

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

**Present:**

**Mr. Justice Md. Mozibur Rahman Miah**  
**and**

**Mr. Justice Md. Bashir Ullah**

**Civil Revision No. 5964 of 2024**

In the matter of:

An application under Section 115(1) of the Code of  
Civil Procedure, 1908

And

In the matter of:

Mahtab Uddin Ahmed

--- Plaintiff-Petitioner.

-Versus-

Robi Axiata Limited and others

--- Defendants-Opposite parties.

Mr. Ashfaqur Rahman, Advocate

---For the petitioner.

Mr. Mamun Chowdhury, Advocate with

Mr. Suhan Khan, Advocate

Mr. Rabiul Ahmed, Advocate

Mr. Sayedul Munim, Advocate

Mr. K. M. Shahidul Islam, Advocate

--- For the opposite party No. 1

**Heard on 14.01.2025**

**Judgment on: 15.01.2025**

**Md. Bashir Ullah, J.**

At the instance of the Plaintiff in Title Suit No. 568 of 2022, this Rule was issued calling upon the opposite party no. 1 to show cause as to why the Order No. 25 dated 28.11.2024 passed by the learned Joint District Judge, First Court, Dhaka in the aforesaid case fixing on 26.02.2025 for hearing of the petition filed for push forward the date for peremptory hearing by not entertaining the plaintiff petitioner's application filed on 28.11.2024 pursuant to the order dated 24.04.2024

passed by this Court in Civil Revision No. 1313 of 2024 directing the trial Court to dispose of the suit as expeditiously as possible preferably within a period of 3(three) months from the date of receipt of the copy of the judgment 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 salient facts, relevant for the disposal of the Rule are:

The plaintiff-petitioner is a former Chief Executive Officer (CEO) and Managing Director (MD) of Robi Axiata Limited, who joined the company as its Chief Financial Officer (CFO) on 02.09.2010. Later, he was appointed as its Managing Director (MD) and Chief Executive Officer (CEO) on 01.11.2016 under a contract of employment. Thereafter, the said contract of employment of the plaintiff was extended from time to time, and lastly, it was extended on 31.10.2019 for a period of 2(two) years. The plaintiff served three months' notice of resignation on 02.08.2021 as required by the said contract of employment, which became effective on 31.10.2021. This was also approved by the Board of Directors of the company duly signed by the Chairman of defendant no. 1. Thereafter, the plaintiff contacted to the defendant no. 1 vide email and letter dated 16.11.2021 stating that despite his repeated reminders regarding settlement of all arrear service and other benefits, nothing was paid to him even though, he was assured that he would receive settlement payments prior to 31.10.2021 that is prior to the end of his contract. However, there was no such settlement even after repeated verbal and written persuasions. Subsequently, the plaintiff was paid a fraction of the outstanding payment amounting to Taka

3,40,66,946.07 through a pay order dated 06.12.2021. He received the pay order 'on protest' due to such part payment. The rest of the outstanding payment remains unpaid to date. Just at the fag end of his service with defendant no. 1, a show-cause notice on 07.10.2021 was served on the plaintiff raising some issues. The plaintiff replied to the said show-cause notice on 14.10.2021 denying all the material allegations. Upon conducting a departmental proceedings against the plaintiff for over 7(seven) months, without giving any proper opportunity for hearing, defendant no. 1 then sent a letter on 22.05.2022 to the plaintiff stating *inter alia*, that the Board had resolved that the plaintiff would stand dismissed from his service for the alleged misconduct with effect from 31.10.2021. Hence, the plaintiff instituted the suit.

The defendant-opposite party no. 1 contested the suit by filing a written statement, stating *inter alia* that the plaintiff was dismissed by the defendant no.1 finding misconduct perpetrated during his tenure as Managing Director and CEO of defendant no. 1. The Plaintiff, while in office as the Managing Director and CEO in 2019 committed misconduct, violated Code Conduct and Business Ethics, rules and regulations of the company and breach of employment's terms and conditions. Hence, the suit is liable to be dismissed.

