

16 SCOB [2022] HCD 37**HIGH COURT DIVISION**

Civil Revision No. 1538 of 2018

Abedun Nessa...Defendant-Respondent-Petitioner
-Vs-**Jaher Sheikh and others**

...Plaintiffs-Appellants -Opposite Parties

Mr. Faisal Mahmud Faizee with Mr.
Sarker Muhammad Al Amin, Advocates.
...For the petitionerMr. Mohammad Ali Zinnah, Advocate.
....For the Opposite Party
Nos. 1-3, 5(Ka), 6-8.Heard on 17.08.2021, 22.08.2021,
23.08.2021, 24.08.2021 and
Judgment on 26.08.2021**Present:****Mr. Justice Md. Rezaul Hasan****Editors' Note:**

This is a suit for cancellation of deed in which the main contentions of the plaintiffs are that, the disputed *Nadabinama* deed was not executed within the knowledge of the plaintiff No. 3 who was minor at the time of execution of the said deed and he did not go to the concerned Sub-Registrar's office for execution or registration of the deed. Further, before obtaining signature of the plaintiff Nos. 1 and 2 in the said *Nadabinama*, it was not read out, nor explained to them. Their signatures were obtained by misleading them about the contents of the deed saying that it was a deed for partition, to be prepared on amicable settlement of their respective share in the suit property. The trial court dismissed the suit but the appellate court allowing the appeal, reversed the judgment and decree of the trial court. The defendant-respondent, as the petitioner, preferred civil revision before the High Court Division. High Court Division on assessment of evidence of DW-3 held that the disputed deed was not read out to the plaintiffs who were illiterate rural people before receiving their signatures on it as the executants. It also held that the requirement to read out a document to the executants before execution is a usage and custom having the force of law. High Court Division also found that the findings of the appellate Court relating to limitation and burden of proof are correct and as such it discharged the Rule.

Key Words:

Cancellation of a deed; Requirements in case of execution of a deed; Section 102 of the Evidence Act; Custom; Section 18 of the Limitation Act, 1908

Reading out a document to the executants before execution, is an usage and custom having the force of law:

The requirement to read out a document to the executants before execution, is an usage and custom followed from the time immemorial. This custom, having the force of law, requires to record the fact in a deed, that the same was read out and explained to the executants, so that it can be inferred that they have executed the deed voluntarily and having understood the contents of the same. Unless a deed is read out to the executants, it cannot be said that they had understood its contents and had voluntarily executed the same. However, there might be exception to this Rule and this might not be fatal in each

case and the application of this Rule will depend upon the facts and circumstances peculiar to each case. ... (Para 20)

Section 18 of the Limitation Act, 1908:

The appellate court has rightly held that the limitation period will be counted from the date of knowledge, which is as per provisions of section 18 of the Limitation Act, 1908. The appellate court has accurately found that the suit is not barred by limitation, because the limitation period shall be counted from the date of knowledge of this impugned *Nadabinama* deed obtained by practicing fraud upon the executants and that the plaintiffs have derived knowledge about the contents of the disputed deed on the date of obtaining certified copy on 20.05.1998. ... (Para 22)

Section 102 of the Evidence Act 1872, burden of proof:

As regards the burden to prove the fact that the impugned deed was obtained from executants by misleading them, the trial court has held that the burden of proof lied upon the plaintiffs, since, the plaintiffs disowned the *Nadabinama* deed. The appellate court was of the view that, this burden lied on the defendants. Having considered the provisions of section 102 of the Evidence Act, 1872, in the light of the facts and circumstances of this case, I am of the considered view that the burden to prove genuineness of this disputed *Nadabinama* deed lied upon the defendants, once the genuineness of the said deed has been denied by the plaintiffs. It is the defendant, who want from the court to believe their case that the *Nadabinama* (deed of surrender) was a genuine deed and it is they would loss in the trial court if the deed was not proved to be genuine one. The law of evidence would not facilitate forgery by unlawfully putting the burden on the victims of forgery. Therefore, finding of the appellate court on this issue is correct. ... (Para 23)

JUDGMENT

Md. Rezaul Hasan, J.

1. This Rule has been issued calling upon the opposite parties to show cause as to why the impugned judgment and decree dated 18.04.2018 (decree signed on 26.04.2018), passed by the Special District Judge, Jamalpur, in Other Appeal No.2 of 2002, allowing the appeal and thereby reversing the judgment and decree dated 11.09.2001 (decree signed on 17.09.2001), passed by the Assistant Judge, Islampur, Jamalpur, in Other Class Suit No.55 of 1998, should not be set-aside and/or pass such other order or orders passed as to this Court may seem fit and proper.

