

IN THE SUPREME COURT OF BANGLADESH  
HIGH COURT DIVISION  
(CIVIL REVISIONAL JURISDICTION)

*Present:*

*Mr. Justice S M Kuddus Zaman*

**CIVIL REVISION NO.1774 OF 2019**

In the matter of:

An application under Section 115(1) of the Code of Civil Procedure.

And

Supen Chandra Roy

... Petitioner

-Versus-

Samila Rani and others

... Opposite parties

Mr. Binoy Krishno Podder with

Ms. Biroja Bala and

Ms. Ayvee Akter, Advocates

... For the petitioner.

None appears

.... For the opposite party parties.

**Heard on 19.11.2024 and Judgment on 20.11.2024.**

On an application under Section 115(1) of the Code of Civil Procedure this Rule was issued calling upon the opposite parties to show cause as to why the impugned judgment and decree dated 07.05.2019 passed by the learned Joint District Judge, 1<sup>st</sup> Court, Thakurgaon in Famila Appeal No.14 of 2018 affirming those dated 28.05.2018 passed by the learned Sadar Family Judge, Thakurgaon, in Family Suit No.11 of 2017 decreeing the suit should not be set aside and/ or such other or further or orders as to this Court may seem fit and proper.

Facts in short are that opposite parties as plaintiffs instituted above family suit for maintenance for plaintiff No.1-2 alleging that the defendant married her according to the Hindu Customary Law and out of above wedlock plaintiff No.2 was born who is now 12 years of age. The defendant refrained from paying maintenance of the plaintiffs from 01.01.2016.

Defendant contested the suit by filing a written statement alleging that he is an Assistant Teacher of a Primary School and gets Taka 16,000/- as monthly salary. He has his first wife and two sons who are studying in Polytechnic School and after maintaining above family, it is difficult for him to pay maintenance of the plaintiffs separately. The defendant wanted the plaintiffs would live jointly in his dwelling house with his first wife so that he could maintain both wives and their children.

At trial plaintiffs and defendant examined 3 witnesses each. But none produced and proved any document.

On consideration of facts and circumstance of the case and evidence on record the learned Judge of the Family Court decreed above suit for Tk.1,26,000/- granting monthly maintenance for plaintiff No.1 at the rate of Tk.2,000/- and Tk.2,500/ for plaintiffs No.2 both effective from 01.01.2016.

Being aggrieved by above judgment and decree above defendant as appellant preferred Family Appeal No.14 of 2018 to the District Judge, Thakurgaon which was heard by the learned Joint District Judge, 1<sup>st</sup> Court who dismissed the appeal and upheld the judgment and decree of the trial Court.

Being aggrieved by and dissatisfied with above judgment and decree of the Court of Appeal below above appellant as petitioner moved to this Court and obtained this Rule.

Mr. Binoy Krishna Podder, learned Advocate for the petitioner submits that the petitioner is an Assistant Teacher of a Primary School and plaintiff No.1 is his second wife. The petitioner has his first wife and two sons who are studying in Polytechnic School and the plaintiff has serious financial hardship due to maintaining above family and educational expenses. The petitioner wanted that the plaintiffs would live in his house jointly with his first wife so that he could maintain both wives economically but the plaintiff did not agree. Plaintiff No.2 Smrity Rani has already been married to Bhuvon Roy and the petitioner paid all expenses of her marriage. As such the petitioner is not required to pay maintenance for maintain plaintiff No.2 anymore. The petitioner has already deposited Taka 30,000/- of the decretal money and he

agrees to pay the outstanding decretal money in reasonable monthly installments.

No one appears on behalf of the opposite party at the time of hearing of this Rule although this matter appeared in the list for hearing on several dates.

I have considered the submissions of the learned Advocate for the petitioner and carefully examined all materials on record.

It is admitted that the petitioner married opposite party No.1 in accordance with Hindu Customary Law and opposite party No.2 was born out of above wedlock who was of 12 years of age on 24.10.2017. Opposite parties Nos.1 and 2 were granted monthly maintenance at the rate of Tk.2,000/- and 2,500/- respectively from 01.01.2006 and a decree of Tk.1,26,000/- was passed for arrear maintenance. The learned Advocate for the petitioner has produced a money receipt issued by the above Family Court showing that the petitioner has deposited Tk.30,000/- on 09.10.2019. As such the plaintiff Nos.1-2 are entitled to get emaining Tk.96,000/- of above decretal money.

Opposite party No.2 has already attained majority and learned Advocate for the opposite parties has stated that opposite party No.2 has been given marriage to Bhuvon Roy and all expenses of above marriage was borne by the petitioner. Since opposite party No.2 has

attained majority and she has already married Bhuvon Roy the petitioner is not required to pay her maintenance from the date of her marriage. The petitioner is required to pay the outstanding decretal money of Tk. 96,000/- to opposite party Nos.1-2 and maintenance for petitioner No.1 at the rate of Tk.2,000/- per month. It is an admitted fact that the petitioner is an Assistant Teacher of a Primary School and he has his first wife and two sons who are studying in the Polytechnic School and all above expenses are borne by the petitioner.

On consideration of above facts and circumstances of the case and materials on record. I hold that the ends of justice will be met if above rate of maintenance for opposite party No.1 remains unchanged and the petitioner is given an opportunity to pay remaining decretal money to opposite party Nos.1-2 and pay monthly maintenance to opposite party No.1 by a total monthly installment of Tk.5,000/- and after above decree is fully satisfied the petitioner shall pay maintenance to opposite party No.1 at monthly rate of Tk.2,000/-.

Accordingly, it is ordered that petitioner shall pay remaining decretal money to opposite party Nos.1-2 and maintenance for opposite party No.1 at the rate of Tk.5,000/- per month and after above decretal money Tk.96,000/- is fully satisfied the petitioner shall pay maintenance to opposite party No.2 at the rate of Tk.2,000/- per month.

This Rule is accordingly disposed of.

Send down the Lower Court's record immediately.

*MD. MASUDUR RAHMAN*  
*BENCH OFFICER*