During trial, the defendant-opposite party no. 1 filed a civil revision being Civil Revision No.1313 of 2024 before this Court challenging the Order No. 10, dated 12.11.2023 passed by the trial Court framing issue on accepting all suggested issues of the plaintiff without

considering the plaint and written statement. However, upon hearing the parties, this Court disposed of the Rule issued in Civil Revision No. 1313 of 2024 vide judgment and order dated 24.04.2024 and directed the trial Court to frame issues so proposed by the defendant no. 1 in addition to the issue already framed and further directing the trial Court to dispose of the suit as expeditiously as possible preferably within a period of 3 (three) months from the date of receipt of the copy of the judgment.

Upon receipt of the above-mentioned judgment, the trial Court framed additional issues and fixed the next date on 14.04.2024 for peremptory hearing. Thereafter, several dates were fixed that is, on 25.07.2024, 08.08,2024, 27.08.2024, 18.09,2024, 05.11.2024 and 26.11.2024. On 26.11.2024, the trial Court fixed the next date on 26.02.2025. Being aggrieved, the plaintiff then on 28.11.2024 filed an application for shifting the next date and to fix it to an early date. However, upon hearing, the trial Court fixed on 26.02.2025 for hearing of the said application, vide Order No. 25, dated 28.11.2024.

Being aggrieved by and dissatisfied with the said order dated 28.11.2024, the plaintiff as petitioner preferred this Civil Revision and obtained Rule.

Mr. Ashfaqur Rahman, learned Advocate appearing on behalf of the petitioner upon taking us the impugned order at the very outset submits that, on the face of the impugned order it shows that it is simply a non-speaking order as without assigning any reason, the learned Judge in a very perfunctory and cursory manner fixed on 26.02.2025 for

hearing of the application and thereby committed an error of law resulting in an error in the decision occasioning failure of justice.

Mr. Rahman further contends that pursuant to the direction of this Court, passed in Civil Revision No. 1313 of 2024 on 24.04.2024, the trial Court used to fix date giving short duration, however, the trend of giving dates following 26.11.2024 clearly shows that the trial Court started giving long date as it on 26.11.2024 fixed the next date for further hearing (FH) of PW-1 on 26.02.2025 that is, after 92 days from 26.11.2024 which is a clear violation of the direction of this Hon'ble Court to dispose of the suit expeditiously. The learned counsel further contends that plaintiff-petitioner filed an application on 28.11.2024 before the trial Court for push forward the date from 26.02.2025 to an early date and to fix the next date in 7-10 days' interval yet the trial Court did not bother to pass any order on that application rather fixed the hearing of the said shifting application on 26.02.2025 which proves the absent mind of the learned Judge over the issue and that cannot be sustained in law.

He next contends that this Hon'ble Court was pleased to direct the trial Court to dispose of the suit as expeditiously as possible “preferably” within a period of 03 (three) months and, as such, the trial Court ought to have fixed the date of hearing of the suit giving short duration so that the suit can be disposed of within a short span of time but the impugned order dated 28.11.2024 clearly runs counter to the said direction and thus liable to be set aside for ends of justice. The learned counsel also submits that since the hearing of the suit began upon taking

evidence of PW-1, so it should be continued from day to day until all the witnesses in attendance is examined as per the proviso of Rule 1(2) of Order 17 of the Code of Civil Procedure but the trial Court failed to comply with the said provisions of law and finally prays for making the Rule absolute by setting aside the impugned order.

Conversely, Mr. Mamun Chowdhury, learned Advocate appearing on behalf of the defendant-opposite party no. 1 by filing a counter affidavit contends that the trial Court committed no error of law resulting in an error in the decision occasioning failure of justice in passing the impugned order and there is nothing to interfere the impugned order and as such the rule is liable to be discharged.

