

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

Present

Mr. Justice Md. Iqbal Kabir

And

Mrs. Justice Jesmin Ara Begum

First Appeal No.285 of 2017

With

Civil Rule No.589 (F) of 2017

IN THE MATTER OF:

Belayet Hossain Bellal

... Defendant-Appellant

Versus

Md. Syedul Haque and others

... Plaintiff-Respondents

Mr. Khair Ezaz Maswood, Senior Advocate with

Mr. Najmul Karim, Advocate

... For the Defendant-Appellant

Mr. Sherder Abul Hossain, Advocate

... For the Plaintiff-Respondents

Judgment on: 26.02.2026

Jesmin Ara Begum, J:

Since the First Appeal and Civil Rule have arisen out of the same judgment and decree and since the question of facts, circumstances and question of law raised therein are same, both the First appeal and Civil Rule are heard together and disposed of by this single judgment.

This First Appeal at the instance of defendant-appellant is directed against the impugned judgment and decree dated 20.06.2017(degree signed on 22.06.2017) passed by the learned Joint District Judge, 1st Court, Lakshmipur in Title Suit No.64 of 2011 decreeing the suit.

The respondent Nos.1-38 as plaintiffs filed the Title Suit No.64 of 2011 against the defendants for a decree of recovery of possession and the suit was decreed on contest against the defendant No.1 by the impugned judgment against which the defendant No.1 as appellant filed the instant appeal. The short facts of the plaintiff, are that, Amin Uddin was the original owner of 261 decimals of Ka scheduled land died before C.S. operation leaving behind 3 sons-Akbor Ali, Keramot Ali and Ceramot Ali and C.S. Khatian No.164 was rightly recorded in their name, Keramot Ali and Akbor Ali took loan

from one Rodha Ballabh shaha by mortgaging their whole portion of property. When they failed to pay the loan amount on compromise, Radha Ballabh Shaha filed a Redemption Suit No.282 of 1934 against them in the 1st Munsif Court of Lakshmipur and obtained decree and then he purchased the decreetal property by auction in Execution Case No.34 of 1935. Thereafter, Ceramot Ali purchased 82 decimals of land from this Radha Ballabh Shaha on 4th Magh, 1350 B.S. The Ceramot Ali being the owner of his own share and the purchased property sold 40 decimals land by deed No.2138 on 27.01.1948 and 42 decimals of land by deed No.5491, dated 25.10.1949 to Rahmatul Huq Mia and 40 decimals of land by deed No.5600 on 25.11.1950 to Anwarer Nessa and handed over the possession to them and MRR Khatian No.176 was rightly prepared in the name of Rahmatul Huq Mia for 82 decimals and Anwarer Nessa for 40 decimals of land. This

Rahmatul Huq Mia and Anwarer Nessa then filed Title Suit No.84 of 1958 against Ceramot Ali and others in the Court of 1st Munsif, Lakshmipur, for partition, declaration of title and recovery of khash possession. Ceramot Ali contested the suit by filing written statement and the suit was decreed on contest against Ceramot Ali and others. Rahmatul Huq Mia and his wife Anwarer Nessa made the preliminary decree as Final decree by appointing an Advocate Commissioner through Court and got saham for total 122 decimals of land, which is 44 decimals from plot No.158, 19 decimals from plot No.21, 19 decimals from plot No.28, 24 decimals from plot No.30 and 16 decimals from plot No.174. Thereafter Rahmatul Huq and Anwarer Nessa filed Title Execution Case No.100 of 1966 against Ceramot Ali and others and got possession through Court over the property which they got in the Final decree. The

partition Suit No.84 of 1958 was decreed with cost, but as the defendants-judgment-debtor Ceramot Ali and others failed to amicably pay the cost amount, the judgment-holder Rahmatul and others then filed Title Execution Case No.35 of 1960 against Keramot Ali and Ceramot Ali and others for cost amount and in this Execution case decree holder Rahmatul Huq and others purchased by auction amount other lands, 09 decimals of land of Keramot Ali and others from plot No.159 which is described in schedule No.kha of the plaintiff and they got possession through Court over this land on 12.09.1960. Plaintiffs are the heirs of Rahmatul Huq Mia and Anwarer Nessa and they are the owner and possessor of 131 decimals of land of kha schedule to the plaint. Plaintiffs are owning and possessing their 131 decimals of land for more than 12 years. Plaintiff Nos.7 and 12 have built a two sheded tin house and four sheded tin shed