2. Facts, relevant for disposal of the Rule, in brief, are that one Jaher Sheikh and others, as plaintiffs, filed Other Class Suit No.55 of 1998, before the court of Assistant Judge, Islampur, Jamalpur, against Most. Abedun Nessa, wife of Kalu Sheikh and the Government of Bangladesh, represented by the Deputy Commissioner, Jamalpur, in which they have prayed for cancellation of the deed No.1628 dated 12.03.1982, registered in the office of the Sub-Registrar, Islampur, Jamalpur. The main contentions of the plaintiffs are that, the disputed *Nadabinama* (or the deed of surrender), was not executed within the knowledge of the plaintiff No. 3 Sundor Ali, who was minor at the time of execution of the disputed deed and that, the plaintiff did not go to the concerned Sub-Registrar's office for execution or registration of any *Nadabinama* deed and that before obtaining signature of the plaintiff Nos. 1 and 2 of the said *Nadabinama*, it was not read out, nor explained to the plaintiff Nos. 1 and 2. It has been further stated in paragraph No. 2 of the plaint that, the signatures of the

plaintiffs Nos. 1 and 2 of the said *Nadabinama* was obtained by misleading them about the contents of the deed saying that it was a deed for partition, to be prepared on amicable settlement of their respective share in the suit property, lying under the joint R.O.R. Khatian, marked as exhibit 1, 2 and 2(Ka). I have gone through averments made in the plaint, which is maintained in the L.C.R.

3. The defendant No. 1, Abedul Nessa, had appeared and contested in this suit by filing written statements, denying all material allegations made in the plaint and further stating her case at paragraph No. 12 of the written statements. I have also gone through the statement made in the written statement, which is lying in LCR. The Government was made pro-forma defendant, but the Government did not contest in this suit.

4. The plaintiffs had examined 3 witnesses namely, P.Ws. 1-3, to prove the case of the plaintiffs and had also produced and proved certain documents, marked as exhibit 1, 2, 2(Ka) and 3, in support of their case. On the other hand, the defendants had examined 5 witnesses namely, D.Ws. 1-5, to support their case. The defendant's side proved certain documents, marked as exhibit "Ka" to "Cha" series.

5. The trial court, after hearing the parties and having assessed the evidences on record, had dismissed the suit, vide its judgment and decree dated 11.09.2001 (decree signed on 17.09.2001).

6. Against the said judgment and decree of the trial court, the plaintiffs preferred Other Appeal No.2 of 2002, before the District Judge, Jamalpur, which was heard by the Special District Judge, Jamalpur. In appeal, one Mizanur Rahman, Assistant Record Keeper, *Mohafezkhana*, Mymensingh, was examined as A.P.W.-1. The appellate court, after hearing the parties and having considered the evidences on record, has allowed the appeal, reversed the judgment and decree of the trial court, vide the impugned judgment and decree dated 18.04.2018 (decree signed on 26.04.2018).

7. Being aggrieved by and dissatisfied with the said judgment and decree of the appellate court, the defendant-respondent, as the petitioner, has filed this application under section 115(1) of the Code of Civil Procedure, 1908, and obtained the present Rule.

8. Learned Advocates Mr. Faisal Mahmud Faizee and Mr. Sarker Muhammad Al Amin appeared on behalf of the petitioner. Mr. Faizee, having placed the revisional application and other materials on record, mainly submits that, the trial court has found that, the suit is barred by limitation, but the appellate court has taken a view different from that of the trial court, without giving any specific finding. Referring to the deposition of P.W. 3, who was an attesting witness, the learned Advocate submits that, the attesting witness was not supposed to know whether the impugned *Nadabinama* deed was read over to the executants (plaintiff Nos. 1 and 2). He also submits that, there is no law that requires that a deed must be read out to the executants before it is signed by them. As regards the credibility of the D.W. 1, with reference to his deposition, the learned Advocate submits that, the fake deed that the D.W. 1 had narrated as genuine in his deposition, was not relevant for the purpose of this case in as much as that deed was not the disputed deed. He mainly emphasises that, there was no case of forgery about the disputed deed. Besides, he further submits that, in their deposition the plaintiff's witnesses had nowhere stated that this impugned *Nadabinama* deed was obtained from the executants by making any misrepresentation. He also adds to his submission that, the plaintiff ought to have proved that they were misled by the defendant No. 1 in obtaining

