

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

*Present:*

*Mr. Justice S M Kuddus Zaman*

*And*

*Mr. Justice Tamanna Rahman Khalidi*

**FIRST MISCELLANEOUS APPEAL NO. 20 OF 2025**

Most. Masuda Akhter @ Mina Begum being dead his  
heirs- Md. Rabbi Islam (Joni) and others  
....Appellants

-Versus-

Md. Masuduzzaman Milon and others  
.... Respondents

Mr. Md. Ziaur Rahman, Advocates  
.... For the appellants.

Mr. Md. Hamidur Rahman with  
Mr. Md. Delwar Hossain, Advocates  
.... For the respondents.

**Heard on 21.04.2026 and Judgment on 26.04.2026.**

**S M Kuddus Zaman, J:**

This First Appeal is directed against the judgment and order dated 19.03.2018 passed by the learned Joint District Judge, (Delegated Court), 1<sup>st</sup> Court, Kushtia allowing the succession case and thereby passed an order to succession certificate infavour of the plaintiffs-opposite parties in Miscellaneous Case No.20 of 2016 (Succession).

Facts in short are that opposite party Nos.1-3 as petitioners submitted a petition to District delegate and Joint District Judge, Kushtia under Section 372 of the Succession Act, 1925 for issuance of Succession Certificate for properties of deceased Kokil Uddin of Vujanga Vusan Lane of Kalishankarpur, Kushtia alleging that above

Kokil Uddin who was Driver of Kushtia General Hospital died on 03.09.2013 at 1.40 A.M. leaving the petitioners as sole heirs.

Mina Begum and Most. Chin claiming to be second wife and minor daughter respectively of above Kokil Uddin submitted a joint written objection against above petition alleging that above Kokil Uddin married Mina Begum and out of above wedlock daughter Chin was born and they are also legitimate heirs of above Kokil Uddin. But the petitioners suppressing above facts most illegally filed above petition for Succession Certificate which is not tenable in law.

At trial petitioners examined three witnesses and opposite party Nos.2 and 3 examined 4. Documents of the petitioners were marked as Exhibit Nos.1-8 and those of the opposite party Nos.2 and 3 were marked as Exhibit No."Ka" to "Cha".

On consideration of facts and circumstances of the case and evidence on record the learned Joint District Judge rejected above written objection and issued succession certificate to the petitioners.

Being aggrieved by and dissatisfied with above judgment and order of the learned Joint District Judge above petitioners as appellants moved to this Court and preferred this First Miscellaneous Appeal.

Mr. Md. Ziaur Rahman, learned Advocate for the appellants submits that the appellant Mina Begum is a poor woman of Charghat Upazilla of Rajshahi District and Kokil Uddin married her on 05.03.2004 by a registered Kabinnama in the Office of Marriage Register,

Keranigonj and out of above wedlock co-appellant Chin was born on 29.01.2012 (Exhibit No."Kha"). In support of above claims opposite party No.1 Mina Begum herself gave evidence as OPW1 and produced a photocopy of her Kabinnama showing solemnization of her marriage with Kokil Uddin, a birth certificate of her daughter Chin and her National Identification Card. Moreover, OPW3 Md. Benjir Hossain a first cousin of Kokil Uddin has given consistent evidence as to the marriage of Mina Begum with Kokil Uddin and lawful parentage of minor Chin. Above Kokil Uddin who was an Ambulance Driver of Kushtia Government Hospital used to travel frequently to Rajshahi and Charghat and maintain conjugal relationship with Mina Begum and Chin was born in Charghat, the place of residence of her mother. The name of previous husband of Mina Begum was Nazrul Islam but erroneously the same has mentioned as Kofil Uddin in the previous Id Card of Mina Begum as well as in the Id Card of Rabbi, the son of Mina Begum by her above Kofil Uddin. The Chairman of Hatassharipur Union Parishad himself gave evidence of OPW2 and stated that Mina Begum was lawfully married wife of Kokil Uddin and Chin was biological daughter of above Kokil Uddin. He was cross examined by the opposite parties but his above evidence remained consistent and credence inspiring. On consideration of above facts and circumstances of the case and evidence on record the learned Joint District Judge should have allowed above written objection and accepted opposite

party Nos.2 and 3 as legal heirs of Kokil Uddin but the learned Joint District Judge failed to appreciate above materials on record and most illegally rejected above written objection and issued succession certificate to the opposite parties which is not tenable in law. The learned Advocate lastly submits that to ascertain true paternity of Chin the Court may pass a direction for DNA test of Chin with her step brother and sister, the opposite parties.

On the other hand Mr. Md. Hamidur Rahman, learned Advocate for the respondent Nos.1-3 submits that the appellant Mina could not prove by legal evidence that she was married to Kokil Uddin or out of above wedlock minor Chin was born. The Kabinnama produced by the appellants in support of above marriage has been proved to be a forged document by Shajullah who gave evidence as PW3. Above Mina Begum was married to one Kofil Uddin which has been proved by the National Identification Card produced by OPW1 in Court and National Identification Card of her son Rabbi and the Affidavit sworn in by Rabbi executed in connection of this appeal. The birth certificate of Chin clearly shows that fathers name was written as Kofil Uddin which has been changed to Kokil Uddin by overwriting and interpolation. But with ulterior motive opposite parties have tried to establish themselves falsely as legitimate wife and daughter respectively of Kokil Uddin. On consideration of above facts and circumstances of the case and evidence on record the learned Joint District Judge rightly rejected above

objection of the appellants and issued succession certificate to the respondents which calls for no interference.

