

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

*Present:*

*Mr. Justice S M Kuddus Zaman*

**CIVIL REVISION NO.1875 OF 2023**

In the matter of:

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

And

Md. Jahangir Hossain

.... Petitioner

-Versus-

Nur Nahar Niha

.... Opposite party

None appears

.... For the petitioner.

Mr. Md. Abdur Rashid, Advocate

....For the opposite party.

**Heard and Judgment on 18.05.2025.**

This Rule was issued calling upon the opposite party to show cause as to why the impugned judgment and order dated 15.03.2022 passed by the learned District Judge, Noakhali in Family Appeal No.03 of 2023 arising out of judgment dated 20.10.2022 passed by the learned Family Court, Begomgonj, Noakhali in Family Case No.173 of 2019 should not be set aside and/or other or further order or orders as to this Court may seem fit and proper.

Facts in short are that opposite party as plaintiff instituted above Family Suit for disillusion of marriage and recovery of dower and maintenance to the Family Court. Defendant No.1 contested above suit by filing written statement. The learned Judge of the Family Court on

consideration of the materials on record decreed above for Taka 11,6,000/-.

Being aggrieved by above judgment and decree of the Family Court above defendant as appellant preferred Family Appeal No.3 of 2023 to the District Judge, Noakhali who admitted above appeal but refused to stay execution of the judgment and decree of the trial Court.

Being aggrieved by and dissatisfied with above judgment and order of the learned District Judge above defendant as petitioner moved to this Court with this revisional application under Section 115(1) of the Code of Civil Procedure and obtained this Rule.

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

Mr. Md. Abdur Rashid, learned Advocate for the opposite party submits that the opposite party is a poor and divorced woman who has obtained a decree for Taka 11,6,000/- for her dower and maintenance on 10.02.2022 but till date she did not get above decretal money. The learned Advocate submits that the Court of Appeal below may be directed to dispose of above appeal on merit expeditiously.

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

As mentioned above the learned Judge of the Family Court decreed above suit of the opposite party for resolution of marriage

recovery of dower and maintenance on 20.10.2022 for Taka 11,6,000/- and the defendant No.1 challenging the legality and propriety of above judgment and order preferred Family Appeal No.3 of 2023. The learned District Judge admitted above appeal but refused to stay execution of above judgment and decree till disposal of the appeal.

Defendant No.1 as appellant preferred above Family Appeal challenging and propriety of the judgment and decree dated 20.10.2022. The learned Judge of the Court of Appeal below finding prima facie substance in above appeal admitted the same for hearing and issued process upon the respondent. The judgment and decree of the Family Court shall not reach its finality until and unless above Family Appeal is disposed of finally. In above view of the materials on record I hold that the learned District should have stayed the execution of the impugned judgment and decree of the trial Court till disposal of above Family Appeal and take appropriate measures for disposal of above appeal expeditiously. Due to refusal of the learned District Judge to stay the operation of the judgment and decree of the trial Court the appeal is yet to be ready for hearing and the respondent is not getting her dower and maintenance money.

In above view of the materials on record I hold that the impugned judgment and order passed by the learned District Judge not tenable in law. I find substance in this Civil Revisional application under Section

115(1) of the Code of Civil Procedure and the Rule issued in this connection deserves to be made absolute.

In the result, the Rule is hereby made absolute. The impugned judgment and order dated 15.03.2022 passed by the learned District Judge, Noakhali in Family Appeal No.03 of 2023 so far it relates to refusal to stay execution of the judgment and decree of the Family Court is set aside. The execution of judgment and decree dated 20.10.2022 passed by the learned Judge of the Family Court in Family Case No.173 of 2019 be stayed till disposal of above appeal and the learned District Judge, Noakhali is directed to dispose up above Family Appeal expeditiously within a period of 6(six) months from the date of receipt of this judgment.

However, there will be no order as to costs.

*MD. MASUDUR RAHMAN*  
*BENCH OFFICER.*