He further contends that scheduling dates in a suit is a matter of discretion of the Court and the trial Court has exercised its discretion fixing dates in a reasonable manner and in line with that on 26.11.2024, the trial Court fixed the next date of further hearing of PW-1 on 26.02.2025 in presence of both the parties having no reason to become aggrieved by the petitioner however, though the plaintiff-petitioner, filed an application for shifting the next date in the proceedings to an earlier date, but no copy of the said application was served upon defendant no.1 which is an unusual practice and hence the trial Court has rightly passed the impugned order.

Learned counsel next contends that the trial Court in pursuance to the judgment and order dated 24.04.2024 passed by this Hon'ble Court in Civil Revision No. 1313 of 2024 framed additional issues and then fixed on 14.07.2024 for peremptory hearing but the plaintiff on

numerous occasions sought adjournments and delayed the process of the Court while the defendant no. 1 fully complied with the said direction and did never seek any adjournment so it is the plaintiff-petitioners whose fault the proceeding of the suit is being delayed. With those submissions, the learned counsel finally prays for discharging the Rule.

We have considered the submissions so advanced by the learned Advocates for the petitioner and that of the opposite party at length and perused the Civil Revision, counter affidavit, impugned order passed by the trial Court, and other materials on record.

While this Court disposed of the Rule in Civil Revision No. 1313 of 2024 by judgment and order dated 24.04.2024, it directed the trial Court which runs as follows:

“The learned Judge of the trial Court is hereby directed to frame the issues so proposed by the defendant in addition to the issues, the learned Judge already framed and **to dispose of the suit as expeditiously as possible preferably within a period of 3(three) months from the date of receipt of the copy of this judgment.**”

The above-mentioned direction was however not challenged before the Appellate Division.

Further, record shows that upon receipt of the above-mentioned direction the trial Court framed additional issues and fixed 14.04.2024 for peremptory hearing. Thereafter, the dates were fixed on 25.07.2024, 08.08.2024, 27.08.2024, 18.09.2024, 05.11.2024 and 26.11.2024. On

26.11.2024, the next date was fixed on 26.02.2025 for further hearing. Being aggrieved, with the fixing of long date, the plaintiff-petitioner filed an application on 28.11.2024 for shifting the next date to an earlier date. However, upon hearing, the trial Court vide impugned order dated 28.11.2024 fixed 26.02.2025 for hearing of the said application. It appears on 26.11.2024, the next date was fixed on 26.02.2025 for hearing (FH) of the suit that is long after 92 days which is clear violation of the proviso of Rule 1(2) of Order 17 of the Code of Civil Procedure and which is totally unbecoming and improper on the part of the learned Judge for not applying his judicial mind on the express provision of law and the direction of this Court. The trial Court ought to have fixed the date of hearing in short duration so that the suit can be disposed of at the earliest opportunity upholding the spirit of the provision of law as mentioned above and direction of this Court made in Civil Revision No. 1313 of 2024.

Given the above facts and circumstances, we are inclined to set aside the impugned order finding it to be totally contrary to the proviso of Rule 1(2) of Order 17 of the Code of Civil Procedure and illogical which we find to be fixed on 02.02.2025 instead of 26.02.2025. Hence, the impugned order is thus unreasonable and not sustainable in law and the same is liable to be set aside.

Overall, we find substance in the Rule.

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



The impugned order No. 25 dated 28.11.2024 passed by the learned Joint District Judge, First Court, Dhaka in Title Suit No. 568 of 2024 is hereby set aside.

The trial Court is directed to take up the suit for re-examination of PW-1(FH) on 02.02.2025 and continue examination of the witness of the parties in usual course complying with the proviso of Rule 1(2) of Order 17 of the Code of Civil Procedure and dispose of the suit as expeditiously as possible.

Let a copy of this order be communicated to the court concerned forthwith.

**Md. Mozibur Rahman Miah, J.**

I agree.

Md. Sabuj Akan/  
Assistant Bench Officer