

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

Present:

Mr. Justice Md. Shohrwardi

Civil Revision No. 854 of 2024
IN THE MATTER OF

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

-AND-

IN THE MATTER OF:
Md. Ibrahim and others

... Petitioners

-Versus-

Md. Fazlur Rahman

..... Opposite Parties

No one appears

.....For the petitioners

Mr. Quazi Ferdusul Hasan, Advocate

.....For the Opposite Party

Heard on 23.07.2026 and 27.07.2026.

Judgment on: 28.07.2026

On an application under section 115(1) of the Code of Civil Procedure, 1908 Rule was issued calling upon the opposite party to show cause as to why the judgment and decree dated 17.10.2023 (decree signed on 19.10.2023) passed by the Additional District Judge, Court No. 1, Naogoan in Title Appeal No. 131 of 2022 affirming those dated 31.05.2022 (decree signed on 02.06.2022) passed by the Assistant Judge, Mohadebpur, Naogaon in Other Class Suit No. 96 of 2011 dismissing the suit should not be set aside and/or such other or further order or orders passed as to this Court may seem fit and proper.

Most. Ayzan Bewa, mother of the defendant No. 1, filed Other Class Suit No. 96 of 2011 in the Court of Assistant Judge,

Mohadebpur, Naogaon, praying for a decree of cancellation of deed No. 6896 dated 25.07.2010 (Exhibit-Kha) executed in favour of sole defendant Md. Fazlur Raman by plaintiff Ayzan Bewa, transferring 16.5 decimals of land of RS Khatian No. 168/1, Dag No. 49 and 60.5 decimals of land of RS Khatian No. 82, Dag Nos. 216, 218, 265 and 217, out of 87 decimals of land, stating that she is an old lady of 85 years and during her illness, her son Md. Fazlur Rahman took her to Mohadebpur for treatment and, in connivance with unknown persons, took her LTI on different papers. On 15.03.2011, the defendant disclosed that the plaintiff gifted 77 decimals of land by the said deed. The plaintiff did not gift any property by the said deed to the defendant. After inquiry in the Office of the Sub-Registrar, on 23.3.2011, she came to know about the deed No. 6896 dated 25.7.2010. Thereafter filed the suit on 20.04.2011.

The sole defendant, Md. Fazlur Rahman, son of plaintiff Most. Ayzan Bewa, contested the suit by filing a written statement denying the assertions made in the plaint, stating that the suit land is the paternal property of the plaintiff Ayzan Bewa and, before execution of the deed in his favour, the plaintiff transferred her land in favour of her two sons and daughter. Md. Ibrahim Hossain, son of the plaintiff, is a clever man who received Tk.150,000 from Abu Bakar Siddique, and he cleverly executed deed No. 6731/ 2010 through her mother in favour of Abu Bakar Siddique. Thereafter, the plaintiff, with prior knowledge of her son Ibrahim Hossain and daughter Sufia Begum, gifted 77 decimals of land by deed No. 6896 dated 25.07.2010 and handed over the possession to the defendant No.

1. The plaintiff went to the Office of the Sub-Registrar and voluntarily executed and registered the said deed. His brother Md. Ibrahim Hossain filed a false case against him through his mother.

During trial, the plaintiff examined 2 P.Ws, and the defendant examined 4 D.Ws. P.W. 1 is the plaintiff, and after recording evidence, she died; subsequently, her son Md. Ibrahim Hossain and the son and daughters of Sofia Begum were substituted in the suit. The petitioners are the son and heirs of Ayzen Bewa. P.W. 2 Nur Muhammad is a relative of Sofia Begum. D.W.1 Md. Fazlur Rahman is the defendant No. 1. D.W. 2 Md. Dulal Hasan is an identifier of the disputed deed No. 6898 dated 25.7.2010; D.W. 3 Md. Azgor Ali Mandal is the deed writer, and P.W. 4 Md. Abdul Salam is the cousin of D.W.1.

After concluding the trial, the Assistant Judge, Mohadebpur, Naogaon, by judgment and decree dated 31.5.2022, dismissed the suit on contest. Against the said judgment and decree passed by the trial court, the petitioners, heirs of Ayzen Bewa, filed Title Appeal No. 131 of 2022 in the Court of the District Judge, Naogaon. The Additional District Judge, Court No. 1, Naogaon heard the appeal and, by impugned judgment and decree dated 17.10.2023, affirmed the judgment and decree passed by the trial court, against which the substituted plaintiffs/petitioners obtained the Rule.

No one appears on behalf of the petitioners.

