

Present:

Mr. Justice Md. Salim

CIVIL REVISION NO.4710 OF 2023

Md. Monir Hossain
..... *Defendant-Petitioner.*

-VERSUS-

Kamrun Nahar
..... *Plaintiff-Opposite Party.*

Mr. Mohammed Amjad Hosen,
Advocate
----- For the petitioner.

Mr. Md. Khayrul Bashar, Advocate
----- For the opposite party.

Heard on 07.08.2025 and 14.08.2025.

Judgment on 02.09.2025.

By this Rule, the opposite parties were called upon to show cause as to why the impugned judgment and order dated 31.07.2022 passed by the learned Senior District Judge, Dhaka in Family Appeal No.92 of 2022 dismissing the appeal and affirming the order dated 18.05.2022 passed by the learned 5th Additional Assistant Judge, Family Court, Dhaka in Family Suit No.287 of 2019 rejecting the application under Sections 10/151 of the Code of Civil Procedure should not be set aside and/or

pass such other or order or orders as to this court seem fit and proper.

Facts necessary for the disposal of the Rule, in brief, are that the opposite party herein, as plaintiff on 28.05.2019, instituted Family Suit No.287 of 2019 before the 2nd Additional Assistant Judge, Family Court, Dhaka, against the defendant-husband-petitioner for the realization of dower and maintenance.

The defendant-husband-petitioner contested the suit by filing a written statement denying all the material allegations of the plaint.

The defendant-petitioner, on 06.08.2019, instituted Civil Suit No. 417 of 2019 before the Joint District Judge, 5th Court, Dhaka, against the plaintiff of the instant suit, seeking a declaration that the kabinnama dated 18.03.2019 is fraudulent, fake, and void, and as such, not binding upon him.

During the pendency of the Family suit, the defendant-petitioner, on 27.10.2020, filed an application under Section 10 read with Section 151 of the Code of Civil Procedure for staying the proceedings of the instant suit until the disposal of Civil Suit No. 417 of 2019.

Subsequently, the learned 5th Additional Assistant Judge of the Family Court, Dhaka, by the judgment and order dated 18 May 2022, rejected the application.

Being aggrieved, the defendant-petitioner preferred Family Appeal No.92 of 2022 before the District Judge, Dhaka. Subsequently, the learned Senior District Judge of Dhaka, by the judgment and order dated 31.07.2022, dismissed the appeal, affirming those passed by the Family Court.

Being aggrieved, the defendant-petitioner filed the present Civil Revision under Section 115(1) of the Code of Civil Procedure before this court and obtained the instant Rule.

I have anxiously considered the submissions made by Counsel for both parties, including the impugned judgment and order and the application for stay, as well as other materials on record. It is a settled principle of law that when two suits are filed one after another from the same cause of action, the later suit ought to have been stayed.

Upon perusal of the record of the instant suit, it appears that Family Suit No. 247 of 2019 was filed on 28.05.2019 before the 2nd Assistant Judge, Family Court, Dhaka. Thereafter, this defendant-petitioner, as plaintiff,

instituted Civil Suit No. 417 of 2019 on 06.08.2019 before the Joint District Judge, 5th Court, Dhaka, against the opposite party-wife for a declaration that the kabinnama dated 18.03.2019 is fraudulent, fake, and void, and as such, not binding upon him.

It appears that both suits were filed on the same cause of action, which was pending. According to Section 10 of the Code of Civil Procedure, no court shall stay the proceedings of a previously instituted suit if the subject matter is the same, since these two suits were filed one after the other and were pending trial. During the same time, the latter suit, namely Civil Suit No. 417 of 2013, may be stayed, not the instant suit.

Notably, whether the alleged kabinnama was genuine or not, it can also be decided by the Family Court. Therefore, it appears that the defendant-petitioner, with the intention of harassing the plaintiff in the instant suit, later filed Civil Suit No. 417 of 2019.

Considering all these aspects on record, we are of the firm view that the impugned judgment is well-reasoned and well-founded based on the facts and circumstances of the case. Therefore, there is no reason to interfere with the impugned judgment and order. So, I find no merit in the Rule.

Resultantly, the Rule is discharged with a cost of Tk.5,000/-.

Let the order of stay is hereby vacated.

Communicate this judgment at once.

.....
(MD. SALIM, J).