

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

Present

Mr. Justice Raziuddin Ahmed

Civil Revision No. 2839 of 1995

IN THE MATTER OF:

Shamsunnesa Choudhury @ Begum and others  
... Plaintiffs/Appellants/Petitioners

Versus

Bangladesh represented by the Deputy  
Commissioner Sunamganj  
... Defendant/Respondent/Opposite party

No one appears  
..... for the Plaintiffs/Appellants/Petitioners

No one appears  
..... for the Defendant/Respondent/Opposite Party

Judgment on: 03.12.2025

Raziuddin Ahmed, J:

This revisional application filed under section 115 of the Code of Civil Procedure, 1908 challenging the judgment dated 13.07.1994 passed by the learned Additional District Judge, Sunamganj in Title Appeal No. 62 of 1985 affirming the judgment and decree dated 31.05.1982 (Decree signed on 15.06.1982) passed by the learned Additional Sub-Judge, Sylhet in Title Suit No. 29 of 1982.

The relevant facts, necessary for disposal of the Rule, are that late Modoris Chowdhury, husband of petitioner No. 1 and father of petitioner Nos. 2 and 3, as plaintiff, instituted Title Suit No. 29 of 1982 in the Court of Subordinate Judge, Sylhet, seeking declaration of his leasehold right over the suit land under the defendant, confirmation of possession, and permanent injunction restraining the defendants from interfering with his peaceful possession.

The case of the plaintiff, in short, was that he applied for permanent settlement of the suit land for business and other purposes and, accordingly, Settlement Case No. 371 of 1965-66 was started in the office of the Revenue Circle Officer, Chhatak. Initially the suit land was ascertained to be 15 decimals as per D.P. Khatian, but subsequently, upon measurement, the area was found to be 0.1193 acres. The Revenue Circle Officer, Chhatak, after enquiry, recommended permanent settlement of the land in favour of the plaintiff on payment of salami of Rs. 300/- and annual rent of Rs. 3/-. The S.D.O., Sunamganj forwarded the matter to the A.D.C. Revenue, Sylhet, who approved the settlement and directed realization of salami and rent and delivery of possession after compliance with necessary formalities.

The plaintiff claimed that he paid salami on 16.12.1966, obtained receipt, entered into possession from 1st Baishakh, 1374 B.S., constructed structures on the suit land after developing the same, and paid rent up to 1382 B.S. He further claimed that despite repeated requests the lease deed was not executed for a long time. Later, after the liberation of Bangladesh, he again purchased stamps and applied for execution and registration of the lease deed. Thereafter, the lease deed was executed and registered on 22.03.1978 as Deed No. 3463 of 1978. The plaintiff further asserted that the suit khatian was mutated in his name and that certain local persons, in collusion with the authorities, attempted to disturb his possession, which compelled him to file the suit.

The defendant No. 1 contested the suit by filing written statement, denying the material allegations made in the plaint. The defence case was that the suit was not maintainable, the plaintiff had no cause of action, and the suit land was not liable to be settled in the manner claimed by the plaintiff. It was alleged that the plaintiff, in collusion with local revenue staff, managed to create and manipulate settlement records. According to

the defendant, the original settlement proposal related to only .015 acres of land, but the plaintiff subsequently managed to alter the area to .1193 acres. It was further contended that the suit land was Chandina Bhiti/khas land and could not be settled with the plaintiff in the manner claimed. The defendant also asserted that no valid delivery of possession was ever given to the plaintiff and that the alleged lease was cancelled by the A.D.C. Revenue by Memo No. 4071(1) dated 10.06.1978.

Upon hearing the parties and considering the evidence on record, the learned Additional Sub-Judge, Sylhet, by judgment and decree dated 31.05.1982, dismissed the suit.

Being aggrieved, the plaintiff preferred Title Appeal No. 138 of 1982 before the learned District Judge, Sylhet. The appeal was subsequently transferred to the Court of District Judge, Sunamganj and renumbered as Title Appeal No. 62 of 1985. The learned Additional District Judge, Sunamganj, after hearing the appeal, dismissed the same by judgment and decree dated 13.07.1994, thereby affirming the judgment and decree of the trial Court.

Being aggrieved by the said judgment and decree of the appellate Court, the plaintiff-petitioners moved this Court and obtained the present Rule.

No one appears for the petitioners.

It appears from the record that this revision was made ready for hearing as far back as on 28.08.1996. Since then the petitioners have not taken any effective step to get the matter heard. As the matter is an old one, this Court has taken it up for disposal on the basis of the revisional application, the judgments of the Courts below, and the materials available on record.

On perusal of the record, it appears that the appeal was pending for a long time and the learned appellate Court repeatedly directed the parties to get ready for hearing and to produce relevant documents. The record further shows that despite such directions, the parties failed to produce the original settlement case record on the basis of which the alleged permanent settlement and registered lease deed were claimed by the plaintiff.

The learned appellate Court noticed that the order dated 07.02.1977 passed in Settlement Case No. 522(C) of 1969-70 indicated that the suit land was khas land. It was also found that the rent receipts and D.C.Rs relied upon by the plaintiff could not, by themselves, prove title. The appellate Court further observed that upon examination of the alleged registered lease deed, except the first page, the remaining pages appeared to be carbon copies and not original pages. The plaintiff also failed to produce reliable government records supporting the alleged settlement and leasehold right.

It further appears that there was no convincing evidence to show that possession of the suit land was formally delivered to the plaintiff by proper measurement through the competent revenue authority or Kanungo. The alleged mutation in favour of the plaintiff was also found insufficient to establish title in the absence of valid settlement records and proof of lawful delivery of possession.

In a suit for declaration of title or leasehold right, the plaintiff must succeed on the strength of his own case and not on the weakness of the defence. Mere payment of rent, production of D.C.Rs, or mutation entries do not create or confer title unless the foundational settlement and the lawful execution of lease are proved by cogent and reliable evidence.

It is also settled that in revisional jurisdiction under section 115 of the Code of Civil Procedure, this Court does not sit as a Court of appeal to reassess or reappraise evidence. Interference is warranted only where the Courts below have committed an error of law resulting in failure of justice, acted without jurisdiction, failed to exercise jurisdiction vested in them, or arrived at findings which are perverse or based on misreading or non-consideration of material evidence.

In the present case, both the Courts below, upon consideration of the evidence and materials on record, concurrently found that the plaintiff failed to establish his claimed leasehold right and possession over the suit land. The findings recorded by the Courts below are based on proper appreciation of the evidence on record. I do not find any misreading, non-consideration of material evidence, error of law, or jurisdictional infirmity in the impugned judgments which would call for interference by this Court in exercise of revisional jurisdiction.

Considering the facts and circumstances of the case, the materials on record, and the concurrent findings of the Courts below, I am of the view that the learned Courts below rightly dismissed the suit and the appeal. There is, therefore, no merit in the Rule.

In the result, the Rule is discharged without any order as to costs.

The judgment and decree dated 13.07.1994 passed by the learned Additional District Judge, Sunamganj in Title Appeal No. 62 of 1985, affirming the judgment and decree dated 31.05.1982 passed by the learned Additional Sub-Judge, Sylhet in Title Suit No. 29 of 1982, are hereby affirmed.

Send down the lower Court records at once.