The learned Advocate Mr. Quazi Fedous Hasan appearing on behalf of the defendant opposite party No.1 submits that at the time of execution and registration of the deed No. 6896 dated

25.7.2010(exhibit-Kha) the plaintiff Ayzen Bewa was a sound lady and before execution and registration of the said deed, the plaintiff gifted 33 decimals of land by deed No. 6731 of 2010 in favor of his daughter Sofia Begum and she also sold 16.5 decimals of land by deed No. 6816 of 2010 to Abu Bakkar Siddique and after registration of the disputed deed (exhibit-Kha), the plaintiff sold 33 decimals of land by deed No. 8033 dated 11.12.2011 to A. Karim and others and also sold 18.5 decimals of land by deed No. 8032 dated 11.12.2011 in favor of her daughter Sofia Begum and the plaintiff voluntarily executed and registered the disputed deed and on the influence and coercion of the petitioners, the plaintiff filed the suit for cancelation of the deed duly executed by the plaintiff and both the courts below arrived at a concurrent finding of fact that the plaintiff Ayzen Bewa executed and registered deed No. 6896 dated 25.7.2010(exhibit-Kha) and on correct assessment and evaluation of the evidence adduced by both the parties, legally passed the impugned judgments and degrees. He prayed for discharging the Rule.

I have considered the submission of the learned Advocate Mr. Quazi Ferdous Hasan, who appeared on behalf of the defendant opposite party No. 1, perused the evidence adduced by both the parties, the impugned judgments and decrees passed by the courts below, and the records.

On perusal of the evidence, it reveals that the plaintiff, Ayzen Bewa, is the mother of defendant Md. Fazlur Rahman. P.W. 1 Ayzen Bewa admitted that she transferred 1 bigha of land to her elder daughter Sufia, by registered deed, and transferred

10 kathas of land to her younger daughter by registered deed. She also transferred 10 kathas of land to her son Ibrahim. Fazlu took her to the deed writer, and she put her LTI, but the deed was not read over to her. She admitted that the plaint was not read over to her, but he put her LTI.

It appears that after execution of the disputed deed, P.W. 1 Ayzen Bewa also sold 33 decimals of land to A. Karim and others by deed No. 8033 dated 11.12.2011 (exhibit-gha) and also sold 18.5 decimals of land by deed No. 8032 dated 11.12.2011 (exhibit-ga) to her daughter Sofia Begum. The said A. Karim is the husband of Sofia Begum. At the relevant time, P.W. 1 Ayzen Bewa transferred her property by four deeds, which were not disputed by the plaintiff. The above evidence depicts that at the time of execution and registration of the deed No. 6896 dated 25.7.2010 (Exhibit-Kha), Ayzen Bewa was a sound lady of 85 years, and no question was raised by the petitioners regarding other deeds executed and registered by P.W. 1 Ayzen Bewa.

The Sub-Registrar registers a deed following the procedure provided in sections 34, 35, 58 and 59 of the Registration Act and, after registration, issues a certificate under Section 60 of the said Act as to proper registration of the deed. After issuance of a certificate under Section 60 of the Registration Act, 1908 regarding the registration of a deed, it is to be presumed that the deed has been duly registered in the manner provided under the Registration Act and that the facts mentioned in the endorsement referred to in Section 59 of the Registration Act, 1908 have been complied with. The presumption under section 60 of the Registration Act, 1908 is

rebuttable. If any person disputes the registration of the deed after issuance of the certificate under section 60 of the Registration Act, 1908, he may adduce evidence to prove that the deed was not executed and registered by the executants of the said deed. No evidence is adduced by the plaintiff to prove that she did not execute the deed No. 6896 dated 25.07.2010 (Exhibit-Kha).

P.W. 1 Ayzen Bewa stated that she did not execute and register the deed in favour of her son Md. Fazlur Rahman. Mere denial of the execution and registration is not sufficient to cancel a registered instrument unless the plaintiff proves that she did not put her LTI on the deed and in the LTI register of the Office of Sub-Registrar. No step has been taken by P.W. 1 to prove that she did not put her LTI on the deed and in the register of the concerned Office of Sub-Registrar. D.W.3 Md. Azgor Ali Mondal stated that he read over the deed to P.W. 1 Ayzen Bewa and thereafter she put her LTI on the deed. D.W. 2 stated that he identified Ayzen Bewa at the time of registration. D.W.4 Abdus Salam is the maternal cousin of D.W. 1 and nephew of P.W.1. He stated that P.W. 1 gifted the suit land to his cousin D.W.1. The execution and registration of the other deeds by Ayzen Bewa were not disputed by either party.

From the evidence discussed hereinabove, it appears that P.W. 1 Ayzen Bewa voluntarily executed and registered the deed No. 6896 dated 25.07.2010 (Exhibit-Kha), and both the courts below, on correct assessment and evaluation of evidence of both parties, arrived at a concurrent finding of facts that the plaintiff Ayzen Bewa executed and registered deed No. 6896 dated

25.7.2010 (Exhibit-Kha) in favour of her son Md. Fazlur Rahman. I do not find any misreading or non-reading of the material evidence.

I find no merit in the Rule.

In the result, the Rule is discharged.

However, there will be no order as to costs.

Send down the LCR.