

IN THE SUPREME COURT OF BANGLADESH  
HIGH COURT DIVISION  
(CIVIL REVISIONAL JURISDICTION)

Present:

**Mr. Justice Md. Bashir Ullah**

**Civil Rule 164(Con) of 2018**

In the matter of:

An application under Section 5 of the  
Limitation Act

And

In the matter of:

Shree Lalpado Roy

..... Pre-emptee-Appellant -Petitioner.

-Versus-

Shree Fulchan Roy and another

.... Pre-emptor-Respondent- Opposite parties

Mr. Md. Mojibur Rahman, Advocate

... for the Pre-emptee-Appellant -Petitioner

**Heard and Judgment on: 15.02.2024**

On an application under Section 5 of the Limitation Act, this Rule was issued on 02.04.2018, calling upon the opposite party No. 1 to show cause as to why the delay of 496 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.

As pre-emptor, the opposite party No. 1 instituted Miscellaneous Case No. 36 of 2005 in the Court of Senior Assistant Judge, Dinajpur against the petitioner as pre-emptee for pre-emption under Section 96 of the State Acquisition and

Tenancy Act. The pre-emptee contested the case by filing written objection. Upon hearing the parties, the Court of the Senior Assistant Judge, Parbatipur, Dinajpur allowed the pre-emption case on 15.07.2010. Being aggrieved by the judgment, the petitioner preferred Miscellaneous Appeal No. 112 of 2010 before the District Judge, Dinajpur. The District Judge, Dinajpur transferred the case to the Special District Judge Court, Dinajpur. Upon hearing the parties, the Special District Judge Court, Dinajpur dismissed the appeal on 21.07.2016.

Being aggrieved, the present petitioner preferred the instant Civil Revision.

There has been a delay of 496 days in preferring the Civil Revision against which Rule was issued for condonation of delay.

It is stated that the impugned judgment was passed on 21.07.2016. The pre-emptee-appellant-petitioner became ill and suffered from Jaundice from 28.08.2016 to 07.03.2018. After the cure, he contacted his lawyer on 20.03.2018 and collected the certified copy of the impugned judgment and order. After that, he went to Dhaka and met his lawyer to prefer the instant Civil Revision. After drafting, typing and swearing the affidavit, the lawyer preferred the Civil Revision on 29.03.2018. Meanwhile, 496 days have been elapsed.

Mr. Md. Mojibur Rahman, learned Advocate for the petitioner submits that the pre-emptee-appellant-petitioner could

not prefer Civil Revision within time due to his illness. In support of his contention, the learned Advocate submits a Medical Certificate along with an application under Section 5 of the Limitation Act.

He further submits that the delay is unintentional and bonafide and if the Court does not condone the same the petitioner shall suffer irreparable loss and injury. He begs unconditional apology for such delay and humbly prays for making the Rule absolute.

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

Heard the learned Advocate, perused the application for condonation of delay and doctor's certificate.

The submissions made by the learned Advocate and the statements made in the application for condonation of delay appear sufficient to condone the delay in filing the revisional application before this Court. The explanation of the condonation of delay seems to be satisfactory.

Accordingly, this Rule is made absolute.

The delay of 496 days in filing the revisional application is hereby condoned.

There will be no order as to costs.

The office is directed to do the needful.