

Present:

MR. JUSTICE S.M. EMDADUL HOQUE

Civil Rule No. 776 (con) of 2022.

IN THE MATTER OF:

Md. Salim Mia

.... Plaintiff-Appellant-Petitioner.

Versus –

Mst. Surma Akther

.... Defendant-Respondent-Opposite parties.

Mr. Iftexhar Rahman, Advocate

.... for the petitioner

Heard and Judgment on: 04.03.2024.

On an application of the petitioner Md. Salim Mia under section 5 of the Limitation Act, the Rule was issued calling upon the opposite party to show cause as to why the delay of 201 days in filing the revisional application under Section 115(1) of the Code of Civil Procedure against the impugned judgment and decree dated 27.01.2022 passed by the Joint District Judge, 3rd Court, Mymensingh in Family Appeal No.6 of 2020 should not be condoned and/or such other or further order or orders passed as to this Court may seem fit and proper.

Facts necessary for disposal of the Rule in short, is that, the petitioner filed this revisional application against the judgment and decree dated 27.01.2022 (decree signed on 03.02.2022) passed by the Joint District Judge, 3rd Court, Mymensingh in Family Appeal No.6 of 2020 disallowing the appeal and thereby affirming the judgment and

decree dated 21.11.2019 (decree signed on 27.11.2019) passed by the Assistant Judge, Muktagacha, Mymensingh in Family suit No.95 of 2018 dismissing the suit. But there are 201 days delay has been occurred in filing the revisional application and thus the petitioner filed this application for condonation of delay of 201 days under Section 5 of the limitation Act. Hence the Rule was issued.

Mr. Iftekhar Rahman, the learned Advocate appearing on behalf of the petitioner submits that there are 201 days delay has been occurred in filing the revisional application but in this case the serious question of law regarding the custody of minor is involved. He further submits that the delay which has been occurred is not willful but unintentional and for a *bonafide* mistake and if the delay has not been condoned the petitioner will suffer irreparable loss and injury.

I have considered the submission of the learned Advocate and the statements made in paragraph Nos.4-7 of the application, it appears that the petitioner stated the details about the delay in paragraph No.4.

Though it is the judgment of affirmance but since the petitioner explained the cause of delay sufficiently in filing the revisional application which seems to be reasonable, thus I am inclined to make the Rule absolute.

In the result, the Rule is made absolute. The delay of 201 days in filing the revisional application is hereby condoned.

The petitioner is directed to take step to place the revisional application before an appropriate bench having jurisdiction for hearing of the revisional application preferably within 1 (one) month from date.