house in the 22 decimals of land of plot No.158 and they having connected it to electricity, gas and water, used it for household purposes and lived with their families. Plaintiffs are possessing their rest suit land as ejmali property. The current market value of the land under schedule kha of the plaint is increased as it is under the Lakshmipur Municipality area. Since the plaintiffs are simple people, the defendants out of greed and in the hope of unjust gain, forcibly entered into the Ga scheduled land on 15.07.2011 armed with modern weapons, and built two houses of corrugated iron with a length of 11x20 cubit at the former plot No.158 and 11x25 cubit at the former plot No.28 and defendants forcibly occupied the land by dispossessing the plaintiffs. The defendants had no title, interest or right of possession in the Ga scheduled land. They are completely titleless destitute persons in

relation to that land. Until the dispossession the plaintiffs were there as undisputed and uninterrupted occupants of the Ga scheduled land for a period of more than twelve years. In such circumstances the plaintiffs are compelled to file the suit and prayed for a decree for recovery of khash possession over the Ga scheduled land of the plaintiff.

Defendant No.1 contested the suit by filing a written statement denying all the material allegations made in the plaint, contending, inter alia, that the plaintiffs have filed this suit on completely false statements. The plaintiffs have no ownership, interest or right of possession in the suit land and never had any. Admittedly Ceramot Ali purchased 82 decimals of land from Radha Ballabh Shaha on 4th Magh, 1350 B.S. Ceramot Ali's heir Md. Tajol Islam and others transferred 40 decimals of land to Abul

Kashem, Md. Hussain, Nur Nabi and Tofael Ahmed by way of the deed of exchange No.3332 dated 05.04.1997 and delivered possession to the transferees. Thereafter, the Nur Nabi and Tofael Ahmed sold 18 decimals of land to the defendant No.1 by kabala No.13499 dated 29.12.2009 and delivered possession to him. The remaining lands of the 'Ga' schedule are being possessed by the other defendants. The defendant No.1 has a two sheded tin house, a kitchen, one sheded tin house, a tube well and a latrine in his 18 decimals purchased suit land. There is a cut wire fence around his 18 decimals land. In the recent revisional survey, the suit land was recorded in the name of defendant's vander's predecessor in the R.S. khatian No.1600. Later, this 18 decimals of land was recorded in the name of defendant No.1 in D.P. khatian No.1452 and 1600. Under such circumstances

the defendant prayed to dismiss the suit with costs.

The trial Court framed six issues to determine the controversy between the parties. In course of hearing both the parties adduced evidences both oral and documentary which were duly marked as exhibits. The learned trial Court after hearing decreed the Title Suit No.64 of 2011 by the impugned judgment and decree, hence, the present appeal.

Mr. Khair Ezaz Maswood, the learned Senior Advocate appearing for the defendant-appellant takes us to the impugned judgment of the learned trial Court and evidences on record and submits that the judgment and decree of the Court below are perverse and slipshod and not based on evidence on record. Therefore, the judgment and decree in question are liable to be turned down by this Court to secure the ends of justice. He

further submits that the plaintiff's case is barred by limitation. In this connection he stated that a suit for recovery of possession has to be filed within 12 years of dispossession as per the provision of article 142 of the limitation act and though the plaintiffs claimed in their plaint that they were dispossessed by the defendant on 15.07.2011 and they filed the suit on 28.09.2011, but the P.W.1 admitted in his cross the defendant's case that Abul Kashem and others got ownership and possession over 40 decimals of land on 05.04.1997 by way of exchange with Tajul Islam and others who are the heirs of Ceramot Ali. The learned Senior Advocate also stated that P.W.1 also admitted in his cross that defendant No.1-appellant purchased 18 decimals of land on 29.12.2009 from the exchange-transferee Nur Nabi and Tofael Ahmed. As the defendant No.1's vender's possession admittedly started on

05.04.1997, and as the plaintiff filed the suit on 29.09.2011, after more than 12 years, hence, the suit for recovery of khash possession is time barred.