We have considered the submissions of the learned Advocates for the respective parties and carefully examined all materials on record.

It is admitted that Kokil Uddin was an Ambulance Driver of Kushtia Government General Hospital and an inhabitant of Kushtia and used live with his wife respondent No.3 a Government employee in her Government quarter and he also died on 03.09.2013 at Kushtia General Hospital. It is also admitted that respondents are legitimate heirs of Kokil Uddin.

Appellants claimed that Kokil Uddin also married now deceased appellant Mina Begum and out of above wedlock co-appellant Chin was born. In their written objection the appellants did not mention the date, place and time of marriage of appellant No.1 with Kokil Uddin. Nor they have mentioned the name of the person who solemnized above marriage or the witnesses who were present in above ceremony. Appellant Chin has claimed to be a daughter of Kokil Uddin but no mention has been made as to when and where she was born.

While giving evidence as PW1 Mina Begum stated that Kokil Uddin married her in 2004 and in support of above claim produced a photocopy of a Kabinnama which was marked as Exhibit No."Ka". Above document shows that above marriage was registered and solemnized in Keranigonj of Dhaka. It is admitted that Mina Begum

was an inhabitant of Charghat Upazilla of Rajshahi district. There is no explanation as to why her marriage with Kokil Uddin was solemnized and registered at Keranigonj when there is no claim that they lived their conjugal life in Keranigonj. The respondents called for the Volume book of above Kabinnama alongwith the Assistant of the marriage registrar as witness and the assistant of above Marriage Registrar Shajullah gave evidence as PW3 and produced the original volume of above Kabinnama. He stated that above marriage of Mina with Kokil Uddin was neither solemnized not registered by them and above kabinnama number represents a completely separate marriage between other parties. PW3 Shajullah was cross examined by the appellants but his above evidence remained consistence and credence inspiring. Above evidence disproves the claim of the appellants that Mina Begum was married by Kokil Uddin in Keranigonj in 2004.

Above Mina Begum was married earlier to a person namely Kafiluddin. While giving evidence as PW1 Mina tried to change the name of her previous husband as Nazrul Islam but in her cross examination she admitted that in her first National Id card the name of Kokil Uddin might be mentioned as her husband. In fact respondents have produced a national Id Card of Masuda Akhter where Md. Kofil Uddin was mentioned as her husband. In her evidence Mina Begum has stated that her another name was Masuda Akhter. Besides it turns out from the National Id Card of Rabbi son of Mina Begum that his

father's name was Kofil Uddin. Above Rabbi also sworn an Affidavit in connection of this First Appeal in the High Court Division where he mentioned that the name of his father was Kofil Uddin. As such it is crystal clear that the name of the husband of Mina Begum was Kofil Uddin not Kokil Uddinl.

In her evidence Mina Begum claimed that she and Kofiluddin effected separation but there is no case that that her marriage with Kofil Uddin came to an end by death or divorce. Nor there is mention of any date when Mina's marriage with Kofil Uddin came to an end. It shows that the marriage of Mina with Kokil Uddin continued and there is no evidence oral or documentary to show that Kokil Uddin a Government Driver of Kushtia ever married Mina Begum who was a resident of Charghat.

To substantiate the claim of paternity of Chin her birth certificate was produced in Court which was marked as Exhibit No."Kha". On examination of above document the learned Judge of the trial Court rightly pointed out that father's name of above Chin was written as Kafil Uddin but the same was changed as Kokil Uddin by interpolation and overwriting.

Several succession certificates were produced in Court by the the opposite parties in support of their claims to be heirs of Kokil Uddin but the evidence of OPW2 Mostaqe Hossain Masud clearly show that above certificates were issued on the basis of inquiry report of Selim a

Union Council member. Above Selim gave evidence as PW2 who stated that above Kokil Uddin died in Government Hospital of Kushtia leaving the respondents as sole heirs.

The appellants could not mention the place of residence of Kokil Uddin and Mina Begum as a lawful couple giving birth to Chin. No member of the extended family of Kokil Uddin or above Mina Begum came forward to give evidence in support of joint living of Mian and Kokil Uddin as husband and wife. The National Id card of Mina Begum shows that his place of residence was Savar of Dhaka. The appellant did not seek DNA test in the trial Court and Kokil Uddin has already died.

On consideration of above facts and circumstances of the case and materials on record we hold that the learned Joint District Judge on a detailed analysis of evidence on record rightly held that opposite party could not prove by legal evidence that Kokil Uddin married her or he stayed or resided with Mina Begum as husband and out of above wedlock Chin was born. As mentioned above in the absence of any material on record to prove that the marriage of Mina with Kofil Uddin came to an end it must be presumed that Chin was the legitimate daughter of Kofil Uddin whose name stood in her National Id Card.

In above view of the materials on record we are unable to find any illegality or irregularity in the impugned judgment and decree of the trial Court nor we find any substance in this First Miscellaneous Appeal calling for interference by this Court.

In the result, the First Miscellaneous Appeal is dismissed.

However, there will be no order as to cost.

Send down the lower Court's record immediately.

**Tamanna Rahman Khalidi, J:**

I agree.

MD. MASUDUR RAHMAN  
BENCH OFFICER