

Present:
Mr. Justice Md. Shohrowardi
Civil Revision No. 5863 of 2022
Mossamath Jahanara Begum and others....Petitioners
-Versus-
Md. Abdul Khalek Howlader and others....Opposite parties
Ms. Chowdhury Nasima, Advocate
....For the petitioners
Mr. Md. Shamsul Islam, Advocate
....For the opposite party Nos. 1 and 5(a)-5(e)
Heard on 29.04.2026
Judgment delivered on 29.04.2026

This Rule under section 115(4) of the Code of Civil Procedure, 1908 was issued calling upon the opposite party Nos. 1 to 5 to show cause as to why the impugned judgment and order No. 03 dated 22.06.2022 passed by the District Judge, Barguna in Civil Revision No. 11 of 2022 affirming the order dated 10.04.2022 passed by the Senior Assistant Judge, Amtoly, Barguna in Title Suit No. 129 of 2007 rejecting the application for permission to deposit the decreetal amount should not be set aside and/or such other or further order or orders passed as to this Court may seem fit and proper.

The relevant facts, in short, are that the petitioner, as plaintiff, filed Title Suit No. 129 of 2007 in the Court of Assistant Judge, Amtoly, Barguna against the opposite party for pre-emption of the schedule land under Mohamadan Law. After holding trial, the trial court, by judgment and decree dated 03.02.2015, decreed the suit for pre-emption, directing the plaintiff to deposit the deed value amounting to Tk. 1,35,000 in the trial Court within sixty days, failing which, the decree shall stand cancelled. The plaintiff did not deposit the said amount following the decree within the specified time, but filed an application on 13.02.2022, praying for allowing him to deposit the sale value of the deed amounting to Tk. 1,35,000, stating that after passing the decree, the plaintiff became seriously sick and in the meantime, he took treatment from the Islami Bank Hospital, Dhaka, National Cardiac Institute, Dhaka, and lastly on 21.05.2021 from Labaid Hospital, Dhaka. After that, the decreetal Court, by order dated 10.04.2022, rejected the application filed by the plaintiff-petitioner. The decree-holder petitioner again filed an application on 12.05.2022 for setting aside the order dated 10.04.2022, and the trial Court by order dated 22.06.2022 rejected the said application dated 12.05.2022, holding that the decree-holder did not deposit the decreetal amount Tk. 1,35,000 within seven years, and an inordinate delay occurred in depositing the decreetal amount despite the default order of payment within sixty days.

Learned Advocate Ms. Chowdhury Nasima appearing on behalf of the petitioners having placed the revisional application submits that at the time of passing the decree, the decree-holder petitioner was sick and due to his old age and health complications, he could not deposit the decretal amount within the time fixed by the Court and there was sufficient reason for not depositing the decretal amount within the time and both the Courts below committed an error of law resulting in an error in passing the impugned judgments and orders occasioning failure of justice. She prayed for making the Rule absolute.

Learned Advocate Mr. Md. Shamsul Islam, appearing on behalf of the opposite party Nos. 1 and 5(a)-5(e), submits that the trial Court by judgment and decree dated 03.02.2015 allowed the pre-emption case with a direction to deposit the decretal amount Tk. 1,35,000 within sixty days, and both the Courts below arrived at a concurrent finding that after passing the order dated 03.02.2015, the petitioner did not deposit the said amount within seven years, and both the Courts below were pleased to reject the application filed by the decree-holder petitioner due to inordinate delay. He prayed for discharging the Rule.

I have considered the submission of the learned Advocate Ms. Chowdhury Nasima who appeared on behalf of the petitioners and the learned Advocate Mr. Md. Shamsul Islam who appeared on behalf of the opposite party Nos. 1 and 5(a)-5(e), perused the impugned judgments and orders passed by the Courts below and the records.

On perusal of the judgment and decree dated 03.02.2015 reveals that the trial Court passed an *ex parte* decree on pre-emption with a default order directing the plaintiff to deposit the sale value amounting to Tk. 1,35,000 within the next sixty days, failing which the *ex parte* decree shall be deemed to have been cancelled. After hearing, the trial Court by order dated 10.04.2022 rejected the application filed by the petitioner, holding that the trial Court passed a default order directing the plaintiff to deposit Tk. 1,35,000 within sixty days, but the petitioner did not deposit the said amount within seven years. The Appellate Court, by impugned judgment and order, rejected the revisional application, holding that there was a default order regarding deposit Tk. 1,35,000 within 60 days, but the petitioner failed to deposit the said amount within the time.

Both the Courts below arrived at a concurrent finding of fact that the petitioner did not deposit the sale value amounting to Tk. 1,35,000 within seven years despite the default order dated 03.02.2015.

On perusal of the order dated 03.02.2015 reveals that the trial Court decreed the Title Suit No. 129 of 2007 with a direction to deposit the sale value amounting to Tk. 1,35,000 within sixty days, failing which, the decree shall stand

cancelled, but the decree-holder did not deposit the said amount within seven years. After passing the decree by the trial Court, the decretal Court cannot go beyond the decree and is not empowered to pass any order varying the decree. Since the trial Court passed a default order, there is no scope to extend the time to deposit the sale value.

In view of the above findings, observations, and the proposition, I find no merit in the Rule.

In the result, the Rule is discharged.

However, there will be no order as to costs.