the *Nadabinama* deed. He continues that, the impugned deed was executed by the plaintiffs Nos. 1 and 2 knowing fully well that it was a *Nadabinama* and that, the plaintiff Nos. 1 and 2 did not come before the court to depose that the disputed *Nadabinama* deed was obtained by misleading them. Therefore, he submits, the judgment and decree passed by the trial court was passed on proper appreciation of the evidence on record, but the findings of the appellate court are not based on proper appreciation of evidence before him and that the appellate court's findings are wrong and, as such, he sums up that, the appellate court has committed grave error of law in passing the impugned judgment and decree and that has resulted in error in the said decision, occasioning failure of justice. He concludes that, this Rule has merit and the same may kindly be made absolute.

9. On the contrary, Mr. Mohammad Ali Zinnah, the learned Advocate appearing on behalf of the opposite party Nos. 1-3, 5(Ka), 6-8, submits that, it is an admitted position that, the plaintiff No. 3, Md. Sundor Ali was a minor at the time of execution of the *Nadabinama* deed on 12.03.1982. It is also an admitted position that no guardian was appointed by any competent court, nor any sale permission was obtained on behalf of the plaintiff No. 3, to execute the impugned *Nadabinama* deed or any other deed. He also submits that, the trial court by its judgment and decree dated 11.09.2001 has dismissed the entire suit without any decision as regards the right and interest of the minor. He next submits that, the P.W. 1 Md. Sundor Ali (plaintiff No.3) is a party to the suit and is competent to depose as per section 120 of the Evidence Act and, in his deposition, he has made it clear that other plaintiffs are his brothers and he has gave deposition on their behalf. Therefore, the P.W. 1 has narrated the entire case of the plaintiff and has proved the R.O.R. khatians, which were marked as exhibit 1, 2 and 2(Ka) and he has also proved the certified copy of the impugned *Nadabinama* deed, exhibit 3. The learned Advocate further submits that, this P.W. 1 has disclosed the entire case and nothing to discredit him at the time of cross-examination. The learned Advocate also submits that, the P.W. 3 Nazimul has clearly stated in his deposition that, “৮০ সনের মাঠ জরীপের রেকর্ড বিষয়ে শালিশ দরবার হয়। পরে বন্টন দলিলের কথাবার্তা হয়।” Therefore, the learned Advocate submits that, this evidence adequately proved the fact that the signature of the plaintiff Nos. 1 and 2 were obtained, on the disputed deed, by misrepresentation that it was a deed for partition. The learned Advocate has referred to paragraph No. 3 of the plaint and submits that, it has been clearly stated in paragraph No. 3 that the impugned *Nadabinama* deed was obtained by misleading the plaintiffs and that none of the executants went to the Sub-Registrar's Office to execute the said *Nadabinama* deed and that there was no reason, whatsoever, to give a *Nadabinama* in respect of their own property. The learned Advocate next points out that, in paragraph No. 3 of the plaint it has been stated that, “দলিল পড়িয়া শুনানো হয় নাই” and that, “১/২ নং বাদীগন অপরাপর মোকাবেলা বাদীগণের অনুমতিতে বন্টন পত্র দলিল মূলে ছাহাম মোতাবেক সুবিধাজনক ভাবে জমি জমার বিরোধ মিটাইবার জন্য ১নং বিবাদীর প্রস্তাবে সম্মত হইয়াছিল এবং আপোষ বন্টন দলিল হইতেছে মর্মে ১/২ বাদী উক্ত দলিলে টিপ স্বাক্ষর দিয়াছিল” The learned Advocate further submits that, in the plaint, filed in the year 1998, this case has been specifically stated and the witnesses of the plaintiffs have clearly proved their case by adducing oral and documentary evidences, marked as exhibit 1, 2, 2(Ka) and 3. Referring to the impugned *Nadabinama* deed No. 1628 dated 12.03.1982, which is a certified copy (Ext. 3, the original copy of Ext.- Kha of the defendant), the learned Advocate points out that, in the very deed, it has neither been recorded, nor the disputed deed was read out to the plaintiff. In this connection, the learned Advocate also refers to the deposition of D.W. 3, who is one of the attesting witness and submits that, during his cross-examination the D.W. 3 has deposed that, “দলিল সম্পাদনের সময়ে সাব রেজিস্ট্রারের সম্মুখে আমি যাই নাই। দলিল পড়িয়া শুনাইয়াছে কিনা আমি জানি না। যখন টিপ দস্তখত এস. আর সাহেবের সামনে নেয়া হয় তখন আমি ছিলাম। পরে বলে আমি এস.আর সাহেবের সামনে ছিলাম না। টিপ বাহিরে নিয়াছে।” Accordingly, the learned Advocate submits that,

