

Present:  
**Mr. Justice Md. Khairul Alam**

**Civil Revision No. 2632 of 2015.**

Shahed Mia and others.

..... -Petitioners.

-Vs-

The Government of the People's Republic of  
Bangladesh, represented by the Deputy Commissioner,  
Habiganj.

.....-Opposite party.

Mrs. Joya Bhattacharjee, Advocate

...For the petitioners.

Mr. Jahangir Ahmed Khan, D.A.G

..... For the opposite party.

**Heard on 20.08.2025 &**

**Judgment on 28.08.2025.**

This Rule was issued calling upon the opposite party to show cause as to why the impugned order dated 30.04.2015 passed by the learned District Judge, Habiganj in Title Appeal No. 124 of 2013 condoning the delay of 6105 days in filing the appeal challenging the judgment and decree dated 13.02.1997 passed by the learned Senior Assistant Judge, Habiganj in Title Suit No. 92 of 1995 should not be set aside.

Relevant facts for disposal of the Rule are that the suit land originally belonged to one Rais Ullah Miah, who sold the same to the predecessor of the present petitioners (hereinafter referred to as the plaintiff) by a registered deed dated 18.04.1968. The land was found erroneously recorded in the name of the Government. Against such erroneous recording, the plaintiff filed Miscellaneous Case No. 19 of 1970

under section 143A of the State Acquisition and Tenancy Act, 1951 before the 1<sup>st</sup> Court of Munsif, Habiganj. The miscellaneous case was allowed on 13.04.1973, directing correcting the record-of-rights (ROR) by inserting the name of the plaintiff in place of the Government. Challenging that order, the Government instituted Title Suit No. 210 of 1975, which was decreed. Then the plaintiff preferred Title Appeal No. 17 of 1978. The Title Appeal was allowed, and thereby Title Suit No. 210 of 1975 filed by the Government was dismissed and the order dated 13.04.1973, directing the authorities to correct the ROR by inserting the name of the plaintiff in place of the Government, was upheld. The Government neither moved to the higher forum against the said judgment and decree of Title Appeal No. 17 of 1978, nor complied with the direction dated 13.04.1973. Hence, the plaintiff was compelled to institute the instant suit i.e., Title Suit No. 92 of 1995, in the Court of Senior Assistant Judge, Nabiganj, Habiganj, seeking a mandatory injunction directing the defendants to comply with the order dated 13.04.1973 passed in Miscellaneous Case No. 19 of 1970.

The Government contested the suit by filing a written statement denying the material allegations made in the plaint. The case of the Government, in short, is that the suit is not maintainable in its present form and the same is want of cause of action. The further case of the Government is that since the boundary of the suit land is not perfectly specified, therefore, the suit is not maintainable.

During the trial, both parties adduced both oral and documentary evidence. The documentary evidence adduced by the parties were duly exhibited.

After conclusion of the trial, the learned Senior Assistant Judge, Nabiganj, Habiganj, by judgment and decree dated 13.02.1997, decreed the suit, directing the defendants to insert the plaintiff's name in place of the Government in the suit khatian within 120 days.

Against the said judgment and decree the Government preferred Title Appeal No. 124 of 2013 in the Court of District Judge, Habiganj with a delay of 6105 days. The learned District Judge, by the impugned order dated 30.04.2015, condoned the delay and admitted the appeal.

Being aggrieved thereby the petitioners moved before this Court and obtained the Rule and an order of stay.

Mrs. Joya Bhattacharjee, the learned Advocate appearing on behalf of the petitioners, submits that in the application for condonation of delay, sufficient cause for each day's delay was not provided. However, the Court of Appeal below, without considering the facts and circumstances, condoned the delay and thereby committed an error of law resulting in an error in the decision occasioning failure of justice.

Per contra, Mr. Jahangir Ahmed Khan, the learned Deputy Attorney General appearing for the opposite party, submits that the Government is required to depend upon various authorities for a decision and, due to fault on the part of those authorities, the appeal could not be filed within the prescribed period. Therefore, the Court of Appeal below rightly condoned the delay. He further contends that the suit was for a permanent injunction, but the property was not properly described in the schedule, and as such, on the basis of vague and unspecified land, the suit for permanent injunction is not maintainable. Nevertheless, the trial court,

without considering this vital aspect, decreed the suit. Since there is merit in the appeal, the Court of Appeal below rightly condoned the delay.

I have heard the learned Advocates for both sides and perused the revisional application, the impugned order, and other materials on record.

