

Present:
Mr. Justice Sikder Mahmudur Razi

Civil Rule No. 477(con) of 2018

In the matter of:

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

And

In the matter of:

Kamala Akter Khatun

..... Petitioner.

-Versus-

Milon Mia and others

.... Opposite parties.

Mr. Md. Bulbul Abu Saiyed, Adv.

...For the petitioner.

None appears

...For the opposite parties.

The 8th October, 2025

The instant rule was issued calling upon the opposite parties to show cause as to why the delay of 323 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 civil revisional application under section 115(1) of the Code of Civil Procedure challenging the judgment and decree dated 25.07.2017 (decree signed on 27.07.2017) passed by the learned District Judge, Netrokona in Other Class Appeal No. 41 of 2014 reversing the judgment and decree dated 20.04.2014 (decree signed on 24.04.2014) passed by Assistant Judge, Khaliajuri, Netrokona in Other Suit No. 73 of 2010 decreeing the suit. The petitioner thereafter filed a 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 323 days as such the Rule was issued for condonation of the delay.

Mr. Md. Bulbul Abu Saiyed, the learned Advocate appearing on behalf of the petitioner submits that after pronouncement of the judgment and decree by the Appellate Court the petitioner applied for certified copies of the impugned judgment and decree and other relevant papers on 26.07.2017 which was made ready and delivered on 07.08.2017. He further submits that thereafter the husband of the petitioner came to Dhaka on 02.10.2017 *i.e.* within time and handed over the brief to the learned Advocate for filing civil revisional application before the High Court Division. He further submits that the learned Advocate though prepared the civil revisional application in time but before swearing the affidavit the brief of the case was misfiled and the learned Advocate forget it. He also submits that on 16.09.2018 the husband of the petitioner came to Dhaka and met the learned Advocate and on asking about his case the learned Advocate thorough searching traced out the brief and thereafter, he filed the civil revisional application on 23.09.2018 with a delay of 323 days. He lastly submits that the delay in filing the civil revisional application is unintentional and beyond control of the petitioner and if the same is not condoned the petitioner 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 323 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 323 days in filing the revisional application is hereby condoned.

The office is directed to do the needful.

(Sikder Mahmudur Razi, J)