

Present:

Mr. Justice A.K.M. Asaduzzaman

Civil Rule No. 529 (con) of 2021

Government of Bangladesh

.....Petitioner.

-Versus-

Abdur Rashid Joshori and others.

.....Opposite parties.

Mrs. Shovana Banu, A.A.G.

.....For the petitioner.

Mr. Tapsah Kumar Biswas, Advocate.

..... For the opposite parties.

Heard and Judgment on 19th May, 2024.

Title Suit No. 22 of 2005 filed by the defendant-opposite party for declaration of title. By the judgment and decree dated 08.05.2014 the Assistant Judge, Magura decreed the suit.

Challenging the said judgment and decree defendant-petitioner preferred Other Class Appeal No. 50 of 2014 before the Court of District Judge, Magura, which was heard on transfer by the Joint District Judge, Magura, who by the impugned judgment and decree dated 06.04.2015 dismissed the appeal and affirmed the judgment of the trial court.

Challenging the said judgment and decree on 03.03.2020 defendant –petitioner preferred this Revisional application with an application under section 5 of Limitation Act for condoning the delay of 1687 days. The instant rule was obtained on this application for condonation of delay.

The learned Assistant Attorney General Mrs. Shovana Banu appearing for the petitioner drawing my attention to the application for condonation of delay submits that delay of preferring this Revisional application appears to be caused on some unusual happenings committed on taking permission from several government authorities and as such it may be condoned.

Mr. Tapsah Kumar Biswas, the learned advocate appearing for the opposite parties opposed the rule.

Heard the learned advocate of both the sides and perused the application for condonation of delay.

In the application for condonation of delay in paragraph-2 of the application it is stated that

‘The impugned judgment and decree was passed on 06.04.2015 decree signed on 06.04.2015 and the learned

Government pleader filed an application for certified copies on 07.09.2015 and the Certified copies were made ready on 17.09.2015 and those were taken delivery on the same day on 07.09.2015. The learned Government pleader after obtaining certified copies and observing all necessary formalities sent the records to the office of the Deputy Commissioner, Magura. Thereafter Additional Deputy Commissioner (Revenue) Magura, having received the record sent observing necessary formalities forwarded the file to the office of the Solicitor for filing a Civil Revision before the Hon'ble High Court Division of the Supreme Court of Bangladesh vide its memo no. 10.00.0000.34.13
নথি এইচ সি/আর ২৬৬/১৫ (সল-২) that the office of the Solicitor received the record on 12.08.2015. That the record then put up with a proposal before the learned Solicitor for approval dated on 01.02.2016 office of the Solicitor approved the proposal on 02.02.2016. That there after observing necessary formalities office of the Solicitor sent the record to the learned Attorney General on 24.02.2016. Attorney General allocated the file to the Assistant Attorney General

dated on 24.02.2016 and who received the file. That the learned Assistant Attorney General after preparing the draft of Civil Revision along with an application for condonation of delay and returned the file to the Civil section dated on 03.04.2016 for typing work and observing all necessary formalities and after collecting court fees etc. swore affidavit on 04.03.2020 and thereby total delay of 1687 days has been caused in filing the civil revision application, which was unintentional and beyond the control of the petitioner and therefore aforesaid unintentional delay of 1687 days may kindly be condoned otherwise the petitioner will suffer irreparable loss and injury.'

On perusal of the application, it appears that although in the application, facts are disclosed that on 03.04.2016, the file was placed for swearing affidavit to file this revisional application together with this application shows that it was sworn on 03.03.2020 but having no explanation for the delay caused during a period of 03.04.2016 to 03.03.2020. Although in a number of decisions our Apex court has formed the opinion that since the government officials took several times to initiate proceedings

after getting the opinion and in that case delay for filing the application have to be consider liberally. In the case in hand after taking all the permission as well as preparing the draft it was placed before the concern section for swearing affidavit and filing the revisional application long before in the year 2016 and it was kept idly without having any reasonable excuse for about four years, thus it can not be taken into consideration as a valid ground for delay and a good cause for condoning the delay. Moreover, upon perusal of the revisional application, it appears that it was incomplete and not in form.

Considering all these aspect of this case, I find no merits in this rule for condonation of delay.

Accordingly the rule is discharged. The revisional application is also obviously barred by limitation, which is rejected summarily.

Office is directed to take a note to the effect.

(A.K.M. Asaduzzaman,J.)