

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

Present:

**Mr. Justice Zafar Ahmed**

**Civil Revision No. 1873 of 2012**

Md. Majibur Rahman and others

..... Plaintiff-Petitioners

-Versus-

Md. Entaj Ali and others

..... Defendant-Opposite Parties

Mr. Md. Bon-E-Amin, Advocate

....for the Plaintiff-Petitioners

None appears

.... for the Defendant-Opposite Parties

**Heard and Judgment on: 27.10.2024**

In the instant civil revisional application filed under Section 115(4) of the Code of Civil Procedure, this Court on 03.06.2012 granted leave and issued a Rule calling upon the opposite party Nos. 1-6 to show cause as to why the judgment and order dated 29.02.2012 passed by the learned Additional District Judge, Chapainawabganj in Civil Revision No. 02 of 2011 allowing the revision and reversing the order No. 71 dated 02.11.2010 passed by the learned Senior Assistant Judge, Sadar, Chapainawabganj in Other Class Suit No. 266 of 2000 should not be set aside.

At the time of issuance of the Rule, this Court passed an interim order staying operation of the judgment and order dated 29.02.2012 passed by the learned Additional District Judge, Chapainawabganj in Civil Revision No. 02 of 2012.

None of the defendant-opposite parties has entered appearance in the Rule.

I have heard the learned Advocate Mr. Md. Bon-E-Amin appearing for the plaintiff-petitioners and perused the materials on record.

The plaintiffs filed Other Class Suit No. 266 of 2000 for setting aside the preliminary and final decree passed in Partition Suit No. 76 of 1987 by the Court of Assistant Judge, Chapainawabganj impleading the opposite parties as defendants. At the time of filing the suit, the plaintiffs did not deposit the requisite court fees. On 13.10.2010, the defendants filed an application under Order 7 rule 11 of the Code of Civil Procedure (CPC) for rejection of the plaint on this ground. The application was taken up for hearing on 02.11.2010. On that day, the plaintiff-petitioners filed an application for acceptance of the requisite court fees. The trial Court, vide order dated 02.11.2010 allowed the plaintiffs' application and accepted the requisite court fees. The trial Court rejected the defendants' application filed under Order 7 rule 11. Challenging the said order, the defendants preferred Civil Revision No. 02 of 2011

which was heard by the learned Additional District Judge, Chapainawabganj, who, vide order dated 29.02.2012 allowed the same and rejected the plaint. Challenging the order passed by the revisional Court below, the plaintiffs as petitioners filed the instant civil revision and obtained Rule.

The revisional Court below, while rejecting the plaint, observed that the requisite court fees has to be submitted within 21 days of filing the suit which has not been done in the instant case.

Failure to deposit the requisite court fees is one of the grounds for rejection of plaint under Order 7 rule 11 of the CPC. However, the proviso to Rule 11 states, "Provided that the time fixed by the Court for the correction of the valuation or supplying the requisite stamp-paper shall not exceed twenty-one days". In the instant case, admittedly the plaintiff did not deposit the requisite court fees at the time of filing the suit. On this ground, the defendants filed an application for rejection of the plaint which was taken up for hearing on 02.11.2010. On that day, the plaintiffs deposited the requisite court fees and prayed for an order of the Court to accept the same which the Court accepted on the same day. In view of the above-quoted proviso to the Order 7 rule 11 of the CPC, this Court does not find any illegality in the order passed by the trial Court. The revisional Court below on a notional mistake of law allowed

the revision and rejected the plaint which cannot be sustained as being opposed to the statutory law. This being the position, I find merit in the Rule.

In the result, the Rule is made absolute. The judgment and order passed by the learned Additional District Judge, Chapainawabganj in Civil Revision No. 02 of 2011 is set aside. The order of the trial Court is affirmed.