

District-Sherpur

In the Supreme Court of Bangladesh
High Court Division
(Civil Revisional Jurisdiction)

Civil Revision No. 3332 of 2018

Md. Mobin Ul Islam

..... Petitioner

Versus

Most. Nahida Akhter Shandaand others

.....Opposite parties

Mr.Md. Lutfor Rahman, Advocate

.....for the petitioner

Mr. Gazi Mustaque Ahmed, Advocate

.... for the opposite parties

Mr. Md. Humayun Kabir Manju, D.A.G. with

Mr. Md. Mozammal Hossain, A.A.G.

...in assistance of the Court

Present:*Mr. Justice Gobinda Chandra Tagore**and**Mr. Justice Md. Aminul Islam*Heard on: 03.09.2024, andJudgment on:05.09.2024.**Gobinda Chandra Tagore, J:**

1. In this Civil Revision, the Rule was issued calling upon the opposite parties to show cause as to why the judgment and order dated 07.10.2018 passed by the 1st Court of learned Joint District Judge, Sherpur in Other Class Suit No. 17 of 2011, rejecting the written objection of the defendant-petitioner against the DNA test report dated 26.08.2018 and the prayer for a further DNA test in Singapore or any other registered laboratory in America to ascertain the parenthood

of the defendant-petitioner of the plaintiff-opposite party No. 3 should not be set aside and/or why such other or further order or orders as this Court may seem fit and proper shall not be passed.

Pending the hearing of the Rule, all further proceedings of the said Other Class Suit No. 17 of 2011 were stayed initially for 6 (six) months.

The period of stay was subsequently extended from time to time.

2. Most. Nahida Akhter Shanda (sic, Chhanda) and her two daughters as plaintiffs instituted Other Class Suit No. 17 of 2011 in the 1st Court of learned Joint District Judge, Sherpur for compensation against the defendant-petitioner namely, Md. Mobin Ul Islam.
3. The plaintiffs' case, in short, is that plaintiff No. 3, Humaira Islam Katha, is the daughter of plaintiff No. 1 and the defendant, but the defendant denied his parenthood in respect of plaintiff No. 3. Thereby the defendant cast aspersions on the chastity of plaintiff No. 1, and the same has also socially humiliated plaintiff Nos. 2 and 3. Accordingly, they filed the suit for compensation to the tune

of Taka 8.00 crores, out of which 3 crores for plaintiff No. 1, 2 crores for plaintiff No. 2, and 3 crores for plaintiff No. 3.

4. During the pendency of the suit, the defendant filed an application for the DNA test of plaintiff No. 3 and that of his to ascertain whether plaintiff No. 3 is his daughter through plaintiff No. 1. Accordingly, the DNA test was done by the Criminal Investigation Department (CID) and it was found that there is a similarity of the DNA of the defendant with that of plaintiff No. 3, and thereupon, it was ascertained that plaintiff No. 3 is the daughter of the defendant. Against the said DNA test report, the defendant filed a written objection along with a prayer for a further DNA test from any hospital in Singapore or the USA. Upon hearing both parties by the impugned order dated 07.10.2018, the said written objection was rejected. Hence, the defendant filed the instant Civil Revision.

5. During the hearing, the defendant through his Advocate voluntarily as well as candidly admitted before this Court that plaintiff No. 3 is his daughter through plaintiff No. 1. Upon such

admission, this Court *suo moto* took a step to solve the dispute between the parties through Alternative Dispute Resolution (ADR). During the ADR session, the defendant in the presence of us along with the learned Advocates from both sides as well as close relatives of both sides admitted that plaintiff No. 3 is his daughter through plaintiff No. 1. For the transparency of ADR, the learned Deputy Attorney General and Assistant Attorney General were requested to be present therein. Accordingly, they were also present. At one stage, the defendant-petitioner accepted the parenthood of plaintiff No. 3 and said sorry to her and plaintiff No. 2 as well as plaintiff No. 1. However, it appeared before all, who were present in the ADR session that the expression of sorry by the defendant was not so sincere while admittedly, the defendant even did not bear the maintenance cost of any of the plaintiffs from the date of the cause of action of the suit. However, in this regard, the plaintiff filed a separate Family Suit, which is still pending.

6. Since the defendant-petitioner in this Court openly as well as in the chamber of the presiding Judge of this Court during the ADR session

admitted his parenthood in respect of plaintiff No. 3, there is no necessity to discuss the facts and law on these points in detail. However, at the ADR session, all the plaintiffs jointly and separately expressed their feelings and sufferings of how they have been humiliated in society. In such a situation, except for the defendant, all others who were present in the ADR session asked the defendant to rectify his misdeed in denying the parenthood of plaintiff No. 3 as well as the humiliation and defamation suffered by the plaintiffs. Even the defendant-petitioner was given 2 (two) days to rethink the matter. Today he said that he would not rectify anything in respect of plaintiff No. 1. However, he admitted his duties, responsibilities, and liabilities in respect of plaintiff opposite party Nos. 2 and 3 who are now admittedly his daughters through plaintiff No. 1.

7. Since the defendant has admitted the parenthood of plaintiff No. 3, there is no further complicity in the facts involved in the suit. Accordingly, the Trial Court is hereby directed to dispose of the suit only so far as it relates to the compensation for the defamation and

humiliation suffered by the plaintiffs within 6 (six) months from the date of receipt of the judgment and order.

8. Because of the facts and circumstances, the Rule is disposed of with the findings, observations and direction. The interim order of stay is hereby recalled and vacated.

Md. Aminul Islam, J:

I agree.