

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

Present:

Mr. Justice Md. Khairul Alam

Civil Revision No. 4292 of 1991

Md. Humayun Mia and others.

..... -Petitioners.

-Versus-

Khalilur Rahman and others.

..... Opposite parties.

No one appears

..... For the parties.

Heard on: 23.07.2025 and
Judgment on: 31.07.2025.

This Rule was issued calling upon the opposite party No. 1 to show cause as to why the judgment and decree dated 01.03.1989 passed by the learned Sub-Judge, 1st Court, Cumilla in Title Appeal No. 16 of 1987 dismissing the appeal and affirming the judgment and decree dated 28.09.1986 passed by the learned Senior Munsif, Sadar, Cumilla in Title Suit No. 168 of 1984 decreeing the suit should not be set aside and/or pass such other or further order or orders as to this court may seem fit and proper.

Relevant facts for disposal of the Rule are that the present opposite party No.1 as plaintiff filed the suit impleading present petitioners and others as defendants for a declaration that the compromise decree dated 20.12.1982 passed in Title Suit No. 372 of 1982 by the then learned Senior Munsif, Sadar, Cumilla was fraudulent, void ab initio and not binding upon the plaintiff contending, inter alia, that the terms of the said compromise decree were not in accordance with the compromise, the defendant fraudulently obtained

the plaintiff's signature on the compromise petition and the signature of his learned Advocate on the petition was forged. The present petitioners as defendants contested the suit by filing a written objection denying the material allegations made in the plaint. The case of the defendants, in short, is that the solenama is legal, genuine, valid and bona fide. The plaintiff voluntarily agreed to the terms of the compromise and put his signature on the compromise application, understanding its contents. After examining the concerned parties on oath, being fully satisfied with the genuineness of the compromise petition, the trial Court passed the compromise decree.

During the trial, both parties adduced both oral and documentary evidence.

After conclusion of the trial, the then the learned Senior Munsif, Sadar, Cumilla by the judgment and decree dated 28.09.1986 decreed the suit.

Against the said judgment and decree the defendants preferred the appeal before the Court of District Judge, Cumilla which was subsequently transferred to the Court of Subordinate Judge, Cumilla who by his judgment and decree dated 01.03.1989 dismissed the appeal and thereby affirmed the judgment and decree passed by the trial Court.

Being aggrieved thereby the petitioners filed this civil revision and obtained the Rule and an order of stay of the impugned judgment and decree.

No one appears to contest the Rule.

Perused the revisional application and other materials on record including the impugned judgment and decree.

It appears that the present opposite party No. 1 filed the suit for a declaration that the compromise decree passed in T.S. No. 372 of 1982 was fraudulent, void ab initio and not binding upon the plaintiff. The trial Court on perusal of the facts and circumstances of the case and evidence of both parties, liked to restore the T.S. No. 373/72 to give the plaintiffs a chance to contest the suit and thereby declared the compromise petition void and not binding upon the plaintiff. The trial Court also set aside the compromise decree dated 20.12.1982 passed in T.S. No. 372 of 1982, and restored T.S. No. 372 of 1982 to its original file and number.

The Court of Appeal below also affirmed the said decision of the trial Court.

On perusal of the record, I do not find any material to interfere with the said decision of the courts below.

Therefore, I do not find any merit in the Rule accordingly, the Rule is discharged without any order as to costs.

The order of stay granted earlier by this court is hereby recalled and vacated.

Send down the lower court record along with a copy of this judgment at once.

Kashem, B.O