

District: Panchagarh

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

Present

Mr. Justice Sardar Md. Rashed Jahangir

Civil Revision No. 144 of 2021

In the matter of :

Md. Shahim Uddin

... Petitioner

-Versus-

Mst. Asma Begum and another

...Opposite-parties

No one appears

...for the petitioner

Mr. Tahirul Islam, Advocate

...For the opposite-parties

Heard on: 22.10.2024 and 23.10.2024

Judgment on: 03.11.2024

Rule was issued on an application on 25.01.2021 calling upon the opposite-parties to show cause as to why the judgment and decree dated 23.09.2020 passed by the Additional District Judge, Panchagarh in Family Appeal No. 25 of 2019 affirming those of dated 30.11.2019 passed by the Assistant Judge and Family Court, Panchagarh in Family Suit No. 09 of 2019 decreeing the suit should not be set aside and/or such other or further order or orders as to this Court may seem fit and proper.

At the time of issuance of the Rule by an ad-interim order all further proceedings of Family Decree Execution Case No. 01 of 2020 arising out of the judgment and decree dated 30.10.2019 passed by the Assistant Judge and Family Court, Panchagarh in Family Suit No. 09 of 2019 was stayed for a period of 6(six) weeks on the condition that the defendant-petitioner shall deposit a sum of Tk.1,50,000/- (one lac fifty thousand) before the Family Court concerned within 6(six) weeks from the date, failing which the Rule shall stand discharged.

On 20th November, 2023 on behalf of the petitioner an application for restoration of the Rule to its original file and number was filed, upon setting aside the Rule discharging order for non-compliance of the Court's order dated 25.01.2021.

The application was heard on 07.05.2024 and upon a second thought learned Advocate did not press the application. Accordingly, the application was rejected as being not pressed.

From the order book, it appears that on 25.01.2021 at the time of issuance of the Rule, an ad-interim order was passed, staying all further proceedings of Family Decree Execution Case No. 01 of 2020 arising out of the judgment and decree dated 30.10.2019 passed in Family Suit No. 09 of 2019, on the condition that the petitioner shall deposit a sum of Tk.1,50,000/- before the Family Court concerned within 6(six) weeks from date, failing

which the Rule shall stand discharged. As per statement of the application for restoration dated 20.11.2023, petitioner failed to comply the Court's order and accordingly, the default clause has come into play, the Rule stand discharged after expiry of the aforesaid 6(six) weeks and as such the application for restoration was not entertainable by this Court and on 07.05.2024 the petitioner did not press the said application.

Accordingly, the discharged order of the Rule stands. The concerned section of this Court is hereby directed to note the order of discharging the Rule.

Apart from the above, since it is a family suit, I have heard learned Advocate for the opposite party on merit in details. On the other hand on 28.10.2024 although an adjournment was taken on behalf of the petitioner but no one appears for the petitioner today when the matter is taken up for delivery of judgment.

From the record, it appears that the impugned judgment and decree dated 23.09.2020 passed by the Additional District Judge, Panchagarh in Family Appeal No. 25 of 2019 upholding the judgment and decree dated 30.10.2019 of the Family Court in Family Suit No. 09 of 2019, decreeing the suit.

From the record it further appears that both the Courts below concurrently found that there was a valid marriage between the plaintiff No. 1 and defendant and which took place on

27.09.2016 fixing dower of Tk.2,05,000/-(two lac five thousand), the said fact has been admitted by the defendant and it is also an admitted fact that as a result of wedlock, the plaintiff No. 2 was born and due to some incident the plaintiffs constrained to stay at the paternal house of the plaintiff No. 1. On the aforementioned findings the suit was decreed declaring the entitlement of the plaintiff Nos. 1 and 2 to get their maintenance and part of dower money of plaintiff No. 1.

I do not find any reason to interfere into the concurrent findings of facts of both the Courts below.

Accordingly, I do not find any merit in the Rule.

The Office is directed to note the Rule discharging order as stated in the body of this judgment.

No order as to cost.

The order of stay granted at the time of issuance of the Rule is hereby recalled.

Send down the Lower Courts' Record.

Communicate the judgment and order at once.