

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

CIVIL RULE NO. 1013(Con) OF 2023

In the matter of:

An application under section 5 of the Limitation, Act.

AND

In the matter of:

Md. Salim

.... Petitioner

-Versus-

Alhaj Shamsul Haque and others

....Opposite-parties

Mr. Md. Tajul Islam, Advocate

... For the petitioner

None appears

.....For the opposite parties

Heard and Judgment on 15.07.2024

Present:

Mr. Justice Md. Mozibur Rahman Miah

And

Mr. Justice Md Bashir Ullah

Md. Mozibur Rahman Miah, J:

At the instance of the defendant of Money Suit No. 04 of 2021, this rule was issued calling upon the opposite-parties to show cause as to why the delay of 419 days in filing the civil revision which was initiated challenging the order dated 03.06.2022 passed in Money Suit No. 04 of

2021 directing defendant no 7 to produce documents should not be condoned and/or such other or further order or orders be passed as to this court may seem fit and proper.

The short facts leading to issuance of the instant rule are:

The present opposite no. 1 as plaintiff filed the aforesaid suit claiming compensation to the tune of taka 500,00,000,00/- against the present opposite party nos. 2-11as defendants. In that suit, the present petitioner as defendant no. 7 filed written statement for contesting the same. After that, the plaintiff filed an application praying for directing the defendant no. 7 to submits the documents he relied upon in his written statement and the same was allowed vide order dated 30.06.2022 against which the defendant no. 7 as petitioner filed the revisional application but it went out of time by 419 days.

Mr. Md. Tajul Islam, the learned counsel appearing for the petitioner upon taking us to the application in particular, paragraph no. 6 at the very outset submits that, after passing the order so impugned in the revisional application, the petitioner asked his *todbirker* to consult the learned Advocate as regards to taking necessary steps for challenging the said order but the *todbirkar* did not take any step to that effect which is why the written statement filed by the present petitioner as defendant no. 7 was rejected on 03.07.2023. However, challenging the said order the petitioner also preferred an appeal being First Miscellaneous Appeal No. 384 of 2023 before this court when the petitioner instructed his *todbirkar* also to challenge the earlier order and accordingly upon obtaining certified copy of all the required documents instant revisional application has been filed but

in the meantime 419 days have elapsed. The learned counsel for the petitioner submits that, the aforesaid delay is totally unintentional and beyond the capacity of the petitioner which may kindly be condoned.

Record shows that, though the notice has been served upon the opposite parties but none represented the opposite parties. to opposes the same.

We have considered the submission so advanced by the learned counsel for the petitioner and perused the application filed under section 5 of the Limitation Act in particular, the explanation so made in paragraph no. 6 thereof and find substance in it and thus inclined to condone the aforesaid delay.

Accordingly, the rule is made absolute however without any order as to costs.

The delay of 419 days in filing the revisional application is hereby condoned.

Md. Bashir Ullah, J:

I agree.

Kawsar /A.B.O