**IN THE COURT OF HIGH COURT DIVISION**

**(CIVIL REVISIONAL JURISDICTION)**

**CIVIL REVISION NO. OF 2009**.

**IN THE MATTER OF:**

An application under Section 115(1) of the

Code of Civil Procedure.  
  
  
 And  
 **IN THE MATTER OF**  
Zafar  
 son of,  
 Village:  
 Police Station:  
 District: Dhaka.

........ Plaintiff/Petitioner.  
  
  
 -Versus-  
  
  
Rahman

son of,  
 Village:  
 Police Station:

District: Dhaka

......... Defendant-Appellant.

And

**IN THE MATTER OF:**

Judgment and Order dated 19.06.09 passed by

the Joint District Judge, 2nd Court, Dhaka in

Miscellaneous Case No. 8 of 2008 in which the

learned Court allowed the Miscellaneous Case

under Order-9, Rule-13 of CPC and the ex parte

decree was set aside.

S.

To

Mr. Justice Md. Muzammel Hossain, the Chief Justice of Bangladesh and his Companion Justices of the said Hon’ble Court.

The humble petition on behalf of the above named

petitioner most respectfully,

**S H E W E T H** :

1. That this revisional application arises out of Judgment and Order dated 19.06.09 passed by the Joint District Judge, 2nd Court, Dhaka in Miscellaneous Case No. 8 of 2008 in which the learned Court allowed the Miscellaneous Case under Order- 9, Rule- 13 of CPC and the exparte decree was set aside.

2. That it is stated that the petitioner as plaintiff originally filed Money Suit No.2 of 2007 on 01.01.2007 in the Court of Joint District Judge, 2nd Court, Dhaka against the defendant. But as he did not contest the suit, the suit was decreed ex parte on 15.01.08.

3. That on 01.03.08 defendant- opposite party filed a Miscellaneous Case No.8 of 2008 under 2nd Court of Joint District Judge, Dhaka under Order-9, Rule-13 C.P.C for setting aside the ex-parte decree alleging that the summons was not duly served on him.

4. That the plaintiff- petitioner contested the case by filling a written objection denying the material allegation in the application stating that the summons was duly served on the defendant through the manager of his factory, Mr. Ali.

5. That it is stated that after hearing the parties the Learned Trial Court on 19.06.09 was pleased to allow the Miscellaneous case and the ex-parte decree was set aside under Order-9, Rule-13 of C.P.C.

6. That being aggrieved by and dissatisfied with the judgment and Order of the learned trial court, the petitioner begs to move this application before your Lordships on the following amongst other,

G R O U N D S

I. For that the judgment and decree passed by the lower Appellate Court is bad in law as well as on facts.

II. For that the learned Appellate Court below committed an error of law in setting aside the ex-parte decree without any basis in evidence on record.

III. For that the trial court gave his judgement without taken into consideration the written objection filed by the plaintiff.

IV. For that the Learned trial court failed to consider the fact that he failed to prove his allegation that the summons was not duly served on him and as such the judgment and order passed by both the Courts below are wholly illegal, malafide and as such liable to be set aside.

Wherefore, it is most humbly prayed that your

Lordships would graciously be pleased to call for

the records, issue a Rule calling upon the   
 defendant-opposite party to show cause as to

why the Judgment and Order dated 19.06.09

passed by the Joint District Judge, 2nd Court,

Dhaka in Miscellaneous Case No. 8 of 2008 in

which the learned Court allowed the

Miscellaneous Case and the ex parte decree was

set aside under Order-9, Rul-13 of CPC, and after

hearing the parties and cause shown, if any,

make the Rule absolute and/or pass such other   
 or further order or orders as to your Lordships   
 may seem fit and proper.