

Bench:

Mr. Justice Md. Ruhul Quddus

Civil Revision Number 2792 of 1994

Md. Azizul Haque

...Petitioner

-Versus-

Mst. Tahura Khatun (Mainu)

... Opposite Party

No one appears for either party

Judgment delivered on 21.01.2025

This rule was issued on an application under Section 115 of the Code of Civil Procedure challenging the judgment and decree dated 27.04.1993 (decree signed on 30.04.1994) passed by the District Judge, Kishoreganj in Family Appeal Number 6 of 1993 affirming those dated 28.02.1993 passed by the Senior Assistant Judge, Bajitpur in Family Suit Number 26 of 1992 decreeing the suit.

This rule was fixed for hearing by order dated 24.10.2024 and was called on for hearing on 04.12.2024, but no one for the petitioner appeared. However, for ends of justice, this court passed an order for placing the matter in the daily cause list with name of the learned advocate for the petitioner. Accordingly, it has been appearing in the daily cause list with his name. On the other hand, despite service of notice upon the opposite party, no advocate filed power on her behalf. Today it is again called on for hearing, but no

one for either party appears. Since this is an old matter of 1994, it is taken up for disposal in absence of the parties.

Facts relevant for disposal of the rule are that the sole opposite party as plaintiff instituted the suit on 27.05.1992 in the Family Court of Senior Assistant Judge, Bajitpur, Kishorgonj against her husband (defendant-petitioner) for dower, maintenance etcetera. Her case, in brief, was that they were married on 07.12.1987. After marriage, the plaintiff took Taka 20'000/= from her brothers for the purpose of rice business and also took her gold ornaments. The plaintiff used to torture her physically and at one stage, drove her away to her parents' house. Since then, he did not take care of her and refused to pay her dowry and maintenance on 1st Baishakh, 1394 BS. Hence the suit.

The defendant contested the suit by filing a written statement denying the material allegations of the plaint contending, *inter alia*, that the plaintiff herself was a woman of immoral character. He had already paid Taka 10'000/= as dowry to the plaintiff and she waived her claim of remaining Taka 2,999/=. She herself had left his house and refused to return. She did not own, or possess any gold ornaments.

On the aforesaid pleadings, the trial court framed issues and proceeded with trial, in course of which both parties recorded/adduced their evidences in order to prove their respective cases.

After conclusion of trial, the trial court considered the evidences, made discussions thereon and passed its judgment and decree dated 28.02.1993 (decree signed on 06.03.1993) for Taka 22'999/= in total (12'999/= as dowry + 10'000/= as maintenance for ten months at the monthly rate of Taka 1'000/=). Being aggrieved, the defendant-husband (petitioner herein) preferred a family appeal in the Court of District Judge, Kishoreganj on the grounds as taken in the memo of appeal. Learned District Judge heard the appeal, independently reassessed the evidence and dismissed the same on concurrent findings of facts, but modified the decree to the extent of prompt dower only as the marriage was still existing between the parties and refixed the monthly rate of maintenance to the extent of Taka 600/= considering the petitioner's very poor financial ability.

I have gone through the records including the judgments of both the courts below and considered the grounds taken in the revisional application, but do not find any error of law resulting in an error in the decision occasioning failure of justice. Thus, the rule does not merit consideration.

Accordingly, the rule is discharged. Send down the lower courts' records.