

Present:-

Mr. Justice Mahmudul Hoque

Civil Rule No. 397 (Con) of 2023

The Secretary, Ministry of Public Works and Urban Development, Government of the People's Republic of Bangladesh, Bangladesh Secretariat Building, Dhaka and others

... Petitioners

-Versus-

Md. Khairul Hossain and others

...Opposite-Parties

Ms. Mahbuba Akter Jui, DAG with

Mst. Rohani Siddiqua, AAG and

Mr. Manowarul Islam, AAG

...For the Petitioners

Mr. M.M. Shafiullah, Advocate with

Mr. Ashikur Rahman, Advocate

..For the Opposite-Party Nos.1, 5 and 10.

Judgment on 07th November, 2024.

On an application under Section 5 of the Limitation Act, this Rule was issued on 09.01.2023 calling upon the opposite-parties to show cause as to why the delay of 5694 days in filing the Civil Revision against the impugned judgment and decree dated 08.03.2005 passed by the learned Additional District Judge, 7th Court, Dhaka in Title Appeal No. 145 of 2003 disallowing the appeal and thereby affirming the judgment and decree dated 31.05.1993 and 16.09.1993 respectively passed by the learned Joint District Judge, 2nd Court, Dhaka in Title Suit No. 513 of 1993 decreeing the suit on review in Miscellaneous Case (Review) No. 30 of 1993 should not be condoned and/or pass such other or

further order or orders passed as to this Court may seem fit and proper.

Ms. Mahbuba Akter Jui, learned Deputy Attorney General appearing for the petitioner-government submits that the revisional application against the judgment and decree dated 08.03.2005 passed by the learned Additional District Judge, 7th Court, Dhaka in Title Appeal No. 145 of 2003 disallowing the appeal and thereby affirming the judgment and decree dated 18.09.2002 passed in Miscellaneous Case (Review) No. 30 of 1993 on review of the judgment and decree dated 31.05.1993 passed by the learned Joint District Judge, 2nd Court, Dhaka in Title Suit No. 513 of 1990 decreeing the suit at a delay of 5694 days and filed this application for condonation of such delay, on the ground that because of delay in communication between the different offices of the government and delay caused in drafting civil revision by the Attorney General Office, revision could not be filed within time. She submits that the delay was not intentional and there is no laches on the part of the government. Unless the delay is condoned, the government will suffer irreparable loss, as such, prays for condonation of such delay.

Opposite-party Nos. 1, 5 and 10 filed counter-affidavit against the application for condonation of delay.

Mr. M.M. Shafiullah appearing with Mr. Ashiqur Rahman, learned Advocates for the opposite-parties submit that the heirs of alleged lessee of the government named Abu Taher also filed Civil Revision No. 1861 of 2005 against the same judgment by the trial court and the appellate court. The government preferred Title Appeal No. 145 of 2003 and the alleged lessee of the government filed Title Suit No. 553 of 2002. Both the appeals were disallowed by the appellate court. The instant appeal was disallowed on the same date against the judgment and decree passed in Title Appeal No. 553 of 2002. Both the appeals were heard and disposed of disallowing the same. Thereafter, the lessee preferred Civil Revision No. 1861 of 2005 in which the government was opposite-parties. Said Civil Revision was heard and disposed of by this Court on 07.04.2022. No appeal has yet been preferred against the judgment and decree before the Appellate Division. This instant civil revision has been preferred by the government for the self same property and against the same judgment and decree passed by the trial court at a delay of 5694 days. He submits that once the matter has been finally settled before this Court in a separate revision, the government-petitioner has no locus standi to pursue this revision at a delay of 5694 days, as such, the Rule is liable to be discharged.

Heard the learned Deputy Attorney General Ms. Mahbuba Akter Jui for the government-petitioners and Mr. M.M. Shafiullah for the opposite-parties, have gone through the application for condonation of delay and the judgment and decree passed by both the courts below.

Admittedly, the suit was filed by the opposite-parties against the government and others for declaration that the property is not abandoned property. The suit was decreed on review. Thereafter, the government preferred Title Appeal No. 145 of 2003 and the lessee preferred Title Appeal No. 553 of 2002. Both the appeals were heard and disposed of by the Additional District Judge, 2nd Court, Dhaka and by the judgment and decree dated 08.03.2005, both the appeals were disallowed affirming the judgment and decree of the trial court. Thereafter, the lessee of the government preferred Civil Revision No. 1861 of 2005 which was heard and disposed of by this Court on 07.04.2022. This instant civil revision has been preferred by the government against the same judgment and decree passed by the trial court as well as passed by the appellate court in Title Appeal No. 145 of 2003 at a delay of 5694 days. The explanation given in the application constitutes no sufficient cause for such delay. Moreover, it was in the knowledge of the government that the appeal was dismissed on 08.03.2005 as appearing from the application for condonation

of delay. In one hand, causes shown in the application constitutes no sufficient cause and on the other hand the judgment and decree under challenge in this revisional application has already been adjudicated upon in an earlier Civil Revision No. 1861 of 2005 by judgment of this Court dated 07.04.2022. However, to appreciate whether in the event of condoning delay the petitioner-government has any possibility for succeeding in the revision. I have gone through the judgment passed by this Court in earlier civil revision and find that the matter already disposed of by this Court and there cannot be any question to entertain another civil revision filed by the government after long long delay, as such, I find no merit in the application and reason for condonation of delay. Accordingly, the application deserves no consideration. Moreover, it discloses no sufficient cause for such delay as there has been serious laches on the part of the petitioners.

Taking into consideration the above, this Court finds no merit in the Rule.

In the result, the Rule is discharged, however, without any order as to costs.

The revisional application under Section 115(1) of the Code of Civil Procedure is hereby rejected summarily being hopelessly barred by limitation and already decided in an earlier Civil Revision No. 1861 of 2005.

Communicate a copy of the judgment to the Court concerned at once.

Helal/ABO