

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

**Present:**  
**Mr. Justice Md. Moinul Islam Chowdhury**

**CIVIL REVISION NO. 6901 OF 2023**

**IN THE MATTER OF:**

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

-And-

**IN THE MATTER OF:**

Md. Abdul Awal Sarkar

--- Defendant-Appellant-Petitioner.

-Versus-

Zakia Parvin Jue and others.

--- Plaintiff-Respondent-Opposite Parties.

**Mr. Md. Humayun Kabir**, Advocate

---For the Defendant-Appellant-Petitioner.

**Ms. Shiuli Khanom**, Advocate

---For the Plaintiff-Opposite Parties.

**Heard on: 28.02.2024, 12.03.2024 and  
13.03.2024.**

**Judgment on: 13.03.2024.**

At the instance of the present defendant-appellant-petitioner, Md. Abdul Awal Sarkar, this Rule was issued upon a revisional application filed under section 115(1) of the Code of Civil Procedure calling upon the opposite parties to show cause as to why the impugned judgment and decree dated 10.08.2022 passed by the learned Joint District Judge, Court No. 3, Sirajganj in the Family Appeal No. 05 of 2022 dismissing the appeal and

thereby affirming the judgment and decree dated 13.12.2021 passed by the learned Family Court, Ullapara, Sirajganj in the Family Case No. 91 of 2020 decreeing the suit should not be *set aside*.

The relevant facts for disposal of this Rule, *inter-alia*, are that the present opposite parties as the plaintiffs filed the Family Case No. 91 of 2020 in the court of the learned Family Judge, Ullapara, Sirajganj praying for dower money fixed by both the parties amounting to Tk. 3,00,000/- (three lacs) as dower money and the prompt dower was amounting to Tk. 1,500/- (one thousand and five hundred) by entering into a Nikahnama (নিকাহনামা) on 23.08.2012. The plaint contains that there are 2 minor children were born within their wedlock. At a certain point of their conjugal life, they have fallen out and they have decided to divorce each other. According to the quarrel of husband-wife, the present defendant-appellant-petitioner (husband) started proceeding to divorce his wife. Accordingly, a proceeding was initiated on 12.09.2023 and the divorce was effected on 12.12.2023. The learned trial court heard the parties and came to a conclusion for paying the dower money and maintenance for the monthly money and decreeing the suit by his judgment and

decree dated 13.12.2021 and by passing an order to pay the maintenance for the wife and also the maintenance of 2 children by awarding total amounting to Tk. 5,06,166/- (five lac six thousand one hundred and sixty-six) for payment towards the dower money as well as the maintenance for his wife until the divorce becomes effective. The learned trial court also awarded Tk. 6,000/- (six thousand) for the wife and also Tk. 3,000/- + 3,000/- = 6,000/-.

Being aggrieved the present petitioner preferred the Family Appeal No. 05 of 2022 in the court of the learned District Judge, Sirajganj which was subsequently heard by the learned Joint District Judge, Court No. 3, Sirajganj who dismissed the appeal and thereby affirmed the judgment and decree passed by the learned trial court. However, there are some modifications done by the learned appellate court below amounting to money to be paid in favour of the wife and the children. Accordingly, the husband (man) was ordered to pay amounting to Tk. 5,06,166/- (five lac six thousand one hundred and sixty-six) and also including the dower money and also awarding Tk. 10,000/- (ten thousand) as maintenance of the wife and of 2 children amounting to Tk. 10,000/- (ten thousand). The learned

appellate court also awarded by increasing money amounting to Tk. 5,000/- (taka five thousand) and the same to be paid with yearly payment. Being aggrieved the present petitioner filed this revisional application under section 115(1) of the Code of Civil Procedure and this Rule was issued thereupon.

Mr. Md. Humayun Kabir, the learned Advocate, appearing on behalf of the defendant-appellant-petitioner, submits that admittedly there was a marriage between the plaintiff No. 1 (wife) and the defendant (husband) and admittedly there was a divorce. Admittedly, 2 children were born, namely, plaintiff No. 2. Most. Anisha Khatun (minor) and 3. Most. Safa Moni (minor) within their wedlock and the present plaintiff-opposite parties claimed dower money and maintenance for the plaintiff-respondent-opposite party Nos. 1-3 but the learned trial court committed an error by not considering the financial condition of the petitioner (husband), however, he was ordered to pay the dower money as well as the maintenance for the 3 plaintiffs by committing an error of law as to the terms and conditions of the law of Nikahnama (নিকাহনামা), therefore, the Rule should be made absolute.

The learned Advocate also submits that during the pendency of the suit and the appeal thereupon the defendant-petitioner paid a portion of the decretal amount of Tk. 2,55,000/- (two lac fifty-five thousand) and the learned Advocate also submits that the petitioner complied with the order passed by this court at the time of issuance of the Rule amounting to Tk. 30,000/- (thirty thousand) towards the dower and maintenance but the learned appellate court below committed an error of law by affirming the judgment of the learned trial court, as such, the Rule should be made absolute.

The Rule has been opposed by the present opposite party Nos. 1-3.

