

District-Gazipur.

In the Supreme Court of Bangladesh

High Court Division,

(Civil Revisional Jurisdiction)

Present:

Mr. Justice Md. Toufiq Inam

Civil Revision No. 1654 of 2019.

Md. Imran Ali

..... Defendant- Appellant- Petitioner.

-Versus-

Aunuara Begum.

..... Plaintiff- Respondent-Opposite Party.

No one appears.

..... For the Defendant- Appellant- Petitioner.

Mr. Khandaker Aminul Haque,, Advocate

..... For the Plaintiff- Respondent-Opposite Party.

Heard On 24.06.2025, 25.06.2025

and

Judgment Delivered On: 29.06.2025.

Md. Toufiq Inam, J.

This Rule, issued under Section 115(1) of the Code of Civil Procedure, calls into question the judgment and order dated 21.10.2018 passed by the learned District Judge, Gazipur in *Family Appeal No. 54 of 2018*, whereby the appeal was dismissed as being barred by limitation. The appeal had been preferred against the judgment and decree dated 01.07.2018 passed by the learned Family Court in *Family Suit No. 143 of 2017*, instituted by the opposite party—wife seeking recovery of dower money due under the terms of the marriage contract together with maintenance.

Upon contested hearing, the Family Court decreed the suit in favour of the plaintiff—wife on 01.07.2018. The defendant—husband

subsequently filed an appeal which was dismissed as time-barred. Thereafter, the present revisional application was filed also with a delay of 114 days, which this Court provisionally condoned at the preliminary stage, subject to hearing on merit.

The petitioner–husband, while not disputing the dower amount specified in the *Kabinnama*, contended that the plaintiff had received a total sum of Tk. 10,50,000/- from him on various occasions. He claimed that this amount was accepted by the plaintiff in full satisfaction of her claims for dower and maintenance, allegedly in the presence of witnesses. However, the Defendant-Petitioner could not establish this assertion by any credible or admissible evidence.

The opposite party–wife maintained that she had, in fact, paid an amount of Tk. 5,00,000/- to the petitioner as a personal loan during their marital relationship. The Family Court, after weighing the pleadings and evidence of both parties, found the plaintiff’s claim for dower to be undisputed and legally enforceable, and accordingly passed a decree in her favour together with a maintenance order.

Although the matter has consistently appeared at the top of the daily cause list with the names of the learned counsels for both parties, on several occasions when the matter was taken up for hearing, none appeared on behalf of the petitioner. In contrast, the learned counsel for the opposite party remained present on all dates. The matter was heard in part and was posted today for delivery of judgment. Yet again, no one has appeared on behalf of the petitioner. In these circumstances, this Court finds it appropriate to dispose of the Rule on merit.

It has been asserted in the Revisional application that although there was a delay in filing both the appeal and this revision, the delay was

neither deliberate nor caused by negligence. The delay occurred due to unavoidable personal and professional circumstances, and the same be viewed with leniency in the interest of substantive justice; the delay in filing the revision has already been provisionally condoned by this Court, no prejudice has been caused to the opposite party.

It has further been asserted by the petitioner that the opposite party had already received Tk. 10,50,000/- from him on different occasions, which she accepted in full satisfaction of her dower and maintenance claims in presence of witnesses. The suit for dower was thus not maintainable, and the courts below failed to consider this crucial fact.

Contrastingly, Mr. Khandaker Aminul Haque, learned counsel appearing for the Opposite Party–Wife, submits that the petitioner deliberately allowed the statutory period for filing both the appeal and the present revision to lapse without offering any sufficient or credible explanation. He contends that this pattern of delay was not accidental but formed part of a calculated strategy to obstruct and frustrate the enforcement of a lawful and admitted claim for dower. According to him, the petitioner’s conduct reflects not mere inadvertence, but a deliberate misuse of the judicial process aimed at evading compliance with a binding obligation arising under the marriage contract.

