

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

Present:

Mr. Justice Md. Khairul Alam

Civil Revision No. 5864 of 2023

Mohammad Nur

.....-Petitioner.

-Versus-

Mohammad Elias.

..... Opposite Party.

Mr. Md. Ekramul Islam with
Mr. Das Tapan Kumar and
Mr. Mohammad Imran, Advocates

..... For the petitioner.

Mr. Md. Anwar Parves, Advocate

..... For the opposite party.

Heard on: 25.06.2025, 02.07.2025 and

Judgment on: 09.07.2025.

By this Rule the defendant challenges the judgment and order dated 14.08.2023 passed by the learned Additional District Judge, 3rd Court, Cox's Bazar in Civil Revision No. 69 of 2023 rejecting the civil revision and thereby affirming the order dated 30.08.2022 passed by the learned Joint District Judge, 1st Court, Cox's Bazar in Other Suit No. 103 of 2021 rejecting the application filed under Order VII Rule 11 and section 151 Code of Civil Procedure for rejection of the plaint.

Relevant facts for disposal of the Rule are that the present opposite party as plaintiff filed a suit before the Court of Joint District Judge, 1st Court, Cox's Bazar for a declaration that the deed of gift bearing No. 4696 dated 04.12.2014 obtained by the defendant was forged and void. In the plaint, the plaintiff contended that on 09.09.2021, he for the 1st time could come to know about the impugned deed.

Defendant has been contesting the suit by filing a written statement pleading inter alia that the suit is not maintainable in law and fact.

In the said suit, defendant filed an application under Order VII rule 11 of the Code of Civil Procedure for rejection of the plaint stating, inter alia, that the suit for cancellation of a gift deed was filed after 8 years of execution of the deed, therefore the suit is barred by the law of limitation and to prevent the abuse of the process of the Court the plaint is liable to be rejected.

The learned Joint District Judge, 1st Court, Cox's Bazar after hearing the parties by the order dated 30.08.2022 rejected the said application holding, inter alia, that since the issues raised in the application for rejection of the plaint were not admitted in the plaint and therefore, the same were subject to be adjudicated in trial by adducing evidence, hence, the same could not be the grounds to reject the plaint.

Against the said order the defendant filed Civil Revision No. 69 of 2022 before the Court of District Judge, Cox's Bazar which was eventually heard by the learned Additional District Judge, 3rd Court, Cox's Bazar who by the impugned judgment and order dated 14.08.2022 rejected the same and thereby affirmed the decision and findings of the trial court.

Being aggrieved thereby the petitioner filed this civil revisional application and obtained the Rule.

Mr. Md. Ekramul Islam, the learned Advocate appearing for the petitioner placing the application filed by the petitioner before the trial court for rejection of the plaint submits that when the material on record read with the plaint satisfied the Court that the suit was barred by law it is justified to reject the plaint, but the courts below on the misconception of the law passed the impugned judgment and order and as such the same is liable to be set aside.

On the other hand, Mr. Md. Anwar Parves, the learned Advocate appearing for the opposite party submits that a plaint can be rejected under Order VII rule 11 of the Code of Civil Procedure only when the plaint itself shows that the suit is barred by any law. He maintained that the statements

made in the plaint did not at all show or indicate that the suit was barred by any law, including the law of limitation.

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

Admittedly, the impugned order was passed under Order VII rule 11 of the Code of Civil Procedure which runs as follows:

“11. The plaint shall be rejected in the following cases:-

(a) where it does not disclose a cause of action:

(b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so:

(c) where the relief claimed is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so:

(d) where the suit appears from the statement in the plaint to be barred by any law.”

On a plain reading of the provision, it appears that a plaint can only be rejected if (1) the plaint does not disclose a cause of action; (b) the plaintiff failed to correct the valuation of the suit within a time fixed by the Court; (c) the plaintiff failed to pay the deficit stamp-paper within the time allowed by the Court; and (d) the suit appears from the statement in the plaint to be barred by any law.

Clause (d) clearly means that unless from the statements in the plaint the suit is found to be barred by any law, the plaint cannot be rejected. So, for rejecting a plaint, the finding of the suit to be barred by any law must be based solely on the statements of the plaint. If the statements in the plaint do not show or suggest that the suit is barred, the plaint cannot be rejected.

On careful perusal of the application filed by the petitioner in the trial court for rejection of the plaint, I do not find any statement to hold that the suit is barred by any law except the law of limitation. The learned Advocate for the

petitioner failed to show anywhere in the plaint that the plaint itself disclosed or indicated in any way that the suit was barred by limitation. Rather, in the plaint, the plaintiff clearly ascertained that on 09.09.2021, he for the 1st time could come to know about the impugned deed. The filing date of the suit is 29.09.2021, which is clearly within the stipulated period of limitation.

In the above facts and circumstances, I am of the opinion that the courts below rightly passed the impugned judgment and order rejecting the application filed by the defendant-petitioner under Order VII rule 11 of the Code of Civil Procedure and do not find any reason to interfere with the same.

In the result, the Rule is discharged without any order as to costs.

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

Send a copy of this judgment and order to the concerned court at once.

Kashem, B.O