Ms. Shiuli Khanom, the learned Advocate, appearing on behalf of the plaintiff-respondent- opposite party Nos. 1-3, submits that the present plaintiff- opposite parties filed the Family Suit claiming dower money and for maintenance of herself and 2 children born within their wedlock but due to the conduct of the present defendant-petitioner the plaintiffs have been residing in her father's house at her won source of income which becomes difficult, as such, the suit was filed for maintenance of herself and also the children. The learned trial

court decreed the suit by awarding money for dower and maintenance for the plaintiff-opposite parties. The learned appellate court below also affirmed the judgment of the learned trial court by decreeing the amount of Tk. 5,06,166/- (taka five lac six thousand one hundred and sixty-six) and also ordering the defendant-petitioner to pay the money amounting to Tk. 5,000/- (taka five thousand) for the wife and amounting to Tk. 2,500/- (taka two thousand and five hundred) for both children as to their maintenance but the present defendant-petitioner failed to pay the total amount and filed this revisional application in this court and the Rule was issued by misleading the court by challenging the legality thereof, as such, the learned appellate court below committed no error of law and there was no misreading and misconstruing the factual aspects, as such, the Rule is liable to be discharged.

The learned Advocate also submits that during the pendency of this suit and the appeal the defendant-petitioner paid the total amount of Tk. 2,55,000/- (two lac fifty-five thousand) towards the dower money and maintenance for the 3 plaintiff-opposite parties but the defendant-petitioner filed this revisional application and obtained the Rule in order to delay the payment

of the decretal amount of money, as such, the Rule is liable to be discharged.

Considering the above submissions made by the learned Advocates appearing for the respective parties and also considering the revisional application filed by the defendant-appellant-petitioner under section 115(1) of the Code of Civil Procedure along with the annexures therein, in particular, the impugned judgment and decree passed by the learned appellate court below, it appears to this court that the present plaintiff-opposite party No. 1 and the defendant-petitioner got married by executing a Nikahnama (নিকাহনামা) and also by fixing dower money of Tk. 3,00,000/- (three lacs). The admitted facts between the parties are that both girl children were born within their wedlock. The admitted position between the parties also that there was a divorce that came to effect on 12.12.2023. The settled principle of law is that the wife is entitled to get maintenance from the husband during the subsistence of the marriage and also the admitted position is that the children born within their wedlock are entitled to get their maintenance as the wife has no other source of income without her husband as the defendant-petitioner and they are living with her parental house.

In view of the above factual aspects, the learned trial court decreed the suit by awarding to Tk. 4,52,900/- (four lac, fifty-two thousand and nine hundred) as the dower and maintenance for 3 persons who are the plaintiff-opposite parties. Being aggrieved the defendant-petitioner preferred an appeal before the learned appellate court below and the learned appellate court below modifying the total amount of Tk. 5,06,166/- (five lac six thousand one hundred and sixty-six) towards dower and maintenance and also awarded Tk. 2,500/- (two thousand and five hundred) for each of the children which would be increased in the course of time for each year by the learned Joint District Judge, Court No. 3, Sirajganj.

I have carefully examined the judgment and decree passed by the learned courts below and I have also perused the judgment passed by the learned courts below and I do not find any illegality or misreading for passing the concurrent judgments and decrees. During the continuous hearing of the Rule, the learned Advocates for the respective parties attempted to reconcile the parties but they failed. Accordingly, the defendant-petitioner paid a total of Tk. 2,55,000/- (two lac fifty-five thousand). I have also considered that the defendant-petitioner paid Tk. 2,55,000/-



(two lac fifty-five thousand) during the pendency of the suit and appeal. I have also carefully examined the Rule issuing order containing the payment of Tk. 30,000/- (thirty thousand) to the opposite parties out of the decretal amount within 3 (three) months from the date of the issuance of the Rule and the present petitioner submitted a compliance thereof, as such, the defendant-petitioner paid Tk. 2,85,000/- (two lac eighty-five thousand) as on today towards dower and maintenance but the decretal amount has not yet been paid. Accordingly, the remaining total amount is to be paid by the defendant-petitioner who is obliged to pay a total amount of Tk. 4,05,634/- (four lac five thousand six hundred and thirty-four) as on today as per the calculation of the present plaintiff-opposite parties.

In the above matters the learned Advocate for the defendant-petitioner submits that the petitioner (husband) has been going through financial difficulties in his source of income, as such, this amount would create a hardship upon him, as such, I am inclined to modify the decretal amount so that the defendant-petitioner can pay the remaining decretal amount within the stipulated period of time fixed by this court. Therefore, I am not inclined to interfere upon the impugned judgment and decree

passed by the learned appellate court below but modify the quantum of money towards dower and maintenance for the plaintiff-opposite parties.

Accordingly, I am inclined to dispose of the Rule with the following directions:

In the result, the Rule is hereby disposed of.

The defendant-petitioner is hereby directed to pay a total amount of Tk. 4,00,000/- (four lac) in 8 (eight) installments within 1 (one) year from today i.e. 13 March 2024 - 13 March 2025 to the opposite party No. 1 (wife) on record.

The defendant-petitioner is also hereby directed to pay the monthly maintenance of the children, the plaintiff Nos. 2. Most Anisha Khatun (Minor) and 3. Most. Safa Moni (Minor) at the rate of Tk. 2,500/- (two thousand and five hundred) for each within the 10 (ten) days of every month until they become 18 (eighteen) years old.

The concerned section of this court is hereby directed to communicate this judgment and order to the concerned learned courts below immediately.