Mr. Haque contends that the claim for dower was based on an admitted obligation under the marriage contract, and the alleged payment of Tk. 10,50,000/- is unsubstantiated. He further submits that the Family Court rightly found that petitioner’s claim of payment of dower remains unproven.

This Court has carefully examined the impugned judgments, considered the materials on record, and duly taken into account the

assertions made in the Revision Petition as well as the submissions advanced by the learned counsel for the opposite party.

It is relevant to note that the delay of 114 days in filing the instant revision was provisionally condoned by this Court at the time of issuance of the Rule. Although the explanation for the delay is not convincing and lacks evidentiary support, this Court is of the view that the length of delay is not so inordinate as to cause prejudice or defeat substantive justice. In the absence of mala fide intent or gross negligence, particularly since the delay was conditionally condoned earlier, such provisional condonation stands affirmed. However, the petitioner's laxity in pursuing timely remedies reflects poorly on his bona fides and has been appropriately considered in evaluating the merits of the revision.

The defendant-husband actively contested the Family Suit and was fully aware of the proceedings and the decree passed therein. Despite having participated in the trial, he failed to file the appeal within the statutory period, and subsequently filed the present revision also with delay. This sequence of conduct indicates that the petitioner was not diligent in pursuing his remedies and instead adopted a pattern of procedural delay. Such post-decree inaction, after actively contesting the suit, lends credence to the opposite party's contention that the delays were tactical in nature, intended to prolong the litigation and frustrate enforcement of the dower decree, rather than a bona fide effort to seek justice.

However, the Family Court rightly decreed the suit based on the admitted obligation of dower under the marriage contract, following a fully contested hearing. The defendant's attempt to introduce vague and unsubstantiated claims of past monetary transfers as a defence or offset was correctly rejected by the trial court on firm legal grounds.

Similarly, the plaintiff's further claim to recover an amount of Tk. 5,00,000/- allegedly paid to the Defendant-petitioner as loan was correctly considered to be out of ambit of the family court. This Court finds no legal infirmity in the reasoning of the Family Court. Dower is a legally enforceable entitlement accruing to the wife under Islamic personal law and is safeguarded by statutory recognition.

Any effort to neutralize or diminish this right through vague, unverified monetary allegations or extraneous counter-claims is legally impermissible and contrary to the purpose and spirit of family law jurisprudence. Upon examination, this Court also finds that:

1. The alleged payments relied upon by the defendant do not stem from any obligation recognized under the Family Courts Ordinance, 1985;
2. Such claims, even if true, are not triable within the limited jurisdiction of the Family Court;
3. No set-off or adjustment can be allowed against a statutory and religiously mandated obligation such as dower.

This Court further takes the opportunity to reaffirm that the jurisdiction of the Family Court is limited to the specific causes of action enumerated in Section 5 of the Family Courts Ordinance, 1985. Personal loans, informal financial dealings, or monetary claims between spouses that do not directly relate to the recognized heads such as dower, maintenance, guardianship, custody, or restitution of conjugal rights fall outside the Family Court's purview. Such issues cannot be introduced by way of adjustment or counterclaim in suits concerning dower or other family law entitlements. Entertaining such collateral disputes within family proceedings would risk derailing the prompt and focused adjudication of core matrimonial rights and would defeat the very objective of the special statutory forum.

In light of the above, this Court finds no legal error, jurisdictional defect, or material irregularity in the judgments and orders passed by the Family Court and the appellate court. The decree for dower was lawfully passed on the basis of admitted facts, and no justifiable ground has been shown to warrant interference in revision. The petitioner's challenge, both procedural and substantive, fails to satisfy the threshold for invoking revisional jurisdiction under Section 115(1) of the Code of Civil Procedure.

Accordingly, **the Rule is discharged.**

The judgments and orders of the Family Court and the appellate court are hereby affirmed.

There shall be no order as to costs.

Let a copy of this judgment be communicated to the court below for information and necessary action.

Justice Md. Toufiq Inam