

Present:
Mr. Justice Mamnoon Rahman

Civil Rule No. 457(con) of 2021

In the matter of:

An application under section 115(1) of the Code of Civil Procedure, 1908.

And

In the matter of:

Amzad Hossain Patwary

..... Petitioner.

-Versus-

Shahnaj Aktar

.... Opposite party.

Mr. M.G. Mahmud (Shaheen), Adv.

...For the petitioner.

None appears on behalf of the opposite parties.

The 19th May, 2024

In an application under section 115(1) of the Code of Civil Procedure, Rule was issued calling upon the opposite party to show cause as to why the delay of 977 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 that the present petitioner preferred the instant civil revisional application under section 115(1) of the Code of Civil Procedure challenging the judgment and decree dated 17.10.2018 passed by the learned District Judge, Laxmipur in Family Appeal No. 7 of 2015 dismissing the appeal with modification of the judgment and decree dated 18.05.2015 passed by the Assistant Judge and Family Court, Ramgonj, Laxmipur in Family Suit No. 28 of 2009 decreeing the suit. The petitioner thereafter filed this revisional 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 977 days as such the Rule was issued for condonation of the delay.

Mr. M.G. Mahmud (Shaheen), 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 further submits that the instant delay is an unintentional mistake and if the same is not condoned the petitioners shall suffer irreparable loss and injury.

No one appears on behalf of the opposite party to oppose the Rule.

I have heard the learned Advocate and perused the application. The submissions made by the learned Advocate for the petitioner as well as the statements made in the application for condonation of delay is sufficient to condone the delay in filing the revisional application before this Court. In the instant Case the delay of 977 days is not inordinate one as the same has been properly explained in the application for condonation of delay.

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 submissions as made by the learned Advocate for the petitioner and statements made in the application for condonation of delay is sufficient. 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. The delay of 977 days in filing the revisional application is hereby condoned.

The learned Advocate for the petitioner is directed to mention this matter before the motion Bench as In: Re:

The office is directed to do the needful.

(Mamnoon Rahman, J)