It appears that the plaintiff purchased the land by registered deed, but the land was found recorded in the name of the Government. Then the plaintiff filed a miscellaneous case under section 143A of the State Acquisition and Tenancy Act, 1951. The miscellaneous case was allowed on 13.04.1973, directing the authorities to correct the ROR by inserting the name of the plaintiff in place of the Government. Challenging that order dated 13.04.1973, the Government instituted Title Suit No. 210 of 1975, which was decreed, but the decree was set aside in Title Appeal No. 17 of 1978, and thereby the order dated 13.04.1973, directing the authorities to correct the ROR by inserting the name of the plaintiff in place of the Government, was restored. The authority neither moved to the higher forum against the said judgment and decree passed in Title Appeal No. 17 of 1978, nor complied with the said direction dated 13.04.1973 which led to the filing of the present suit i.e., Title Suit No. 92 of 1995. The suit was decreed by the trial Court on 13.02.1997, directing the defendants to insert the plaintiff's name in place of the Government in the suit khatian within 120 days. The Government neither complied with the said decree, nor preferred any appeal against the judgment and decree passed in Title Appeal No. 17 of 1978, but preferred an appeal against the judgment and decree of Title Suit No. 92 of 1995 with an inordinate delay of 6105 days. The learned District Judge by the impugned order condoned the inordinate delay in the following manner:-

“অদ্য আপত্তি শুনানীর জন্য ধার্য আছে। উভয় পক্ষ হাজিরা দিয়াছেন নথী তামাদি শুনানীর জন্য পেশ করা হইল। শুনলাম। তামাদির আইনের ৫ ধারার বিধান মতে আনীত দরখাস্ত সহ নথী পর্যালোচনা করিলাম। পর্যালোচনায় দেখা যায় সরকার আপীল্যান্ট মূল মোকদ্দমার বিবাদী ছিলেন। তামাদি দরখাস্ত মঞ্জুর করার যুক্তি সংগত কারণ বিদ্যমান রহিয়াছে। কাজেই আপীল্যান্ট পক্ষের বিগত ১২/১১/২০১৩ ইং তারিখের দাখিলী তামাদি আইনের ৫ ধারার বিধান মতে ৬১০৫ দিন বিলম্ব মওকুফ (condoned) হওয়ার দরখাস্ত ন্যায় বিচারের স্বার্থে মঞ্জুর করা হইল। নিম্ন আদালতের নথী তলব করা হইল। আগামী ২৮/৬/২০১৫ ইং তারিখ নিম্ন আদালতের নথী প্রাপ্তি।”

From the said order, it appears that the Court below, without assigning any proper reason, condoned the inordinate delay. On perusal of the application filed before the Court of Appeal below under section 5 of the Limitation Act for condoning the delay in filing the appeal, I do not find any "sufficient cause" for explaining every day's delay.

In the case of Bangladesh Vs. Abdur Sobhan and others, 73 DLR (AD) 1, our apex Court held that “sufficient cause” should be considered with a justice-oriented approach, but no separate standards to determine the cause laid by the Government vis-à-vis private litigant could be laid to prove strict standards of "sufficient cause. The Court must nonetheless be satisfied that sufficient cause exists for the delay, including the merit of the case.

The plaintiff purchased the land, but the record of the land was found in the name of the Government. Then the plaintiff filed a miscellaneous case to correct the record and obtained a decree on 13.04.1973. Challenging that order, the Government instituted Title Suit No. 210 of 1975, which was decreed, but the decree was set aside in Title Appeal No. 17 of 1978, and thereby the order dated 13.04.1973, directing the authorities to correct the ROR by inserting the name of the plaintiff in

place of the Government, was restored. Therefore, the authority is duty-bound to comply with the said direction so long as the same is not set aside by the competent forum. Therefore, this Court is of the view that preferring a revision against the judgment and decree passed in Title Appeal No. 17 of 1978 can be a proper forum for the Government, but pursuing the judgment and decree of this present suit is futile and untenable.

In view of the above discussions and relying on the principles laid down in 73 DLR (AD) 1, and other authorities, I find merit in the Rule.

Accordingly, the Rule is made absolute.

The impugned order dated 30.04.2015 passed by the learned District Judge, Habiganj in Title Appeal No. 124 of 2013 condoning the delay of 6105 days in filing the appeal is hereby set aside.

The order of stay granted earlier by this Court is recalled and vacated.

Let a copy of this judgment and order be communicated to the Courts below at once.