



READER'S queries



Your Advocate



Your advocate is Mr. Probir Neogi of the Supreme Court of Bangladesh.

Q: My father died last year. He didn't make any will. So far as I know, the successors of my father will inherit his property as per Muslim law

Your Advocate: So far the first part of your query is concerned, your knowledge is correct if you mean by the term "male successors" and "female successors", son(s) and daughter(s) respectively

Your mother's property, after her death will also be distributed among her heirs according to the same rule as mentioned above

LAW excerpt

Freedom of assembly infringed



Picture: The paramilitary BDR personnel are on guard on the road leading to the Teachers and Students Centre (TSC) on Dhaka University campus

News: Around 1,000 law enforcers deployed on the Dhaka University campus on 11 September 2002 foiled a scheduled mass gathering of students

Excerpt: Every citizen shall have the right to assemble and to participate in public meetings and processions peacefully and without arms

Law Desk: There was no report that the students were brandishing arms or that they were trying to bring out a violent procession

Corresponding Law Desk

Please send your mails, queries, and opinions to: post - Law Desk, The Daily Star, 19 Karwan Bazar, Dhaka-1215

Star LAW report

No explanation, no condonation

High Court Division (Civil Revisional Jurisdiction) The Supreme Court of Bangladesh Abdul Jalil V Government of Bangladesh and others

Background: In this Civil Revision, filed under section 115(1) of the Code of Civil Procedure, the petitioner challenges the judgement and decree dated 5-11-1996

The brief facts are that the petitioner, as plaintiff, instituted a suit for declaration of title before the learned Assistant Judge, Meherpur



Defendants no. 2 and 3, being opposite parties no. 1 and 2, appeared in the suit by filing written statement denying the allegations in the plaint

The learned Assistant Judge decreed the suit. The opposite parties no. 1 and 2 filed an appeal, which was allowed. The judgement and decree of the lower appellate Court is now challenged before this Court

Submission

The learned Advocate emphatically argued that the decision of the learned Judge of the appellate Court to condone the delay after hearing the appeal

The learned Assistant Attorney General appearing for the opposite parties argued that the Rule in the instant revisional application was against the substantive judgement and not against the condonation of delay and,

therefore, that matter cannot now be agitated.

The learned Advocate for the petitioner submitted that since the condonation of delay has formed part of the judgement itself, the petitioner is entitled to challenge the condonation of delay while challenging the substantive judgement in this revisional application.

Deliberation

It appears from the judgment of the appellate Court that the learned Judge has dealt with the appeal on merit and decided the issues in favour of the appellant

Evidently the petitioner has sought condonation of delay for the period between the passing of the judgment and decree to the time of application for the certified copy

It is a settled principle of law that the power to condone delay as given under section 5 of the Limitation Act is within the discretion of the Court

"Any appeal or application for (a revision or) a review of judgment or for leave to appeal or any other application to which this may be made applicable (by or under any enactment) for the time being in force may be admitted after the period of limitation prescribed therefor, when the appellant or applicant satisfies the Court that he had sufficient cause for not preferring the appeal or making the application within such period."

The provisions of section 5 of the Limitation Act are such that the applicant is bound to satisfy the Court that he had sufficient cause for not preferring the appeal within the stipulated period

The discretion exercised by the learned Judge of the appellate Court in condoning the delay is against the weight of evidence inasmuch as the application filed under section 5 of the Limitation Act did not at all explain the delay in filing the appeal in receiving certified copy of the judgment and decree of the trial Court

Decision

Since the learned Judge of the appellate Court did not properly exercise discretion in condoning the delay in filing the appeal, it, therefore, goes without saying that the appeal could not have been heard by the learned Judge

In the result, the instant Rule is made absolute, the judgment and decree passed by the learned District Judge, Meherpur in Title Appeal No. 57 of 1995 is hereby set aside.

Md Ahia, Advocate for the Petitioner; AHM Mushfiqur Rahman, Assistant Attorney General for the Opposite Parties.

LAW letter

Report of Transparency International

It is reported in different newspapers that Bangladesh is the most corrupt country according to Transparency International

Ashaduzzaman Kaisar

Dept. of Law, University of Chittagong.

