

Bangladesh Form No. 3701

HIGH COURT FORM NO. J (2)

HEADING OF JUDGMENT IN ORIGINAL SUIT/CASE

District- Chattogram

In the Boalkhali Assistant judge and Family Court

Patiya, Chattogram

Present: **Mr. Md. Hasan Zaman, Senior Assistant Judge,**

Thursday, the 28th day of November, 2024

Family Suit No. 18 of 2019

Most. Jannatul Wares & others Plaintiff

-Versus-

Md. Jainal Abedin SiddikiDefendant

This suit came up for final hearing on 04.03.2024, 09.05.2024;
23.06.2024; 22.09.2024; and 24.11.2024.

In presence of

Mr. Tipu Kumar Nath -----Advocate for Plaintiff

Mr.Jamiur Alam ----- Advocate for Defendant.

And having stood for consideration to this day, the court delivered
the following judgment:-

This is a family suit for realization of dower and maintenance.

The plaintiff's case in brief is that the marriage between the Plaintiff No.1 and the Defendant was solemnized on **04/03/2007** under Islamic law with a registered Kabinnama fixing the dower at **Tk. 4,00,000/-**. Post-marriage, the parties lived as husband and wife, and two children, Plaintiffs No. 2 & 3, were born from their union.

Over time, the 1st Defendant began pressuring the 1st Plaintiff for dowry. Upon her refusal, she was subjected to physical and mental abuse. The situation escalated on **10/10/2019**, when the Defendant humiliated the Plaintiff No.1 and expelled her from the marital home.

Consequently, the Plaintiff, with her children, took refuge at her parental home. Despite repeated notices, the Defendant did not provide maintenance or settle the outstanding dower. On **20/10/2019**, the Plaintiff No.1 issued a Talaq notice, which was duly served on the Defendant and the concerned Chairman. On 25.11.2019 the plaintiff claimed her dower and their maintenance from the defendant but he refused to pay any penny. Hence, filed the instant suit.

On the other hand, the defendant resisted the suit by presenting a written statement traversing all the material allegation made in the plaint contending *inter alia* that the allegations of dowry demands, abuse, and abandonment is completely false and fabricated. He claims to have financially supported the Plaintiff and their children through various remittances totaling **Tk. 15,41,000/- which was sent for the purpose of payment of dower and maintenance. The Defendant asserts that the Plaintiff No.1 engaged in illicit activities and left the marital home without justification. He alleges that she took valuables, including 8 tolas of gold, during her departure. The Defendant also claims that the Plaintiff has remarried as of **08/06/2020**, rendering her claim for maintenance invalid.**

The Issues

1. Whether the suit is maintainable in its present form and manner?
2. Whether the plaintiff's claim for unpaid dower and maintenance and maintenance for children is legal and reasonable?
3. Whether the plaintiff may get the reliefs prayed for?

Findings and Decisions

Discussions and Decisions:

The plaintiff examined 01 witnesses **Jannatul Wares (P. W 1)** before the court. The plaintiff's documents were exhibited as Exhibit-1-3.

On the other hand the defendants examined 02 witnesses **Jainal Abedin (D.W-1)** and **Md Abul Kalam (D.W. 2)** before the court and the defendant's documents were exhibited as **Exhibit-Ka, Kha (with objection) and Ga.**

Jannatul Wares (P. W 1) for the plaintiff and **Jainal Abedin (D.W-1)** for the defendant have given statements admitting the facts of the plaint and written statements respectively.

Issue Nos.1 to 3

For brevity and convenience of discussions, all issues are taken jointly.

The plaintiff No.1, as P.W.1, established through oral and documentary evidence (Exhibit-1) that the marriage between her and the defendant No.1 took place on 04.03.2007 under a registered kabinnama with a stipulated dower of Tk. 4,00,000/-, of which Tk. 50,000/- was paid at the time of marriage, leaving Tk. 3,50,000/- unpaid. The marriage was dissolved on 18.11.2019 by talak initiated by the plaintiff. The claim of unpaid dower remains central to the suit.

