

IN THE SUPREME COURT OF BANGLADESH
High Court Division
(Civil Revisional Jurisdiction)

Present:

Mr. Justice Md. Khairul Alam

Civil Revision No. 2394 of 2014.

M. A. Khalek and others.

...- Petitioners.

-Versus-

Anju Ara Begum and others.

.....- Opposite parties.

None appears

..... For the petitioners.

Mr. Sheikh Mohammad Ali, Advocate

..... For the opposite parties.

Heard & Judgment on: 28.05.2025.

This Rule was issued calling upon the opposite parties No. 1(ka)-1(jha), 2, 3 and 4(ka)-4(j) to show cause as to why the impugned judgment and order dated 06.03.2014 passed by the learned District Judge, Sirajganj in Civil Revision No. 18 of 2013 dismissing the revisional for default and thereby affirming the order dated 09.06.2013 passed by the learned Assistant Judge, Chowhali, Sirajganj in Other Suit No. 44 of 2000 should not be set aside and/or pass such other or further order or orders as to this court may seem fit and proper.

Facts relevant for disposal of the Rule are that the present opposite parties No. 1-4 as plaintiffs instituted Other Suit No. 44 of 2000 in the Court of Assistant Judge, Chowhali, Sirajganj implading the present petitioner and other as defendants praying for declaration of title and partition in respect of the suit property. The defendants of the suit have been contesting the suit by filing separate sets of written statements. On 09.06.2013, the date was fixed for the argument and on that day the defendants filed two applications one for re-calling the P.W. 1 to 4 and

another for an adjournment for argument. The learned Assistant Judge, Chawhali, Shirajganj after hearing the parties by the order dated 09.06.2013 rejected both the applications. Against the said order the petitioners preferred Civil Revision No. 18 of 2013 before the Court of District Judge, Sirajganj. On 06.03.2014 date was fixed for taking steps of the revisional application but the learned Advocate for the petitioners was not present when the matter was taken up for hearing accordingly, the civil revision was dismissed for default.

Being aggrieved thereby the petitioner moved before this Court and obtained the Rule and an order of stay.

No one appears to support the Rule.

Mr. Sheikh Mohammad Ali the learned Advocate appearing for the opposite parties submits there was no merit in the civil revision therefore, the petitioner did not take steps to dispose of the same and therefore, the civil revision was dismissed for default, the petitioners filed this second civil revision only to delay the disposal of the original suit and this rule is liable to be discharged.

Heard the learned Advocate for the opposite parties, and perused the revisional application and other materials on record.

The main contention of the petitioners is that the petitioner filed the civil revision through a lawyer, but their appointed lawyer could not appear due to his personal difficulties, and therefore, the civil revision was dismissed for default. And this petitioner cannot suffer for the fault of his engaged lawyer.

It appears that the present opposite parties No. 1-4 filed a suit for declaration of title and partition. On 09.06.2013, the date was fixed for the argument and on that day the defendants filed two applications one for re-calling the P.W. 1 to 4 and another for an adjournment for argument. The learned Assistant Judge, Chawhali, Shirajganj after hearing the

parties by the impugned order rejected the same. Against the said order the petitioners preferred a Civil Revision before the Court of District Judge, Sirajganj, but the civil revision was dismissed for default because of the fact that the learned Advocate for the petitioners remained absent for his personal difficulties when the matter was taken up for hearing.

It is the settled principle of law that no one is to be punished without any fault of his own and the non-appearance of the engaged lawyer for any personal difficulties cannot be treated as the fault of the parties and a party to a proceeding cannot suffer for the fault of his engaged lawyer.

Therefore, I find merit in the Rule.

Accordingly, the Rule is made absolute without any order as to costs.

The impugned judgment and order dated 06.03.2014 passed by the learned District Judge, Sirajganj in Civil Revision No. 18 of 2013 dismissing the revision for default is hereby set aside. The learned District Judge, Sirajganj is hereby directed to dispose of the civil revision in accordance with law after restoring the same to its original file and number. The learned District Judge, Sirajganj is also directed to dispose of the civil revision as early as possible preferably, within 06 (six) months from the date of receipt of this judgment and order.

The order of stay granted earlier by this court is hereby vacated.

Send a copy of this judgment to the concerned Court for information and necessary action.

Kashem, B.O