

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

**CIVIL REVISION NO. 1313 OF 2024**

In the matter of:

An application under Section 115(1) of the Code of Civil Procedure, 1908.

AND

In the matter of:

Robi Axiata Limited of Robi Corporated Office, The Forum, 187, 188/B Bir Uttam Mir Shawkat Sarak, Tejgaon Dhaka-1208, Bangladesh represented by its CEO and Managing Director.

.... Petitioner

-Versus-

Mahtab Uddin Ahmed, son of late Selahuddin Ahmed of Flat-E5, Sharanee Apartments, House-78, Road-18, Block-A, Banani, Dhaka-1213, Bangladesh and others.

....Opposite-parties

Mr. Mamun Chowdhury with  
Mr. Suhan Khan, Advocates

... For the petitioner

Mr. Ashfaqur Rahman, Advocate

...For the opposite-party no. 1

**Heard and Judgment on 24.04.2024.**

**Present:**

Mr. Justice Md. Mozibur Rahman Miah

And

Mr. Justice Md. Bashir Ullah

**Md. Mozibur Rahman Miah, J:**

At the instance of the defendant no. 1 in Title Suit No. 568 of 2022, this rule was issued calling upon the opposite-party no. 1 to show cause as to why the order dated 12.11.2023 passed by the learned Joint District Judge, 1<sup>st</sup> Court, Dhaka in the suit framing issues upon accepting all the suggested issues of the plaintiff without considering the plaint and written statement and order dated 10.01.2024 passed in the suit, so far it relates to keeping petitioner's application for framing of additional issues on the record 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 relevant facts for the purpose of disposal of the instant rule are:

The present opposite-party no. 1 as plaintiff filed the aforesaid suit seeking following reliefs:

*“a. Pass a decree in favour of the plaintiff and against the defendant no. 1 declaring that the departmental proceedings initiated by the defendant no. 1 against the plaintiff vide the show cause notice dated 07.10.2021 as well as the purported dismissal of the plaintiff from his service as the MD and CEO of Robi with effect from 31.10.2021 vide the impugned notice dated 22.05.2022 have been done and issued illegally, without lawful authority, are of no legal effect and the same are not binding upon the plaintiff; and*

*b. Pass a decree in favour of the plaintiff and against the defendant no. 1 declaring that the plaintiff is entitled to immediately realize his due service and other benefits as well as damages from the defendant no. 1 as mentioned in*

*schedule no. 3 below to the tune of BDT. 227,02,44,502/- (Taka two hundred twenty-seven crore two lac forty-four thousand five hundred and two) only;*

*c. Pass a decree of mandatory injunction in favour of the plaintiff and against the defendant no. 1 to pay BDT. 227,02,44,502/- (Taka two hundred twenty-seven crore two lac forty-four thousand five hundred and two) as described in schedule no. 3 to this plaint or the decretal amount within a stipulated time as to this court may seem fit and proper and, in default, to realize the said decretal amount through the court; and*

*d. Award interest at the rate of 18% per annum on the said amount from 31.10.2021 till realization of the same.*

*e. Decree for costs.*

*f. Award such other or further relief or reliefs as Your Honour may find the plaintiff is entitled to.”*

The present petitioner who is the defendant no. 1 entered appearance and filed written statement for contesting the suit and accordingly, a step was taken under section 89A of the Code of Civil Procedure for mediation of the dispute among the parties. Since the mediation has not been accomplished, the learned Judge of the trial court vide order dated 27.09.2023 fixed the matter for framing issues fixing it on 12.11.2023 and accordingly, the plaintiff proposed as many as 9 different issues and the learned Judge of the trial court vide order dated 12.11.2023 framed those issues fixing 10.01.2024 for taking step under

section 30 of the Code of Civil Procedure. On that very date, dated 10.01.2024, the defendant-petitioner filed an application proposing as many as 8 different issues to be framed as of additional issues. The learned Judge of the trial court kept the said application on record fixing 18.02.2024 for settling the date of peremptory hearing (SDPH).

It is at that stage, the petitioner came before this court and obtained the instant rule.

Mr. Mamun Chowdhury, the learned counsel appearing for the petitioner upon taking us to the impugned order at the very outset submits that, the learned Judge of the court below in passing the order no. 11 did not give any proper and appropriate reason for keeping the application on/with the record.

The learned counsel next contends that, the issues proposed by the defendant no. 1-petitioner were essential and necessary for determining the matters in controversy between the parties and for the trial and the learned Judge of the trial court has exercised his discretionary power/jurisdiction in an arbitrary manner framed all the issue as suggested by the plaintiff-opposite-party no. 1 but declined to frame and/or settle additional issues suggested by the defendant no. 1-petitioner and the learned Judge has committed an error of law in passing the impugned order resulting in an error of judgment occasioning failure of justice.

On the contrary, Mr. Ashfaque Rahman, the learned counsel appearing for the plaintiff-opposite-party no. 1 at the very outset frankly submits that, if the issues proposed by the defendant-petitioner are framed by the learned Judge of the trial court, the plaintiff-opposite-party has got

no objection rather a direction may be given to the learned Judge of the trial court by giving a time-frame to dispose of the suit. On that very sole ground, the learned counsel finally prays for dispose of the suit by giving a direction which has been stated hereinabove.

We have considered the submission so advanced by the learned counsel for the defendant-petitioner and that of the plaintiff-opposite-party no. 1 and perused the revisional application.

We have also very meticulously gone through the provision laid down in order XIV, rule 5 of the Code of Civil Procedure. On going through the said provision, we find that, the trial court has been given an absolute authority to frame any issue even before passing of the judgment. In such a view of the matter, the learned Judge of the trial court can exercise the authority to frame any additional issue if he/she finds so for the proper adjudication of the suit. Since the learned Judge of the trial court has not rejected the application of the defendant no. 1 praying for framing additional issues we thus find that, he can exert the authority to frame the issues proposed by the defendant no. 1. But as the plaintiff-opposite-party has no objection if those additional issues are framed, so we are of the considered view that, the learned Judge of the trial court should frame the additional issue proposed by the defendant no. 1 before the suit being proceeded to the next step since the suit has been filed for compensation and the suit has to be adjudicated upon as expeditiously as possible.

In view of the above, we are inclined to direct the trial court to dispose of the suit by giving a time-frame apart from framing the issues proposed by the petitioner.

Accordingly, the rule is disposed of.

The learned Judge of the trial court is hereby directed to frame the issues so proposed by the defendant in addition to the issue, the learned Judge already framed and to dispose of the suit as expeditiously as possible preferably within a period of 3(three) months from the date of receipt of the copy of this judgment.

Let a copy of this judgment be communicated to the learned Joint District Judge, 1<sup>st</sup> Court, Dhaka forthwith.

**Md. Bashir Ullah, J:**

I agree.