

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

Present:

Mr. Justice S. M. Saiful Islam

Civil Revision No. 3669 of 2024

IN THE MATTER OF:

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

And

IN THE MATTER OF:

Md. Amzad Hosain.

---- Defendant-Appellant-Petitioner.

-Versus-

Mst. Mitu Akter and another.

---- Plaintiff-Respondent-Opposite Parties.

No one appears

---- For the Petitioner.

Mr. Md. Mamunur Rashid Chowdhury with
Mr. Rubel Kazi, Advocates

--- For the Opposite Parties.

**Heard On: 19.01.2026, 20.01.2026 and
28.01.2026.**

Date of Judgment: 03.02.2026.

S. M. Saiful Islam, J.

Upon an application under section 115(1) of The Code of
Civil Procedure 1908, this Rule was issued calling upon the
opposite parties to show cause as to why the judgment and

decree dated 08/07/2024 (decree being drawn up on 14/07/2024) passed by the learned District judge, Nilphamari in Family Appeal No. 89 of 2023 dismissing the appeal and thereby affirming the judgment and decree dated 22.06.2023 (Decree being drawn on 02.07.2023) passed by the learned Judge of the Family Court, Jaldhaka, Nilphamary in Family Court Suit No. 52 of 2022 shall not be set aside and/or such other or further order or orders passed as to this Court may deem fit and proper.

Facts relevant for the disposal of this Rule is that the opposite parties as plaintiff instituted Family Suit No. 52 of 2022 in the Jaldhaka Family Court, Nilphamari praying for decree for the payment of unpaid dower and maintenance. Case of the plaintiff in short is that, the marriage of plaintiff-opposite party No. 1 was solemnized with the defendant-petitioner on 06.01.2019 by a registered *kabinnama*. Amount of dower was fixed at Tk. 7,00,101/- (Seven Lac One Hundred and One) out of which Tk. 101/- (One Hundred One) was paid at the time of marriage and the rest amount of Tk. 7,00,000/- (Seven Lac) remained unpaid. Thereafter, they continued to pass their marital life happily and in their wedlock, plaintiff No. 2 was born. During their peaceful conjugal life, defendant demanded dowry of taka 1,00,000/- (One Lac) on 20.04.2021. When the plaintiff refused to pay that dowry, defendant drove out the plaintiff from

his house on that day. Plaintiff then took shelter at her father's house and has been staying there since then. Plaintiff on 26.08.2022 asked the defendant to pay her unpaid amount of dower and maintenance. Defendant refused to pay the same. Then the plaintiff instituted the suit for realization of unpaid dower as well as maintenance at the rate of Tk. 5,000/- per month for each of the plaintiffs.

The petitioner as defendant contested the suit by filing a written statement stating *inter alia* that he got married with the plaintiff No. 1. On 06.01.2019 fixing the amount of dower at Tk. 7,00,101/- (Seven Lac One Hundred and One) out of which Tk. 101/- (One Hundred and One) was paid at the time of marriage and the rest amount Tk. 7,00,000/- (Seven Lac) remained unpaid. That they continued to pass their marital life happily and in their wedlock, plaintiff No. 2 was born. That the plaintiff never gave her concentration on the conjugal life and she did not also obey the instructions of the defendant. That one day, plaintiff willingly went to her father's house without consent of the defendant and the defendant then tried his best to bring back the plaintiff to his house, but failed. That the defendant then has divorced the plaintiff on 24.04.2021 and as the marriage has been dissolved, plaintiff No. 1 is not entitled to get any maintenance. That the

defendant is paying the maintenance of plaintiff No. 2 regularly.

Hence the defendant prayed for dismissal of the suit.

For disposal of the suit, learned trial Court framed following four issues:

- 1) Whether the suit is maintainable in its present form;
- 2) Whether there was a valid marriage between the plaintiff and the defendant and whether the same is still continuing;
- 3) Whether the plaintiffs claim of unpaid dower and maintenance is legal and reasonable;
- 4) Whether the plaintiff may get the relief as prayed for;

Learned trial Court upon consideration of oral and documentary evidence adduced by both the parties decreed the suit by the judgment and decree dated 22.06.2023. The trial Court held that the marital tie between the defendant and plaintiff No. 1 had been dissolved by divorce. Trial Court further held that plaintiff No. 1 was entitled to get her unpaid amount of dower Tk. 7,00,000/- (Seven Lac) and her maintenance only for *iddat* period at the rate of Tk. 5,000/- (Five Thousand) per month. Trial Court also held that the plaintiff No. 2 was entitled to get Tk. 3,000/- (Three Thousand) per month as her maintenance till her marriage. Accordingly, the trial Court decreed the suit in part directing the defendant to pay that amount of dower and maintenance.

