

In the Supreme Court of Bangladesh
High Court Division
(Civil Revisional Jurisdiction)

Present:

Mr. Justice Muhammad Abdul Hafiz

Civil Revision No. 1482 of 2019

Mst. Nazma Khatun and others
Plaintiffs-Respondents-Petitioners

-Versus-

Md. Bazlur Rahman
Defendant-Appellant-Opposite Party

Mr. Md. Ashraf-UZ-Zaman, Advocate
for the Petitioners

No one appears
for the Opposite Party

Judgment on: 23.5.2023

This Rule was issued calling upon the opposite party No. 1 to show cause as to why the impugned Judgment and Decree dated 20.2.2019 passed by the learned Joint District Judge, 3rd Court, Mymensingh in Family Appeal No. 15 of 2018 allowing the Appeal partly and thereby modifying the Judgment and Decree dated 27.11.2017 passed by the learned Assistant Judge, Paribarik Adalat, Gaffargaon, Mymensingh in Family Suit No. 71 of 2015 decreeing the suit should not be set aside and/or such other or further order or orders passed as to this Court may seem fit and proper.

The petitioners as plaintiffs instituted the instant Paribarik Suit No. 71 of 2015 in the Court of learned Assistant Judge,

Paribarik Adalat, Gaffargaon, Mymensingh praying for realization of dower money of plaintiff No. 1 and her maintenance and maintenance along with her minor daughters and also for taking custody of her two minor daughters.

The plaintiff's Case, in short, is that the plaintiff-petitioner No.1 Mst. Nazma Khatun was married to the defendant opposite party according to Muslim Shariah fixing dower money amount of Taka 80,000/- wherein prompt dower amount of Taka. 10,000/-. During their conjugal life there were took birth three daughters (plaintiff- petitioner Nos. 2-4). The defendant opposite party harassed the plaintiff No. 1 for Taka 50,000/- and the plaintiff-petitioner No. 1 was bound to leave the defendant's house on 08.07.2008 due to said money. In this regard the plaintiff-petitioner No.1 constrained to file the case in the Gaffargaon Police Station vide Police Station Case No. 8(8)2008 corresponding to G.R. Case No. 252 of 2008 which had been transferred to Nari-O-Shishu Nirjatan Daman Tribunal, Mymensingh for holding trial and renumbered Special Case No. 37 of 2009. The plaintiff-petitioner No.1 is custodian of 2-4 plaintiffs-petitioners. Though the defendant-opposite party paid Taka 3000/- every month for only one year at beginning of Nari-O-Shishu Nirjatan Case nothing to but thereafter pay to the plaintiffs-petitioners. Then the Officer-in-

Charge helped the plaintiffs-petitioners to live in the house of the defendant but ultimately, the plaintiffs-petitioners failed to live there. The plaintiff petitioner No. 1 wanted dower money and maintenance on 03.10.2015 at 11.00 a.m. but the defendant-opposite party denied to give it. Then the plaintiffs-petitioners instituted instant suit in the Court of learned Senior Assistant Judge, Paribarik Adalat, Gaffargaon Mymensingh.

The defendant-opposite party claimed that he divorced the plaintiff-petitioner on 22.12.2015. The plaintiffs-petitioners have been enjoying all facilities living with the defendant's house and in addition the defendant-opposite party has been maintaining educational expenses of the plaintiffs- petitioners No.2-4 and the plaintiffs- petitioners cannot claim any other else and the suit is liable to be dismissed.

The learned Assistant Judge, Paribarik Adalat, Gaffargaon, Mymensingh decreed the suit by its Judgment and Decree dated 27.11.2017. Against the aforesaid Judgment and Decree the defendant as appellant preferred appeal being Family Appeal No. 15 of 2018 before the Court of learned District Judge, Mymensingh which was transferred to the learned Joint District Judge, 3rd Court, Mymensingh who allowed the Appeal partly and thereby modifying the Judgment and Decree of the Trial Court and hence the plaintiffs-respondents as petitioners moved this

application under Section 115(1) of the Code of Civil Procedure 1908 before this Court and obtained this Rule.

No one appears on behalf of the opposite party.

Heard the learned Advocate for the plaintiffs-petitioners and perused the record.

The Appellate Court below failed to consider the minimum monthly maintenance cost of a person and fixed Tk. 2,000/- as monthly maintenance cost for each plaintiff but it is not possible at the present time and the plaintiff-petitioner No. 1 is entitled to get her dower money in accordance with law and the defendant is bound to pay the same.

Considering the facts and circumstances of the case I find substance in this Rule.

In the result, the Rule is made absolute.

The impugned Judgment and Decree dated 20.2.2019 passed by the learned Joint District Judge, 3rd Court, Mymensingh in Family Appeal No. 15 of 2018 allowed the Appeal partly and thereby modifying the Judgment and Decree dated 27.11.2017 passed by the learned Assistant Judge, Paribarik Adalat, Gaffargaon Mymensingh in Family Suit No. 71 of 2015 decreeing the suit is hereby set-aside.

Send down the lower Court's record with a copy of the Judgment to the Courts below at once.