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

Present:
Mr. Justice S M Kuddus Zaman

CIVIL REVISION NO. 649 OF 2001
In the matter of:
An application under Section 115 of the Code of Civil Procedure.
And
Md. Yousuf Ali Hawlader
....Petitioner
-Versus-
Md. Jahidur Rahman Sheikh and others
.... Opposite parties
None appears
….For both the sides.
Heard and Judgment on 18.06.2026.

On an application under Section 115 of the Code of Civil Procedure this Rule was issued calling upon the opposite party Nos.1-4 to show cause as to why the order No.25 dated 06.11.2000 passed by the learned Sub-ordinate Judge, 1st Court, Bogura in Money Suit No.1 of 1999 should not be set aside and/or pass such other or further order or as to this Court may seem fit and proper

Facts in short are that opposite party Nos.1-4 as plaintiffs instituted Money Suit No.1 of 1999 impleading the petitioner and opposite party Nos.5-13 as defendants for recovery of compensation of Taka 1 crore alleging that plaintiff's predecessor Abdul Jabber Sheikh renowned businessman of Bogura who died on 27.01.1986. Defendant Nos.3-4 the Manager and Deputy General Manager respectively of defendant No.1 Rupali Bank Limited in collusion with Matiur Rahman

Vandari created a false cash credit loan of Taka 15,00000/-(fifteen lac) in the name of Abdur Jabbar Sheikh and his company Messers Jabber Traders and withdrew above money by several forged cheques during 17.02.1986 to 19.03.1986. Subsequently defendant Nos.4 and 5 as plaintiffs instituted Artha Rin Suit No.396 of 1990 for recovery of above outstanding loan and thereby caused above loss and injury to the plaintiffs.

Defendant No.6 of above suit filed a petition on 16.05.2000 for striking out his name from the plaint since he was not involved in the creation of above cash credit loan in the name of Abdul Jabber Sheikh nor in the filing of above Artha Rin Suit.

On consideration of submissions of the learned Advocates for the respective parties and materials on Record the learned Sub-Judge rejected above petition vide impugned judgment and order dated 06.11.2000.

Being aggrieved by and dissatisfied with above order of the Sub-ordinate Judge above defendant as petitioner moved to this Court with this Civil Revisional application under Section 115 of the Code of Civil Procedure, 1908 and obtained this Rule.

No one appears on behalf of the petitioner or the opposite party when the Rule was taken up for hearing although this matter appeared in the list for hearing.

I have carefully examined the plaint of Money Suit No.1 of 1999, petition filed by defendant No.6 under Order 1 Rule 10 of the Code of Civil Procedure, 1908, impugned order passed by the learned Sub-ordinate Judge and other materials on record.

It turns out from Paragraph No.2 of the plaint of above suit for that alleged forged and unfounded cash credit loan was created by defendant Nos.3 and 4 the Manager and Deputy General Manager of defendant No.1 and above defendants allegedly withdrew above loan money by several forged cheques of Abdul Jabber Sheikh during the period from 17.02.1986 to 19.03.1986. No allegation was made against defendant No.6 that he was also working in above Bank during above time or he was involved in the creation of above forged cash credit loan or withdrawal of above money from above account by forging the cheques of Jabber Sheikh. As far as filing of above Artha Rin Suit is concerned it has been alleged at Paragraph No.3 of the plaint that for recovery of alleged defaulted loan of Taka 29,98,879.13 Artha Rin Suit was filed by defendant Nos.4 and 5. There is no allegation that defendant No.6 had had any role in the filing of above Artha Rin Suit.

In above view of the facts and circumstances of the case and materials on record I hold that the plaintiff did not mention in the plaint that defendant No.6 was involved in the creation of false and forged cash credit loan in the name of Abdul Jabber Sheikh or withdrawal a of bove money from the Bank or filing of above Artha Rin Suit. As such the learned Sub-ordinate should have allowed above petition under Order 1 Rule 10 of the Code of Civil Procedure, 1908 and struck out the name of the defendant No.6 who was unnecessarily impleaded in above suit as defendant No.6 but the learned Sub-Judge utterly failed to appreciate above materials on record and most illegally rejected above petition of defendant No.6 which is not tenable in law.

In above view of the materials on record I find substance in this Civil Revisional application and the Rule issued in this connection deserves to be made absolute.

In the result, the Rule is made absolute.

The impugned order No.25 dated 06.11.2000 passed by the learned Sub-ordinate Judge, 1st Court, Bogura in Suit No.1 of 1999 is set aside and let the name of defendant No.6 be struck out from the plaint of above suit at once.

However, there is no order as to cost.

MD. MASUDUR RAHMAN
BENCH OFFICER