

Present:

***MR. JUSTICE S.M. EMDADUL HOQUE***

Civil Rule No. 881 (con) of 2022.

IN THE MATTER OF:

Government of Bangladesh, represented by the  
Deputy Commissioner, Chapainawabgonj.

.... Defendant-Respondent-Petitioner.

-Versus-

Md. Arshed Ali and others

.... Plaintiff-Respondents-Opposite parties.

Mr. Abu Naser (Swapon), A.A.G

.... for the petitioner.

Mr. Md. Zahangir Alam, Advocate

.... for the opposite party.

**Heard and Judgment on: 21.04.2024.**

On an application of the petitioner the Government of Bangladesh, represented by the Deputy Commissioner, Chapainawabgonj under section 5 of the Limitation Act, the Rule was issued calling upon the opposite parties to show cause as to why the delay of 4884 days in filing the revisional application 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 the Government of Bangladesh, represented by the Deputy Commissioner, Chapainawabgonj filed Revisional Application under Section 115(1) of the Code of Civil Procedure challenging the impugned judgment and decree dated 09.11.2009 passed by the

learned Additional District Judge, Chapainawabgonj in Title Appeal No.221 of 2007 allowing the appeal and thereby reversing the judgment and decree dated 10.07.2007 passed by the learned Senior Assistant Judge, Shibganj, Chapainawabgonj passed in Other Class Suit No.86 of 2004 decreeing the suit. But in the meantime there are 4884 days delay has been occurred in filing the revisional application.

At the time of hearing of this Rule the learned Assistant Attorney General has filed a supplementary-affidavit stating the detail facts about the cause of delay in filing the revision.

The learned Assistant Attorney General submits that the office of the Solicitor received all the documents of the case from the petitioner for filing the revisional application on 24.03.2010 and which was sent to the office of the Attorney General on 06.04.2010 and the learned Attorney General endorsed the said file to the then Assistant Attorney General on the same day for drafting the civil revision and the said Assistant Attorney General was appointed as Deputy Attorney General and he sent the file to the office of the Attorney General. But unfortunately the said file was missing from the office but after tremendous searching which was found on 30.12.2019 and thereafter the file was sent to the another learned Assistant Attorney General and who after drafting the application and completing all the procedure filed the revisional application but in the meantime there are 4884 days delay has been occurred and

which is unintentional and purely the official formalities. He submits that since the original certified copy of the judgment and decree was missing and after recovery of the same the learned Assistant Attorney General promptly filed the revisional application without any delay and which is not the fault of the petitioner. He prays for making the Rule absolute.

I have heard the learned Assistant Attorney General and perused the application.

It appears that in the application the learned Assistant Attorney General stated that initially the file was endorsed to the then Assistant Attorney General but subsequently he was appointed as Deputy Attorney General and sent the file to the office of the Attorney General and thereafter the file was missing for a long time and could not be traced out the said file but subsequently which was found and then the file was again endorsed to another Assistant Attorney General and who after drafting and completing the formalities filed the revisional application and as such there are 4884 days delay has been occurred in filing the revisional application.

Considering the submission of the learned Assistant Attorney General and the facts and circumstances of the case since the petitioner has sent all the documents within the specified time and the office of the Solicitor sent the file to the office of the Attorney General and the file was endorsed to the then Assistant Attorney

General but the said file was missing and could not be traced out for a long period. Subsequently file was found and again the same was endorsed to the another Assistant Attorney General thus considering the aforesaid facts it appears that the petitioner sufficiently explained the cause of delay and which was not the fault of the petitioner and the aforesaid delay has been caused due to official processes.

Furthermore, the delay as caused in this case is beyond the control of the petitioner. It appears that the petitioner sent all the documents to the office of the Solicitor and the office of the Solicitor and the Attorney General Office are liable for the cause of delay and the petitioner should not be deprived from the litigation and if the application is not allowed the petitioner will suffer irreparable loss and injury.

Thus I am inclined to allow the application for condonation of delay.

In the result, the Rule is made absolute. The delay of 4884 days in filing the revisional application is hereby condoned.

The office is directed to do the needful.

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

BO. Obayedur