

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

Present:

Mr. Justice S M Kuddus Zaman

CIVIL REVISION NO.594 OF 2024

In the matter of:

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

And

Md. Abul Hasan

... Petitioner

-Versus-

Mst. Riva Akter

... Opposite parties

Mr. Md. Zahangir Alam, Advocate

.... For the petitioner.

Mr. Md. Abul Khair Khan, Advocate

.... For the opposite party.

Heard and Judgment on 19.01.2025.

This Rule was issued calling upon the opposite party to show cause as to why the impugned judgment and order dated 10.01.2024 passed by the learned Senior District Judge, Natore in Family Appeal No.41 of 2023 dismissing the appeal and thereby affirming those dated 25.09.2023 passed by the learned Judge of Family Court, Natore in Family Suit No.581 of 2022 decreed the suit in part 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 in short are that opposite party as plaintiff instituted above family suit for recovery of dower and maintenance alleging that the defendant married her on 15.12.2000 by a registered kabinama and her

dower was fixed at Taka 5,50,000/- and Taka 1,150/- was paid. Above marriage of the plaintiff has ended by talak on 09.05.2023. The defendant did not pay outstanding dower of Taka 5,48,850/- or maintenance of the plaintiff.

The defendant contested the suit by filing a written statement alleging that the plaintiff is a quarrelsome woman of bad temper and she voluntarily opted to reside in the house of her father. As such the plaintiff is not entitled to get maintenance.

At trial plaintiff examined one witness and the defendant examined three. Documents of the plaintiff were marked as Exhibit No.1 and those of the defendant were marked as Exhibit Nos. "Ka" to "Ga".

On consideration of facts and circumstances of the case and evidence on record the learned Judge of the Family Court decreed above suit in part for Taka 5,48,850/- as dower maintenance for 17 (seventeenth) months at the rate Tk.2,000/- per month amounting to 5,82,850/-.

Being aggrieved by above judgment and decree of the Family Court above defendant as appellant preferred Family Appeal No.41 of 2023 to the District Judge, Natore who dismissed above appeal and affirmed the judgment and decree of the Family Court.

Being aggrieved by above judgment and decree of the Court of Appeal below above appellant as petitioner moved to this Court with

this revisional application under Section 115(1) of the Code of Civil Procedure and obtained this Rule.

Mr. Md. Zahangir Alam, learned Advocate for the petitioner submits that the trial Court passed a decree of Taka 5,82,850/- which was affirmed by the Court of Appeal below and in the trial Court the defendant deposited Taka 15,000/- and at the time of preferring this Civil Revision under Section 115 of the Code of Civil Procedure the petitioner has deposited Taka 1,00,000/-. The petitioner owes Taka 4,29,500 of above decree and he is willing to pay the same. But since the petitioner has serious financial crisis and he wants to pay above decreetal money by 6(six) equal monthly installments.

Mr. Md. Abul Khair Khan, learned Advocate for the opposite party submits that on consideration of materials on record the learned Judge of the Family Court rightly found that the dower of the plaintiff was 5,48,850 /- and only Taka 1,150/- was paid as such learned Judge rightly decreed the suit for Taka 5,48,850/ as unpaid dower. As far as maintenance is concerned the learned Judge of the family Court granted maintenance at the rate of Taka 2,000/- per month. In view of prevailing cost of living above maintenance was inadequate but the plaintiff accepted the same but the defendant did not pay above decreetal money. On consideration of above materials on record the learned Judge of the Court of Appeal below has rightly dismissed the

appeal and affirmed the judgment and decree of the trial Court which calls for no interference.

I have considered the submissions of the learned Advocates for the respective parties and carefully examined all materials on records including the pleadings, evidence and judgments of the Courts below.

It is admitted that the marriage of the plaintiff with the defendant was solemnized and registered by a kabinama on 15.12.2020 and the dower of the plaintiff was fixed at Taka 5,50,000/- and out of which Taka 11,00050/- was paid. As such the learned Judges of both the Courts below rightly passed a decree for Taka 5,48,850/- for unpaid dower of the plaintiff which is based on evidence on record.

As far as maintenance of the plaintiff is concerned the learned Judges of both the Courts below taking into account the financial condition of the defendant and the prevailing cost of living of the granted maintenance at the rate of Taka 2,000/- per month. In the context of the prevailing cost of living above rate of maintenance appears to be inadequate but the opposite party had accepted above rate of maintenance on consideration of financial condition of the defendant.

The learned Advocate for the petitioner submits that the financial condition of the petitioner has further deteriorated and he is unable to pay the total decretal money forthwith and the petitioner needs six months time for satisfying above decree by payment in equal 6(six)

monthly installments. The learned Advocate for the opposite party concedes that the defendant is not a financially solvent or well to do person. As such the plaintiff had accepted maintenance at the rate of Taka 2,000/- per month. It is true that the plaintiff is entitled to get her entire deferred dower on demand and there is no scope for payment of the deferred dower by installments. But on consideration of financial condition of the petitioner I hold that the ends of justice will be met and the plaintiff will get her unpaid dower if the petitioner is allowed to pay above decreetal money of Taka 4,32,550/- by five equal monthly installments which shall start from 1st March 2025. But if the petitioner fails to pay a single installment by 15th day of the next month then the opposite party shall be entitled to recover the total decreetal money by executing above decree.

Accordingly, the petitioner is directed to pay the remaining decreetal amount of Taka 4,32,550/- to the opposite party by five equal monthly installments which shall start from 1st March 2025 and the petitioner must pay above installments within fifteen day of the next month and if he fails to pay a single installment according to above schedule the opposite party shall be entitled to recover the total remaining decreetal money by execution of the decree.

In the result, the Rule is disposed of with above directions and observations.

However, there is no order as to costs.

Send down the lower Courts records immediately.

MD. MASUDUR RAHMAN
BENCH OFFICER