The learned Senior Advocate also contended that the plaintiff side hopelessly failed to prove possession and subsequent dispossession in the suit land. He further stated that, in the plaint it is stated that on behalf of all the plaintiffs the plaintiff Nos.7 and 12 are possessing and supervising the suit land, but this 2 plaintiffs were not produced before the Court as witness to support the plaintiff's case, as such, he submitted that the legal presumption for their absence will go against the plaintiff-respondents under section 114(g) of Evidence Act.

Mr. Khair Ezas Maswood, the learned Advocate also contends that the story of dispossession as is brought by the plaint is

also fabricated as the three witnesses of the plaintiff side narrated three different stories in this regard.

The learned Senior Advocate also submitted that, in view of admission by the P.W.1 of the defendant's possession by way of exchange dated 05.04.1997 and purchase dated 29.12.2009 the plaintiff's title in the suit land has become clouded. He also stated that, it is true that plaintiffs 'predecessors' title has been declared by the decree dated 19.03.1960 passed in Title Suit No.84 of 1958 and it is also true that they were given symbolic, not actual, possession on 29.07.1966 by Court vide exhibit-3, but possession was given to them by Court only by affixing a bamboo stick in the land and by beat of drums. The Plaintiffs do not claim that the structures of the defendants of T.S.No.89 of 1958 were physically removed from the suit land. He, however submitted

that the plaintiff's suit is not maintainable in the present form as the plaintiffs failed to pray for a decree of declaration of title with recovery of khash possession.

Finally, he submitted by referring the decision of Hon'ble Appellate Division, reported in 6BLC(AD) page 41, para 8 that there may be thousands of defects in the documents of the defence as well as their case but that does not entitle the plaintiff to get a decree, the plaintiff is to prove his case irrespective of the defence version of the case, and, according to the learned Senior Advocate the plaintiff-respondents have become unsuccessful in proving their own case.

Per contra, Mr. Sherder Abul Hossain, the learned Advocate appearing for the plaintiff-respondents submitted that by examining necessary, sufficient corroborative witnesses and by producing relevant documentary

evidences plaintiffs case has been rightly proved and upon considering the materials on record the learned trial Court has rightly decreed the suit by the impugned judgment and decree which needs no interference by this Court.

He further submitted that it is established principle of law that evidences are to be considered as a whole but the learned Advocate for the defendant-appellant by quoting a piece of words wrongly from the testimony of P.W.1, claiming wrongly that the suit is barred by limitation. He however, submitted that the P.W.1 has deposed in support of the plaint case that since their ancestors the plaintiffs are owner in possession of the suit land and on 15.07.2011 the defendant dispossessed them and the plaintiffs filed the suit on 28.09.2011, which is within the period of limitation.

Mr. Sherder Abul Hossain further submitted that the suit land was vacant land when the predecessors of the plaintiffs were delivered possession through Court physically and actually by measuring the property, by fixing red flags in the boundaries and by informing the locality by beating drum. As there was no structure in the suit land at that time so no question arises to claim that the plaintiffs of the Title Suit No.84 of 1958 were delivered possession by removing structure.

The learned Advocate further submitted that the plaintiffs have title in the suit land and the defendants also admitted the plaintiff's title by admitting the decree of T.S.No.84 of 1958 and plaintiffs have become successful in proving by adducing oral witnesses that the defendants have dispossessed the plaintiffs on 15.07.2011, so there is no bar in section 8 of the specific

relief act to pass a decree for recovery of khash possession in favour of the plaintiffs.

We have heard and considered the submissions made by the learned Advocates for both the parties, have gone through the memo of appeal and the grounds set forth therein, pleadings of the parties, the evidences adduced by the parties both oral and documentary, the impugned judgment and decree along with the concerned record of lower Court.