it has been clearly proved that, the impugned deed was not at all read out or explained to the executants, who are illiterate and unable to read (as it will be evident from their unevenly signatures made on the impugned deed). Therefore, he emphasises that, the signatures of these two illiterate executants were taken on the *Nadabinama* without reading this document to them and by misleading them that this deed was a deed of partition, as has been clearly stated in paragraph No. 3 of the plaint and proved by the P.W. Nos.1-3. He next submits that, as per exhibit 1 and 2 and 2(Ka), which are the 3 R.O.R. khatians, the defendant No. 1 is a co-sharer in the said khatian. Therefore, the parties are required to be in peaceful possession and question to write out *Nadabinama* deed, for no reason and no consideration in respect of the plaintiff's own property, is very absurd case. The learned Advocate for the opposite party next submits that, this D.W. 1 Md. Kalu Sheikh is not at all credible witness and has no respect for a court of law, nor any fear about the consequence of making false statement before the court on oath. He points out that, this D.W. 1 has deposed in the trial court on oath and the trial court has doubted his credibility about his deposition that the deed dated 19.12.1920 was genuine. Yet, the trial court has believed the deposition of D.W. 1 and the trial court ought to have cancelled the said fake deed dated 19.12.1920. The learned Advocate next submits that, the plaintiff-appellant had called for the relevant volume of deed No.3739 dated 19.12.1920, before the appellate court. Accordingly, one Mizanur Rahman, Record Keeper of *Mohafezkhana* of the concerned office has appeared before the appellate court and deposed before the appellate court and produced the concerned volume and has shown a deed of similar number and date, from volume No. 37 page 177-178, and proved that, this deed produced and proved by the D.W. 1 before the trial court and marked as exhibit "Ga (1)" was fake. Hence, he submits that this D.W.1, who is the main witness of the defendant and her husband is an out and out liar, which was and guilty of the offence of forgery and contempt of court for producing a false and fabricated document [(Ext. Ga(1))] in order to obtain the judgment in their favour, but the trial court has placed reliance on D.W. 1 in dismissing the suit. He next pointed out that, the appellate court has considered the issue of limitation and, having examined the case of the parties as well as the entire evidence in its totality, the appellate court has held that, the limitation period will be counted from the date of knowledge, which is as per provisions of section 18 of the Limitation Act, 1908. Hence, the appellate court has found that, the suit is not barred by limitation, since the limitation period shall be counted from the date of knowledge of this impugned *Nadabinama* deed obtained by practicing fraud upon the executants. He also submits that, knowledge of the plaintiffs about the contents of this deed have acquired from the date of obtaining certified copy of the said deed in as much as the plaintiffs had no other means to know about it's contents before getting the certified copy. The learned Advocate adds to his submission that, the fraud vitiates everything as well as no one can take advantage of his own fraud. As regards the burden of proof by misleading the executants, the learned Advocate submits that, it was their onus to prove that the impugned *Nadabinama* deed was executed by the executants having knowledge of it's contents, as per provisions of section 101 and 102 of the Evidence Act, 1872. He submits that, the trial court has most illegally and wrongly held that the burden of proof lying upon the plaintiffs. Since, the plaintiffs disowned the *Nadabinama* deed, therefore, it has been wrongly decided by the trial court that, the burden of proof lied on the plaintiffs. On the contrary, the appellate court has held that, the burden to prove *Nadabinama* that the deed was executed having knowledge and understanding of it's contents was on the defendant No. 1 and they have failed to prove whereas, the plaintiffs have proved their specific case as stated in paragraph No. 3 of the plaint. He next submits that, appellate court has passed the impugned judgment on proper appreciation of evidences and has discussed all the relevant evidences independently and has decided all the issues on the basis of the evidence on record. He, therefore, prays for discharging the Rule with exemplary cost.

10. I have heard the learned Advocates for both the parties, perused the impugned judgments as well as pleadings of the parties, the evidences and other materials on record.

11. The crux of this case is as to whether the impugned *Nadabinama* deed No. 1628 dated 12.03.1982 was executed by the plaintiff Nos. 1 and 2 having any knowledge about the contents or having understood the contents of the said deed. In other words, as to whether the said deed was obtained by misleading the plaintiffs Nos. 1 and 2 saying that it was a deed of partition. Moreover, this question has to be answered in the context that the executants were illiterate, as is evident from the unevenly signatures of the executants, put on the disputed deed. It is apparent from their signatures that they were totally illiterate rural people.

