

Present:
Mr. Justice Sheikh Abdul Awal
and
Mr. Justice Md. Rafizul Islam

First Miscellaneous Appeal No. 169 of 2015

In the Matter of:

Bngladesh General Insurance Co.Ltd
Plaintiff-Appellant.

-Versus-

Bangladesh Biman Corporation and others
 Defendant-Respondents.

No one appears

....For the appellant.

Mr. Ataur Rahman, Advocate

....For the respondents.

Judgment on 16.07.2026

Sheikh Abdul Awal, J:

This First Miscellaneous Appeal is directed against the order dated 22.01.2015 passed by and learned Joint District Judge, Arbitration Court, Dhaka in Miscellaneous Case No. 8 of 2014 arising out of Money Suit No. 33 of 2013 rejecting the application under Order 9, Rule 9 of the Code of Civil Procedure.

No one appears to press the Appeal on repeated calls despite of fact that this appeal has been appearing in the list for a number of days with the name of the learned Advocates.

In view of the fact that this petty old First Miscellaneous Appeal of 2015 arising out of an order has been dragging before this Court over a period of 25 years, we are inclined to take it up for disposal on merit perusing the available materials on record.

On a scrutiny of the record, it appears that appellant as plaintiff filed money suit No. 33 of 2013 in the Court of the learned Joint

District Judge, Arbitration Court, Dhaka. Ultimately the suit was dismissed for default on 16.04.2014. Thereafter, the plaintiff filed a miscellaneous case under Order 9, Rule 9 of the Code of Civil Procedure on 28.09.2014 with an application for condoning the delay of 166 days in filing the miscellaneous case. The learned Joint District Judge after perusing the application and other materials on record by his order dated 22.01.2015 rejected the miscellaneous case on the ground of limitation holding that- “আমি মনে করি, এক আদালত হতে অন্য আদালতে মোকদ্দমা বদলী হলে বিজ্ঞ কৌশলী বা মোকদ্দমার পক্ষগণের মোকদ্দমার বিষয়ে খোজ খবর রাখা উচিত। এই বিষয়ে যে আদালত হতে মোকদ্দমা বদলী হয় এবং যে আদালতে মোকদ্দমা বদলী হয়, উভয় আদালতেই বদলীর বিষয়টি রেজিস্ট্রার সংরক্ষিত থাকে। ফলে বদলী জনিত কারণে মোকদ্দমার খোজ নিতে না পারার যুক্তি আমার নিকট গ্রহণ যোগ্য বলে প্রতীয়মান হয় না। ফলে ১৬৬ দিনের তামাদি মওকুফের প্রার্থনা নামঞ্জুর করা হলো।”

This findings certainly indicates that the learned Joint District Judge, Arbitration Court, Dhaka considered all the material aspects of the case and thereafter, recorded the reasons of rejection. The reasonings given by the learned Joint District Judge appear to us to be proper and sound and we, do not find any reason to differ from it. The impugned order appears to be well founded in law and facts. No interference, is therefore, called for.

In the result, the First Miscellaneous appeal is dismissed without any order as to costs. The impugned order dated 22.01.2015 is hereby maintained.

Communicated the order at once.

Md. Rafizul Islam, J:

I agree.