

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

*Present:*

*Mr. Justice S M Kuddus Zaman*

*And*

*Ms. Justice Tamanna Rahman Khalidi*

***FIRST MISCELLANEOUS APPEAL No.33 of 2026***

Kamal Hossain (khokhan)

... Appellant

-Versus-

The Manager, Islami Bank Bangladesh PLC and others

...Respondents

Mr. Md. Ashrafuzzaman, Advocate

...For the Appellant.

Mr. Tareq Bhuiya, Advocate

...For the Respondent

**Heard and Judgment on: 19.05.2026.**

**S M Kuddus Zaman, J**

At the instant of the plaintiff is directed against the judgment and order dated 04.11.2025 passed by the learned District Judge, Brahmanbaria in Daolia Suit No.01 of 2025 dismissing the suit.

Facts in short are that the appellant as plaintiff instituted above suit for declaring himself as an insolvent under Daolia Bisayok Ain, 1997. On the date of admission hearing of above suit the learned District Judge rejected above plaint under Rule 5 (2) Clause-Ta of Daolia Bisayok Bidhimala, 1997 for non submission of a declaration expressing the willingness of the plaintiff to deliver before the court all his properties along with account books.

Being aggrieved by and dissatisfied with above judgment and order of the learned District Judge above plaintiff as appellant moved to this court and preferred this first miscellaneous appeal.

Mr. Md. Ashrafuzzaman learned Advocate for the appellant submits that the plaintiff at the time of filing of above suit erroneously failed to submit a declaration stating his willingness to hand over to the court all his properties along with account books as provided in Rule No.5(2) Clause-Ta of the Daolia Bisayok Bidhimala, 1997 and for above deficiency the learned District Judge rejected above plaint under Rule 11(1) Clause-Ga. The appellant has submitted a declaration under Rule 11(2) Clause-Ta to this court and if above order for rejection of plaint is set aside and above Daolia suit is remanded to the trial court for retrial the plaintiff will submit a fresh declaration as has been provided in Rule 5(2) Clause-Ta. On consideration of above materials on record the impugned judgment and order may be set aside and above suit be remanded to the trial court for retrial.

Mr. Tareq Bhuiya learned Advocate for the respondent No.2 submits that since the plaintiff failed to submit a declaration as provided in Rule 5(2) Clause-Ta of the Daolia Bisayok Bidhimala, 1997 and the learned District Judge rightly rejected plaint of above suit under Rule 11(1) Clause-Ga of above Bidhimala. Since the learned Judge of the trial court has passed the impugned order in accordance with the law this court has no scope to interfere with above order. The appellant shall not be prejudiced by above order of the trial court since Rule 11(3) provides for filing of a fresh suit for the same cause if the plaint is rejected under Rule 11(2) of Daolia Bisayok Bidhimala, 1997.

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

It is admitted that the appellant as plaintiff filed Daolia Suit No.01 of 2025 to the District Judge, Brahmanbaria but he did not submit along with the plaint a declaration as has been provided in Rule 5(2) Clause-Ta of the Daolia Bisayok

Bidhimala, 1997. Above provision provides for submission of a declaration by the plaintiff along with the plaint that he is ready to hand over all his property and account books to the court. The consequence for non compliance of above Rule has been provided in Rule No.11(1) Clause-Ga. It has been provided that if any condition for filing of the suit has not been complied with the court shall reject the plaint.

The learned Advocate for the appellant frankly concedes that due to non compliance of the provision provided in Rule 5(2) Clause-Ta the learned District Judge has rightly rejected the plaint under Rule 11(1) Clause-Ga of the Daolia Bisayok Bidhimala, 1997. But the plaintiff has already prepared a declaration as provided in Rule 5(2) Clause-Ta of above Bidhimala and submits that the impugned order for rejection of plaint may be set aside and the suit may be remanded for retrial to the trial court so that he plaintiff may submits above declaration.

On consideration of above facts and circumstances of the case and submissions of the learned Advocates for the respective parties we hold that the learned District Judge did not commit any illegality in passing the impugned order of rejection of plaint under Rule 11(1) clause-Ga of the Daolia Bisayok Bidhimala, 1997 and sub-rule 3 of Rule 11 of above Bidhimala provides for filing of a fresh suit and the plaintiff be at liberty to file a fresh suit in compliance of all relevant rules and procedures as provided in Daolia Bisayok Ain, 1987 and Daolia Bisayok Bidhimala, 1997.

Since we are unable to find any illegality or irregularity in the impugned judgment and order passed by the learned District Judge we are not inclined to interference with above judgment and order.

In above view of the materials on record we find no substance in this First Miscellaneous Appeal which is liable to be dismissed.

In the result, the First Miscellaneous Appeal is dismissed on contest without any order as to cost.

Let a copy of this judgment be transmitted down at once.

**Tamanna Rahman Khalidi, J**

I agree.

*Md. Kamrul islam*  
*Assistant Bench Officer*