.2009) passed by the learned Joint District Judge, 2nd Court, Faridpur in Title Appeal No.88 of 2007 allowing the appeal and thereby setting aside the judgment and decree dated 27.11.2006 (decree signed on 30.11.2006) passed by the learned Assistant Judge, Faridpur in Civil Suit No. 02 of 2004 decreeing the suit. The petitioner, thereafter, filed this revision application under section 115 (1) of the Code of Civil Procedure before this Court and in preferring the revisional application there had been a delay of 4941 days, reasons of which are stated in paragraph No.3 of the application for condonation of delay and as such the Rule was issued on 05.09.2023 passed by a Single Bench of this Court for condonation of the delay.

Mr. Shyam Sundor Sinha, the learned Advocate appearing on behalf of the petitioner submits that, there are no laches or negligence on the part of the petitioner in preferring this revisional application. He also submits that the instant delay is an unintentional mistake and if the same is not condoned, the petitioner shall suffer irreparable loss and injury and as such prays for condoning the delay of 4941 days in filing this civil revision.

No one was present on behalf of the opposite parties to oppose the Rule.

I have heard the learned Advocate for the petitioner and perused the application for condonation of delay under section 5 of the Limitation Act. The submissions so advanced by the learned Advocate for the petitioner as well as the statements made in the application for condonation of delay in paragraph No. 3 is sufficient to condone the delay in filing the revisional application before this Court. In the instant case the delay of 4941 days is not inordinate one as the same has properly been explained in the application for condonation of delay.

Moreover, since the suit is for judgment of reversal, thus the petitioner might have an arguable case to agitate. Therefore I do think that justice would be best served if I do allow the petitioner to place his case before this Court and agitate his grievance there.

There is a long standing practice that a revision 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 submissions as made by the learned Advocate for the

petitioner and 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 4941 days in filing the revision application is hereby condoned.

Office is directed to do the needful.

Syed Akramuzzaman

Bench Officer