

Present:
Mr. Justice Md. Shohrowardi
Civil Revision No. 4632 of 2024
Md. Jashim Uddin....Petitioner
-Versus-
Mosobbir Mia and others....Opposite parties
Mr. Kamruzzaman Bhuiyan, Advocate with
Ms. Nasima Kumkum, Advocate
.....For the petitioner
No one appears.
.....For the opposite parties
Heard on 30.06.2026 and 08.07.2026
Judgment delivered on 14.07.2026

On an application filed by the petitioner under section 115(1) of the Code of Civil Procedure, 1908 Rule was issued calling upon the opposite parties to show cause as to why the impugned judgment and order dated 07.03.2023 passed by the Additional District Judge, Court No. 1, Sunamganj in Civil Revision No. 22 of 2020 affirming the order dated 02.11.2020 passed by the Senior Assistant Judge, Sadar, Sunamganj in Title Execution Case No. 04 of 2020 shall not be set aside and/or such other or further order or orders passed as to this Court may seem fit and proper.

Relevant facts for disposal of the Rule are that the petitioner, as plaintiff, filed Title Suit No. 61 of 2008 in the Court of Senior Assistant Judge, Sadar, Sunamganj, praying for partition of the suit land. After concluding trial, the trial Court by judgment and decree dated 15.02.2009 (decree signed on 18.02.2009) decreed the suit against the defendants ex parte. Thereafter, the final decree was drawn on 02.05.2011 by the trial Court. After passing the final decree, the plaintiff filed Execution Case No. 04 of 2020 in the trial Court on 21.10.2020. Thereafter, the Senior Assistant Judge, Sadar, Sunamganj, by order dated 02.11.2020 rejected the execution case on the ground of limitation. Against the said judgment passed by the Senior Assistant Judge, Sadar, Sunamganj, the plaintiff-petitioner filed Civil Revision No. 22 of 2020 in the Court of District Judge, Sunamganj, which was heard by the Additional District Judge, Court No. 1, Sunamganj, who by impugned judgment and order dated 07.03.2023 affirmed the judgment and order passed by the trial Court against which, the petitioner obtained the Rule.

Learned Advocate Mr. Kamruzzaman Bhuiyan appearing along with learned Advocate Ms. Nasima Kumkum on behalf of the petitioner submits that after the preliminary decree, the final decree was drawn on 02.05.2011 and nothing remained for execution, and on wrong advice the decree-holder filed the execution case. In support of his submission, the learned Advocate cited a

decision made in the case of Shafiuddin Chowdhury (Md) vs Md Abdul Karim and others reported in 52 DLR(AD) 41.

No one appears on behalf of the opposite parties.

I have perused the revisional application, the preliminary decree and the final decree drawn in Title Suit No. 61 of 2008 and the records.

On perusal of the records, it reveals that after passing the ex parte judgment and decree dated 15.02.2009 passed in Title Suit No. 61 of 2008 by the Senior Assistant Judge, Sadar, Sunamganj, the trial Court drew the final decree on 02.05.2011.

At this stage, it is relevant here to rely on the decision made in the case of Shafiuddin Chowdhury (Md) vs Md Abdul Karim and others reported in 52 DLR(AD) 41 in which our Apex Court has held as under:

“A reference to section 2(2) of the Code of Civil Procedure shows that a decree may be either preliminary or final. Explanation to section 2(2) provides that "a decree is preliminary when further proceedings have to be taken before the suit can be completely disposed of. It is final when such adjudication completely disposes of the suit". In a suit for partition, after filing of the report along with the case map, field book, saham list by the Advocate Commissioner, final decree takes effect and thereafter remains nothing to be done.”

In view of the above judgment and order passed by our Apex Court, I am of the view that the execution case filed by the decree-holder after drawing the final decree is misconceived. In the instant case, after drawing the final decree, nothing remains for execution, and the execution case filed by the petitioner is misconceived.

With the above finding and observation, the Rule is disposed of.