12. It is proved by exhibit 1, 2, 2(Ka) and 3 that, the plaintiffs and the defendant No. 1 are co-sharers under the said ROR Khatians and it is natural that the plaintiffs would prefer a fair partition, amongst them and the defendant, in respect of the property covered by the ROR khatians, exhibit 1, 2, 2(Ka) and 3.

13. The plaintiff No. 3 Md. Sundor Ali was a minor at the time of execution of the *Nadabinama* deed on 12.03.1982. It is also an admitted position that no guardian was appointed by any competent court, nor any sale permission was obtained on behalf of the plaintiff No. 3 to execute the impugned *Nadabinama* deed or any other deed. The trial court by its judgment and decree dated 11.09.2001 has dismissed the entire suit without any decision as regards the right and interest of the minor. P.W. 1 Md. Sundor Ali (plaintiff No.3).

14. P.W. 1, Sundor Ali is a party to the suit and was competent to depose as per section 120 of the Evidence Act, 1872, and in his deposition, the P.W. 1, has made it clear that other plaintiffs are his brothers and he has given deposition on their behalf and there was no conflict of interest amongst them.

15. Therefore, the P.W. 1, as a co-plaintiff, has narrated the entire case of the plaintiffs as has been stated in the plaint, signed by all plaintiffs, and has proved the R.O.R. khatian, which was marked as exhibit 1, 2 and 2(Ka) and he has also proved the certified copy of the impugned *Nadabinama* deed exhibit 3. The P.W. 1 has disclosed the entire case and nothing could be extracted to discredit in the course of his cross-examination.

16. The P.W. 3 Nazimul has clearly stated in his deposition that, “৮০ সনের মাঠ জরীপের রেকর্ড বিষয়ে শালিশ দরবার হয় পরে বন্টন দলিলের কথাবার্তা হয়।” Therefore, this oral evidence adequately prove the fact that the impugned *Nadabinama* deed was obtained by misleading them and that none of the executants went to the Sub-Registrar’s Office to execute the said *Nadabinama* deed, as stated in paragraph No. 3 of the plaint that, “দলিল পড়িয়া শুনানো হয় নাই” and that, “১/২ নং বাদীগন অপরাপর মোকাবেলা বাদীগণের অনুমতিতে বন্টন পত্র দলিল মূলে ছাহাম মোতাবেক সুবিধাজনক ভাবে জমি জমার বিরোধ মিটাইবার জন্য ১নং বিবাদীর প্রস্তাবে সম্মত হইয়াছিল এবং আপোষ বন্টন দলিল হইতেছে মর্মে ১/২ বাদী উক্ত দলিলে টীপ স্বাক্ষর দিয়াছিল”

17. The plaint has been filed in the year 1998. The certified copy of the impugned *Nadabinama* deed No. 1628 dated 12.03.1982 has been proved and marked as exhibit-3, while the original copy the said deed has been proved by the defendants and marked as exhibit- Kha. In the very deed, it has been recorded at the end that, “প্রকাশ থাকে যে, এই দলিল

নাদাবীকৃত দলিল। অনুমান মূল্য মং ১০০/০০ টাকা হইতে পারে। তাহাই আমরা স্বেচ্ছায় স্বজ্ঞানে অত্র নাদাবীকৃত দলিল লেখাইয়া ও সম্পাদন করিয়া রেজিস্ট্রারীর জন্য দাখিল করিলাম।” It has not been recorded here that, the disputed deed was read out to the plaintiffs before receiving their signatures on it as the executants.

18. In this connection, the deposition of D.W. 3, who is one of the attesting witness is relevant to reproduce. During his cross-examination he has deposed that, “দলিল সম্পাদনের সময়ে সাব রেজিস্ট্রারের সম্মুখে আমি যাই নাই। দলিল পড়িয়া শুনাইয়াছে কিনা আমি জানি না। যখন টিপ দস্তখত এস. আর সাহেবের সামনে নেয়া হয় তখন আমি ছিলাম। পরে বলে আমি এস.আর সাহেবের সামনে ছিলাম না টিপ সরকার বাহিরে নিয়াছে।” On the other hand, I have found from the unevenly signatures, put by the executants on the disputed deed (Ext. “Kha”) that the executants were illiterate rural people.