Trial of war criminals

War crime is a perennial legal issue in Bangladesh. Thirty years have passed since our liberation war, but all the governments have failed to bring the war criminals to book

Imran Ahmed

Mohammadpur, Dhaka.

LAW quotation

"The law hath not been dead, though it hath slept." Angelo, in 'Measure for Measure' by William Shakespeare (1564-1616)

"The law cannot be enforced when everyone is an offender." Chinese proverb.

"The law is not a 'light' for you or any man to see by; the law is not an instrument of any kind. The law is a causeway upon which so long as he keeps to it a citizen may walk safely."

Robert Bolt (1924-1995), British playwright.

FOR YOUR information

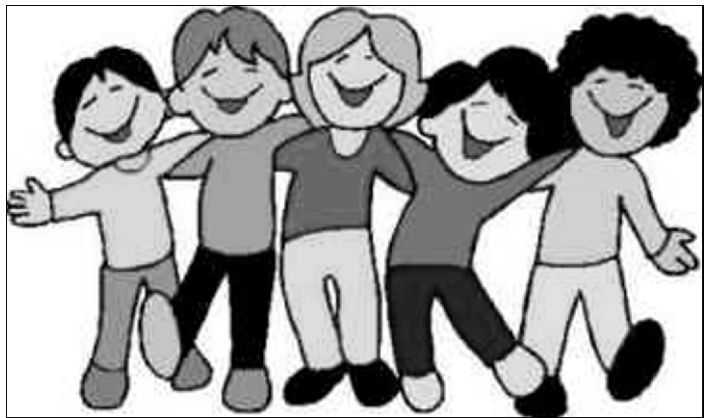
Children, stay safe!

LAW DESK REPORT

Crimes against children are increasing day by day. A survey recently conducted by Bangladesh Shishu Adhikar Forum reveals that 578 children were killed, 486 were kidnapped and 771 were lost during the period of September 2001 to August 2002

Rule 1. Don't go out alone

There is safety in numbers in following this rule and this rule isn't just for little kids, it applies to everyone



Rule 2. Always tell an adult where you're going

Letting someone know where you'll be at all times is smart. If you're faced with a risky situation or get into trouble, your family and friends will know where to find you.

Rule 3. Always tell your parents with whom you are going

Remember danger does not always come from strangers. Sometimes it comes from someone very much known to you or your family

Rule 4. Say no if you feel threatened

If someone -- anyone -- touches you in a way that makes you feel uncomfortable, you have the right to say no

LAW week



Violation of human rights under Special Powers Act

Most of the governments in power have violated human rights indiscriminately under the guise of preventive detention, according to a report of the UNDP

Reintroduction of the Upazila Parishad

The government has decided to reintroduce the Upazila Parishad in order to decentralise the administration. The Upazila Parishad was introduced by the military ruler in 1985 to strengthen the local government

Private University Law will be enacted

The government will enact private university law to control academic functions of private universities. The law will be enacted as per recommendation of the law commission

Deadlock in Chittagong Labour Court

A deadlock is prevailing in the first Labour Court in Chittagong as the District Bar Association has continued to boycott the court

Law and order situation deteriorated in Keraniganj

The law and order situation of Keraniganj is deteriorating alarmingly. During the last four months 27 killing, 21 dacoity, 104 extortion and 5 abduction have taken place in this thana

Warrant issued against dead persons!

Warrant of arrest has been issued against 14 dead persons in Kotwali Thana of Jessore district. Police forces are trying their best to execute the warrant order

Murder cases against police

Four different murder cases have been filed against the police officials of the Dhaka Metropolitan Magistrate Court

Adulterated food sold in open market

Adulterated foods are being sold in different markets of Feni district. The different raw food items like ata, rice, sugar, salt, oil, ghee are being adulterated and sold in the market

Advocacy for uniform family code

The speakers at a seminar advocated for the uniform family code abolishing conflicts between existing state laws and the personal laws of different religion in the country

Benazir Bhutto's appeal rejected

The Election Tribunal of Pakistan has rejected all the three appeals of the former Prime Minister of Pakistan Benazir Bhutto against the decisions barring her from taking part in the October 10 general election