The defendant, as D.W.1, contested the claim, asserting that he remitted a total of Tk. 15,41,000/- from abroad between 2014 and 2019, purportedly covering the unpaid dower and maintenance obligations. Exhibit-Kha (Bank statements) were presented to substantiate his remittances. However, the plaintiff's cross-examination revealed that these amounts were used for family expenses and construction purposes, not for dower payment.

Under Islamic jurisprudence, the dower is a mandatory marital obligation owed by the husband to the wife. The burden of proof lies on the husband to establish that the unpaid

dower was satisfied, particularly where the plaintiff denies receipt. Any payment during the subsistence of the marriage is presumed to be for ordinary expenses unless otherwise evidenced. The defendant failed to provide any written acknowledgment or agreement indicating that the remitted amounts were intended as dower payments. Oral assertions and general remittances, without specific linkage to dower, are insufficient. As such, the defendant has not discharged his burden of proof, rendering the plaintiff's claim for Tk. 3,50,000/- as unpaid dower valid and legally enforceable. Thus **the plaintiff No.1 is entitled to get her unpaid dower of Tk. 3,50,000/- from the defendant No.1.**

P.W.1 testified that she was driven out of the marital home on 10.10.2019, and the marriage was dissolved on 18.11.2019. Under Islamic law, the wife is entitled to maintenance during the subsistence of the marriage and the iddat period following dissolution. The iddat period is three months as per Shari'ah principles. P.W.1 claims Tk.10,000 only per month for her maintenance from October 2019 to March 2020 (a six-month period) but if the amount be fixed Tk.5000/- per month considering socio-economic factors then I think it would be reasonable fair and just. Accordingly, the plaintiff is entitled to Tk. 30,000/- for six months of maintenance.

Section 9 of the Muslim Family Laws Ordinance, 1961, obliges the father to maintain his minor children. Plaintiff No.2 (Sumaiya Siddika Joya) and Plaintiff No.3 (Imran Siddika Safat) are minors and entitled to maintenance until they attain majority or are married. P.W.1 claims Tk.10,000 only per month for the maintenance of **Plaintiff no.2 & 3**. The defendant's admission during cross-examination that he failed to provide maintenance from 2019 to 2024 strengthens the plaintiffs' claim. So both the plaintiff No.2 &3 are entitled to receive $(2500 \times 2) = \text{TK. } 5000$ thousand per month and it will be just and consistent with the existing socio economic context. Thus the plaintiff No 2 & 3 are to be entitled of **Tk 3,06,333/-** only for 05 years 01 months and 8 days since 10.10.2019 as their maintenance.

As the plaintiff is decided to be entitled of Total (Tk. 3,50000/-+ 30,000/-)= 380000 (Taka three Lacs Eighty Thousand) only as her dower and maintenance and her daughters [Plaintiff No.2 & 3] are decided to be entitled of Tk. **3,06,333/-** (Taka Three Lacs Six thousand Three Hundred thirty three) only as their maintenance so it appears to me that the suit is maintainable in its present form and manner. Thus it is decided that this suit be decreed on partly in favour of the plaintiffs.

Court Fee paid is correct.

Hence

It is Ordered,

That this family suit for realization of unpaid dower and due maintenance is partly decreed on contest in favor of the plaintiffs and against the defendant without cost.

Thus it is hereby decreed that the plaintiff is to be entitled of **Total (Tk. 3,50000/-+ 30,000/-)= 380000 (Taka three Lacs Eighty Thousand) only as her dower and maintenance and her daughters [Plaintiff No.2 & 3] are decided to be entitled of Tk. 3,06,333/- (Taka Three Lacs Six thousand Three Hundred thirty three) only as their maintenance. Moreover daughters [Plaintiff No.2 & 3] will be entitled of Tk. 3000/- per month as their maintenance from December, 2024 to till they got married.**

So the defendant is directed to pay of **Total (TK. 3,80,000/- + 3,06,333/-)= TK. 6,86,333 /- (Taka Six Lacs Eighty Six Thousand Three Hundred Thirty Three) only** within 30 days from this date. If this order is not duly carried out by the defendant the plaintiff is at liberty to execute it via court.

D/C by me

(Md. Hasan Zaman)
Senior Assistant Judge &
Judge ,
Boalkhali Assistant Judge and Family Court
Patiya , Chattogram

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