19. As such, it has been proved by above mentioned evidence that the signatures, on the disputed *Nadabinama* deed, of these two illiterate executants were taken without reading out or explaining the same document to them and by misleading them that this deed was a deed of partition, as has been clearly stated in paragraph No. 3 of the plaint and proved by the P.W. Nos.1-3 as well as by the facts and circumstances on this case.

20. I am also of the opinion that the requirement to read out a document to the executants before execution, is an usage and custom followed from the time immemorial. This custom, having the force of law, requires to record the fact in a deed, that the same was read out and explained to the executants, so that it can be inferred that they have executed the deed voluntarily and having understood the contents of the same. Unless a deed is read out to the executants, it cannot be said that they had understood its contents and had voluntarily executed the same. However, there might be exception to this Rule and this might not be fatal in each case and the application of this Rule will depend upon the facts and circumstances peculiar to each case.

21. From the deposition of P.W. 1 Kalu Sheikh, husband of the defendant No. 1, it appears that she is the second wife of the D.W. 1. This D.W. 1, Kalu Sheikh, is not at all credible witness. He has placed and proved, on oath, a deed dated 19.12.1920 in the trial court. The trial court had suspected the genuineness of this deed dated 19.12.1920. Yet, the trial court has placed reliance upon the deposition of D.W. 1, in dismissing the suit. The plaintiff-appellant had to call for the relevant volume of deed No. 3739 dated 19.12.1920, before the appellate court, to discredit the D.W. 1. Accordingly, one Mizanur Rahman, Record Keeper of the concerned *Mohafezkhana* has appeared before the appellate court and deposed before the appellate court and has produced the concerned volume. He has shown a deed of similar number and date, from volume No. 37 page 177-178, and proved that the deed of the same number and date, as produced and proved by the D.W. 1 before the trial court and marked as exhibit “Ga (1)”, was fake. Hence, this D.W.1, who is the main witness of the defendant, was not at all credible witness and the judgment of the trial court, based mainly on his deposition, has been rightly reversed by the appellate court.

22. I also find that, the appellate court has considered the issue of limitation and having examined the case of the parties as well as the entire evidences, in its totality, the appellate court has rightly held that the limitation period will be counted from the date of knowledge, which is as per provisions of section 18 of the Limitation Act, 1908. The appellate court has accurately found that the suit is not barred by limitation, because the limitation period shall be counted from the date of knowledge of this impugned *Nadabinama* deed obtained by practicing fraud upon the executants and that the plaintiffs have derived knowledge about the contents of the disputed deed on the date of obtaining certified copy on 20.05.1998.

23. As regards the burden to prove the fact that the impugned deed was obtained from executants by misleading them, the trial court has held that the burden of proof lied upon the plaintiffs, since, the plaintiffs disowned the *Nadabinama* deed. The appellate court was of the view that, this burden lied on the defendants. Having considered the provisions of section 102 of the Evidence Act, 1872, in the light of the facts and circumstances of this case, I am of the considered view that the burden to prove genuineness of this disputed *Nadabinama* deed lied upon the defendants, once the genuineness of the said deed has been denied by the plaintiffs. It is the defendant, who want from the court to believe their case that the *Nadabinama* (deed of surrender) was a genuine deed and it is they would loss in the trial court if the deed was not proved to be genuine one. The law of evidence would not facilitate forgery by unlawfully putting the burden on the victims of forgery. Therefore, finding of the appellate court on this issue is correct.

24. In the light of the deliberation recorded above, I am of the considered opinion that, the judgment and decree passed by the appellate court, in the fact and circumstances of this case, is absolutely lawful one and the same has resulted in no error, nor any failure of justice. The impugned judgment and decree passed by the appellate court is based on proper appreciation of evidences and the appellate court has discussed all the relevant evidences independently. I find no misreading or non-reading of any evidence in passing the impugned judgment and decree of the appellate court.

25. This Rule has no merit and the same should be discharged.

26. In the result, the Rule is discharged.

27. The impugned judgment and decree dated 18.04.2018 (decree signed on 26.04.2018), passed by the Special District Judge, Jamalpur, in Other Appeal No.2 of 2002, allowing the appeal and thereby reversing the judgment and decree dated 11.09.2001 (decree signed on 17.09.2001), passed by the Assistant Judge, Islampur, Jamalpur, in Other Class Suit No.55 of 1998, is hereby upheld.

28. The order of stay granted earlier by this Court is hereby vacated.

29. Let a copy of this judgment along with the Lower Court's Record be sent down to the concerned Courts at once.