

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

**Present:**

Mr. Justice Md. Khairul Alam

**Civil Revision No. 2924 of 2017**

Md. Abdul Khalek alias Malek and others.  
..... Plaintiffs-Appellants-Petitioners.

-Versus-

Md. Golam Mostafa and another.  
..... Defendants-Respondents-  
Opposite parties.

Mr. Mohammad Harun Al Kaioum, Advocate  
..... For the petitioners.

Mr. Md. Bazlur Kabir, Advocate  
..... For the opposite parties No.1 & 2.

**Heard on: 14.05.2025 and  
Judgment on: 15.05.2025.**

Leave was granted and this Rule was issued calling upon the opposite parties No. 1-3 to show cause as to why the judgment and order dated 18.05.2017 passed by the learned Additional District Judge, Chapainawabgonj in Civil Revision No. 06 of 2015 rejecting the Civil Revision and affirming the judgment and order dated 22.01.2015 passed by the learned Joint District Judge, 1<sup>st</sup> Court, Chapainawabgonj in Miscellaneous Appeal No. 32 of 2010 allowing the appeal and reversing the judgment and order dated 28.04.2010 passed by the learned Assistant Judge, Shibgonj in Other Class Suit No. 24 of 2010 returning the plaint should not be set aside and/or pass such other or further order or orders as to this court may seem fit and proper.

Relevant facts for disposal of the Rule are that on 21.01.2010 the present opposite party Nos. 1-3 as plaintiffs filed Other Class Suit 24 of 2010 in the Court of Assistant Judge, Shibgonj, Chapainawabgonj praying for partition as well as pre-emption of the suit property under the Muslim law showing the valuation of the suit property at Tk. 2,20,000/-.

The present petitioners as defendants contested the suit by filing a written statement denying the material allegations made in the plaint. In the said suit defendants filed an application presumably, under Order VII rule 10 of the Code of Civil Procedure praying for return of the plaint alleging, inter alia, that the real market value of the suit land was exceeding the pecuniary jurisdiction of the Court. The application has been annexed with the revisional application as annexure-C. The learned Assistant Judge, Shibgonj, Chapainawabgonj by the order dated 28.04.2010 fixed the valuation of the suit at Taka 10,98,400/- and thereby allowed the application and returned the plaint considering a registered deed adduced by the defendants. In Miscellaneous Appeal No. 32 of 2010 said order was set aside by the learned Joint District Judge, Chapai Nawabganj by the judgment and order dated 22.01.2015. Against the said judgment and order the petitioners preferred Civil Revision No. 06 of 2015 before the Court of District Judge, Chapainawabgonj. The learned District Judge, Chapainawabgonj after hearing the parties by the judgment and order dated 18.05.2017 dismissed the revisional application and thereby affirmed the order of the learned Joint District Judge.

Being aggrieved thereby the petitioners filed this civil revision and obtained the Rule and an order of stay.

Mr. Mohammad Harun Al Kaioum, the learned Advocate appearing on behalf of the petitioners submits that the suit having been grossly undervalued, the rejection of the application for return of the plaint amounts to an error of law which has resulted in an error in the decision occasioning failure of justice as such the impugned order should be set aside. He next submits that considering a registered

kabala deed of the relevant time of the mouza the trial Court rightly fixed the value of the suit property and returned the plaint but the order was reversed most erroneously considering the government mouja rate which is much lower than the actual market value.

On the other hand, Mr. Md. Bazlur Kabir, the learned Advocate appearing for the opposite parties No. 1 and 2 opposed the contention of the petitioners and contended that the impugned order was rightly passed considering the government rate of the suit property. He next submits that since the defendants raised the question of valuation, the court may frame a specific issue to that effect. In support of the submission, he refers to the case of Abdus Samad vs Md. Gafur reported in 56 DLR(2204) 297 and Didar Ali vs Naziur Rahman reported in 50 DLR (1998) 451.

Heard the learned Advocates for the contending parties, peruse the revisional application and other materials on record.

It appears that the impugned order was passed considering an application for returning the plaint on the allegation of want of pecuniary jurisdiction.

The power of the Court to revise the valuation of a suit and determine the correct valuation of the same has been provided in section 8C of the Court Fees Act which reads as follows:

“8C. If the Court is of opinion that the subject-matter of any suit has been wrongly valued it may revise the valuation and determine the correct valuation and may hold such inquiry as it thinks fit for such purpose”

As per said provision of the law, the Court is authorized to hold an inquiry to fix the valuation of the suit.

In the present case, it appears that the contending parties are claiming different valuations of the suit and the Courts below without holding any inquiry determined the valuation of the suit. The defendants contended to return the plaint on the grounds of pecuniary jurisdiction.

The provision of return of plaint is provided in Order VII rule 10 of the Code of Civil Procedure. For better appreciation of the issue the said provision is reproduced herein below:-

**“Return of plaint 10. (1)-** The plaint shall at any stage of the suit be returned to be presented to the Court in which the suit should have been instituted”

As per said provision of law, the plaint can be returned “at any stage of the suit”. When returning of the plaint depends upon the pecuniary jurisdiction, in that case, the Court has to decide the issue of pecuniary jurisdiction first to protect the parties from undue harassment. But in the present case, after re-fixing the higher threshold of the pecuniary jurisdiction of the civil court, the valuation of the suit as fixed by the trial court is also within the jurisdiction of the court and the defendant did not challenge the same. Therefore, in this case, the valuation of the suit is no longer related to the pecuniary jurisdiction of the court, but there may be other issues like court fees, involved with the valuation of the suit, in that case, there is no need to decide the issue at the earliest opportunity.

Under such circumstances of the case, it appears to me that ends of justice would be served if this Rule is disposed of with an observation that if any issue like court fees is involved with the valuation of the suit, the learned Assistant Judge may frame a specific issue in respect of the valuation of the suit at the time of framing the issues (if not already

framed) and then to proceed with the suit in accordance with lawgiving chance to the parties to adduce evidence in support of their respective claim of valuation.

In the result, the Rule is disposed of with the above observation without any order as to costs.

Send down a copy of this judgment to the Trial Court at once.

Kashem, B.O