

**District-Sylhet.**

**In the Supreme Court of Bangladesh  
High Court Division,  
(Civil Revisional Jurisdiction)**

**Present:  
Mr. Justice Md. Toufiq Inam**

**Civil Rule No. 1106(con) of 2023.**

Md. Abul Hossain and another.

----- Plaintiffs-Appellants-Petitioners.

-Versus-

Deputy Commissioner, Sylhet and others.

---- Defendants-Respondents-Opposite-Parties.

Mr. Surajit Bhattacharjee with

Mr. Monishankar Sarkar, Advocates,

----- For the Plaintiffs-Respondents-Petitioners.

Mr. Md. Yousuf Ali, D.A.G. with

Mr. Kazi Rahman (Manik), A.A.G. with

Mr. Md. Siddik Ali, A.A.G and

Ms. Kamrunnahar Lipi, A.A.G.

----- For the Defendants-Appellants-Opposite-Parties.

**Heard On: 20.08.2025**

**And**

**Judgment delivered On: 26.08.2025.**

**Md. Toufiq Inam, J:**

This Rule was issued calling upon the opposite-party Nos. 1-2 to show cause as to why the delay of 2028 days in filing this revisional application against the judgment and order dated 11.02.2018 passed by the learned Additional District Judge, Fourth Court, Sylhet, in Miscellaneous Case No.03 of 2017 should not be condoned and/or such other order or orders be passed as to this Court may seem fit and proper.

The relevant facts, in short, are that the present petitioner, as plaintiff, instituted Title Suit No.81 of 2012 on 23.07.2012 in the Court of the learned Assistant Judge, Jaintapur, Sylhet, seeking declaration that a settlement deed was illegal and collusive. The suit was contested by the defendants and was dismissed by judgment and decree dated 26.10.2014 (decree signed on 03.01.2015).

Being aggrieved, the petitioner preferred Title Appeal No.62 of 2015 before the District Judge, Sylhet, which was transferred to the Court of the learned Additional District Judge, Fourth Court, Sylhet. That appeal was dismissed for default on 02.03.2017. The petitioner then filed Miscellaneous Case No.03 of 2017 under Order XLI Rule 19 CPC with a delay of 227 days. Upon hearing both parties, the learned Additional District Judge dismissed the miscellaneous case on 11.02.2018, finding the explanation for delay unsatisfactory.

Thereafter, the petitioner, after about six years, filed this revisional application under section 115(1) CPC along with an application under section 5 of the Limitation Act, praying for condonation of 2028 days' delay.

Mr. Surajit Bhattachargee, learned Advocate for the plaintiff-respondent-petitioners submits that the delay was not deliberate; it

was occasioned by the illness of the previously engaged lawyer and the poverty of the petitioners, who are simple villagers and day labourers. It is argued that the petitioners should not suffer for the lapses of their lawyer and that substantial justice requires that the revision be heard on merits.

On the contrary, Mr. Md. Yousuf Ali, learned Deputy Attorney-General, appearing for the opposite-parties, submits that the petitioners were fully aware of the proceedings and had even contested the miscellaneous case. Therefore, the plea of ignorance is untenable. He contends that the delay of 2028 days is hopelessly barred, with no satisfactory explanation, and that condoning such inordinate delay would frustrate the principle of finality.

It is by now well-settled that delay in filing a proceeding cannot be condoned as a matter of routine or course. The provision of section 5 of the Limitation Act confers a discretionary power upon the Court, but that discretion must be exercised judiciously and only upon a satisfactory explanation being offered. The explanation must be convincing, cogent, and free from negligence or laches. Where the delay is inordinate, as in the present case involving 2028 days, almost six years, the burden on the applicant is proportionately heavier, requiring an exceptionally satisfactory and credible explanation to justify interference. Mere perfunctory or casual statements cannot be

accepted as sufficient cause to wipe away the statutory bar of limitation. Inordinate delay, unless properly and satisfactorily explained, cannot be condoned as it militates against the principle of finality in litigation. The “liberal” condonation cannot extend to condoning negligence, inaction, or lack of bona fide.

In the case at hand, the explanation advanced by the petitioners falls far short of satisfaction and does not constitute “sufficient cause” within the contemplation of section 5 of the Limitation Act. The record reveals that the appeal was dismissed for default; thereafter, the petitioners moved a miscellaneous case for restoration which itself was filed with a delay of 227 days. That explanation was found unsatisfactory, and the miscellaneous case was dismissed on contest after hearing both parties. The petitioners were thus fully aware of the fate of their litigation. Yet, for nearly six long years, they chose to remain inactive and indolent, and have now come before this Court with vague and general assertions that their lawyer was ill and that they themselves are poor and unversed in court procedure. Such grounds, unsupported by any credible material, cannot by any stretch of reasoning justify condonation of an inordinate delay of 2028 days. A party seeking condonation must show that despite acting with due diligence, it was prevented by sufficient cause, an element glaringly absent in the present case.

The principle is well-rooted that the law aids the vigilant and not those who sleep over their rights. If such inordinate delays were to be condoned on flimsy and unconvincing grounds, the principle of finality of litigation would be frustrated, judicial discipline would be undermined, and litigants would inevitably lose confidence in the authority of the courts. The justice delivery system cannot encourage lethargy, inaction, or negligence on the part of litigants or their counsel. Courts must maintain a balance between doing substantial justice to a diligent litigant and ensuring certainty and finality in judicial proceedings. In the absence of any satisfactory cause being shown, and, this Court finds no reason to condone the delay of 2028 days in the present case.

In view of the above discussions, the application under section 5 of the Limitation Act is rejected. Consequently, the revisional application being hopelessly barred by limitation also fails.

Accordingly, the Rule is discharged.

Let the order be communicated at once.

**(Justice Md. Toufiq Inam)**