Being aggrieved by that judgment and decree, plaintiff preferred Family Appeal No. 89 of 2023 before the learned District Judge, Nilphamari. But the Appeal was disallowed by the impugned judgment and decree dated 08.07.2024.

Being aggrieved by that impugned judgment and decree the defendant-petitioner filed this revisional application and obtained the Rule. At the time of issuance of the Rule on 27.08.2024, operation of the impugned judgment and decree was stayed for a period of 6 (six) months from date subject to depositing Taka 1,00,000/- (One Lac) in the trial Court. No further extension was granted thereafter.

None appears to move the Rule on behalf of the petitioner.

Learned Advocate Mr. Rubel Kazi along with the learned Advocate Mr. Mamunur Rashid Chowdhury, appearing on behalf of the plaintiff-respondent, submits that the learned Trial Court has rightly decreed the suit in favor of the plaintiffs and accordingly learned Appellate Court has rightly disallowed the Appeal preferred by the defendant-petitioner. He also submits that the learned Courts below have not committed any error of law in the impugned judgment and decree and it has not occasioned any failure of justice. He further submits that the defendant-petitioner has filed this revisional application only to

delay the execution of the impugned decree. For these reasons he prays for discharge of the Rule.

Though none appears on behalf of the petitioner, I think, justice would be best served if the Rule is disposed of on merit.

As to the grounds of revision, it has been stated in the revisional application that Appellate Court committed error of law resulting in error in the decision occasioning failure of justice. It has also been stated that the impugned judgment and decree of the Courts below are based on misreading, non-consideration of evidence on record and the learned Appellate Court misread, mis-conceived and mis-interpreted the facts and circumstances of the case and evidence on record and came to a wrong findings and erroneous decision occasioning failure of justice. It has further been stated that the signature of the defendant in the *kabinnama* was forcibly taken and the learned Appellate Court dismissed the Appeal summarily without giving the defendant chance of hearing. Upon these grounds the petitioner prayed for making the Rule absolute.

Heard the learned Advocate for the opposite parties. Perused the revisional application and annexures therewith, the impugned judgment and decree as well as the case records of the Courts below.

It is admitted by the defendant petitioner that he married the plaintiff No. 1 on 06.01.2019 fixing the dower at Taka 7,00,101/- (Seven Lac One Hundred And One) out of which he paid Taka 101/- (One Hundred And One) as cash and the rest Tk. 7,00,000/- (Seven Lac) remained unpaid. It is also admitted that in their conjugal life, a daughter, plaintiff No. 2 was born and the marital relationship between the plaintiff No. 1 and the defendant has been dissolved by *talak*. In the revisional application the petitioner has stated that his signature in the *kabinnama* was taken forcibly. But such claim is out of his pleadings because nothing has been mentioned in his written statement in this regard. In the memo of appeal also, nothing has been mentioned on this point. So such claim, which is beyond pleadings, is not tenable in law.

It is well settled principle of law that a revisional Court may exercise its power when there is an error of law resulting in an error which occasioned failure of justice and when the lower Court acted illegally or with material irregularity in exercise of law or has committed error in procedure during the course of trial and such breach or error has affected the ultimate exercise of the jurisdiction of the Court. In revision under section 115(1) concurrent findings of fact cannot be disturbed unless those are manifestly perverse.

In the instant case, I am of the opinion that, the learned trial Court, considering the oral and documentary evidence, has rightly decreed the suit directing the defendant-petitioner to pay the plaintiff Taka 7,00,000/- (Seven Lac) as unpaid dower, monthly maintenance at the rate taka 3,000/- (Three Thousand) per month for the plaintiff No. 2 till her marriage and maintenance for three months as *iddat* period at the rate of Taka 5,000/- (Five Thousand) per month for the plaintiff No. 1. Amount of maintenance per month fixed by the learned Trial Court seems to be just and proper. Learned Appellate Court has rightly affirmed the judgment and decree of the trial Court by the impugned judgment and decree. The impugned judgment and decree of the Appellate Court does not suffer from any legal infirmity or impropriety and it does not call for any interference by this Court.

In the facts and circumstances, I find no merit in the Rule. So, the Rule is liable to be discharged.

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

The lower court records be sent to the concerned Court below at once along with a copy of this judgment.