Bench:
Mr. Justice Md. Ali Reza

Civil Revision No. 5302 of 1998
Md. Abul Kashem
.....petitioner
-Versus-
Md. Babul Hossain and others
.....opposite parties

No one appears for the petitioner

Mr. Khurshid Alam Khan, Senior Advocate
.....for opposite parties

Judgment on: 29.07.2026

This matter appeared as Item Number 30 in yesterday's cause list. During the mentioning hour Mr. Khurshid Alam Khan the learned Senior Advocate appearing for the plaintiff-opposite party mentioned the matter and drew the attention of the Court to an application for abatement. He submitted that the sole petitioner had died in the year 2014 and despite the lapse of a considerable period no application had been filed for substitution of his legal heirs. He further submitted that because of such prolonged inaction the plaintiff-opposite party had been suffering serious prejudice and prayed that if convenient to the Court the matter be taken up today for orders. The prayer having been allowed the matter has been

placed today for orders. Accordingly the following order is passed.

This is an application praying for an order declaring that the instant revisional proceeding has abated.

The relevant facts in brief are that the opposite party 1 as plaintiff filed Title Suit Number 20 of 1990 on 12.11.1990 in the Court of the Assistant Judge, Dashmina, Patuakhali seeking a declaration that the impugned order described in Schedule 'Ka' to the plaint in respect of the land described in Schedule "Kha' is illegal, fraudulent, collusive and without lawful authority or jurisdiction.

The Assistant Judge by judgment and decree dated 12.06.1994 dismissed the suit on contest against defendants 1-3.

Being aggrieved thereby the plaintiff preferred Title Appeal Number 138 of 1994 before the District Judge, Patuakhali which on transfer was heard by the Subordinate Judge, Artha Rin Adalat, Patuakhali. By judgment and decree dated 09.07.1998 the appeal was allowed and the suit was decreed.

Challenging the aforesaid judgment and decree passed by the appellate Court defendant 3 namely Md. Abul Kashem

as the sole petitioner preferred the instant civil revision in which Rule was issued on 10.12.1998.

During the pendency of the Rule the sole petitioner Md. Abul Kashem died on 11.09.2014 leaving behind six sons and four daughters as his legal heirs and representatives. Admittedly however no application has been filed by or on behalf of any of his legal heirs for substitution in the revisional proceeding. A death certificate issued by the Chairman of the concerned Union Parishad on 17.12.2024 and a legal heir certificate issued on 08.01.2025 have been annexed to this application as Annexures-X and X-1 respectively.

Mr. Khurshid Alam Khan, the learned Senior Advocate appearing for the applicant-opposite party submits that although the sole petitioner died on 11.09.2014 no step whatsoever has been taken by his legal heirs to bring themselves on record and nearly twelve years have already elapsed. He contends that such prolonged inaction clearly indicates that the legal heirs have no intention of prosecuting the revisional proceeding. He further submits that because of such inaction the plaintiff-opposite party has been seriously prejudiced and has been deprived of the fruits of the judgment

and decree passed in his favour. He therefore prays that the revisional proceeding be declared to have abated.

I have heard the learned Advocate and perused the records.

It appears that the present application was affirmed on affidavit on 04.02.2025. It further appears that the learned Advocate Mr. Md. Mujibur Rahman who had been representing the sole petitioner died long ago on 02.05.2007. The learned Senior Advocate for the applicant has informed the Court that a copy of the present application was sought to be served upon the petitioner's learned Advocate's chamber but no junior of the said chamber nor any of the other learned Advocates mentioned therein was willing to receive the same.

The undisputed position is that the sole petitioner died on 11.09.2014 and despite the lapse of an inordinately long period of about twelve years no application has been filed for substitution of his legal heirs. Although the provisions of Order 22 of the Code of Civil Procedure do not in terms govern revisional proceedings the principles embodied in Order 22 Rule 3 in case of the present petitioner and Rule 4 in case of defendant 3 in the original suit read with Rule 11 of the Code along with the Court's inherent power under Section

151 of the Code are applicable to such proceedings in order to prevent the continuance of a proceeding in the absence of a necessary party. In the facts and circumstances of the present case the prolonged and unexplained failure to bring the legal heirs of the deceased sole petitioner on record leaves no scope for continuation of the revisional proceeding.

Accordingly applying the principles embodied in Order 22 Rules 3, 4 and 11 read with Section 151 of the Code of Civil Procedure I hold that the instant Civil Revision has abated.

In the result the Rule stands discharged as having abated.

The order of stay passed by this Court stands vacated.

Let the lower Courts' records be sent down at once together with a copy of this judgment and order.

Md. Ali Reza, J:

Naher-B.O