It is admitted by both the parties that Amin Uddin was the original owner of half of share of C.S. Khatian No.164 measuring 261 decimals of land, and this Amin Uddin died leaving behind 3 sons namely Akbar Ali, Keramot Ali and Ceramot Ali who inherited 1/3 share each. It is also admitted that Akbar Ali and Keramot Ali mortgaged their whole share to Radha Ballabh Shaha and subsequently Radha Ballabh Shaha filed Redemption Suit

No.282 of 1934 and obtained decree and filed Execution Case No.34 of 1935 and Radha Ballabh Shaha purchased the mortgaged land by auction. It is also admitted that Ceramot Ali purchased 82 decimals of land from Radha Ballabh Shaha by saf kabala deed on 4th Magh, 1350 B.S.

The contesting defendant No.1 denied the plaintiff's case that Ceramot Ali sold 40 decimals of land by kabala No.2138 dated 27.01.1948 and 42 decimals by kabala No.5491 dated 25.10.1949 to Rahmatul Huq and 40 decimals by deed No.5600 dated 25.11.1950 to Anwarer Nessa. But on perusing the exhibited documents it is found that the above three registered saf kabala were submitted by the plaintiffs and were exhibited as Ext.1,1(1) and 1(2). It is also evident from the evidences that Rahmatul Huq and his wife Anwarer Nessa filed partition Suit No.84 of 1958 against the co-sharers and Ceramot Ali

contested the suit and the suit was decreed on 19.03.1960 in preliminary form with cost and therefore, Advocate Commissioner was appointed and on the basis of Advocate Commissioner's report the preliminary decree was made final on 15.05.1966 and the Final Decree was executed through decree Execution Case No.100 of 1966 and Rahmtul Huq and others got possession through Court over their decreetal land on 29.07.1966. By scrutinizing the Exhibit.2 series and 3 series of plaintiff's side it appears that Advocate Commissioner allocated 122 decimals of land to the saham of plaintiff's predecessor Rahmatul Huq and Anwarer Nessa among which 44 decimals from C.S. plot No.158, 19 decimals from C.S. plot No.21, 19 decimals from C.S. plot No.28, 24 decimals from C.S. plot No.30 and 1 decimals from C.S. plot No.174 and final decree of partition Suit No.84 of 1958 was drawn up on the basis

of this saham and thereafter plaintiffs' predecessors were given possession over their decreetal land by Execution Case No.100 of 1966 on 29.07.1966.

It is also found from the Ext.4, the sell certificate that the decree holder Rahmatul and Anwarer Nessa again filed Title Execution Case No.35 of 1960 for realization of cost awarded money and as a result 09 decimals of land from C.S. plot No.159 and others land was put in auction and Rahmatul Huq purchased the auction on 12.09.1960. Thereafter, the plaintiff-respondents have become successful in proving that their predecessor Rahmatul Huq and Anwarer Nessa become owner and possessor over the kha scheduled land amounting to 131 decimals of land and accordingly 1.31 acres of land were recorded in D.S. khatian No.164 and MRR khatian No.176 which is evident from exhibit 5 and 5/1. The contesting defendant No.1 i.e. The

appellant's cases are that the heirs of Ceramat Ali Tajul Islam and others transferred 40 decimals of land to Abul Kashem and others by registered exchange deed No.3332 dated 05.04.1997 and handed over possession. Thereafter, Nur Nabi and Tofayel Ahmed, heirs of Tajul Islam son of Ceramat Ali sold 18 decimals of land to the defendant No.1 by the registered saf-kabala No.13499 dated 29.12.2009 and the defendant-appellant possessing the land by erecting dwelling house comprising dochala tin shed house, kitchen, latrine and tube well. To prove the claim defendant No.1 produced the exchange deed which is exhibited as Ext-Ga. The recital of exhibit Ga shows that Md. Tajul Islam obtained the property from the heirs of Rahomatul Huq, one Mosharaf Hossain by kabala deed No.6660 dated 15.03.1987. Defendant has failed to produce this deed and thus failed to prove the title of Tajul Islam in the

exchanged property. Again the recital of exchange deed Ext.Ga also shows that Tajul Islam obtained some portion of land by purchase from Jamila Khatun, the heirs of C.S. recorded tenant Akbar Ali, who's sons were judgment debtors in Title Execution Case No.100 of 1966. According to the recital of Exht.Ga Tajul Islam purchased some portion of land from this Jamila Khatun by kabala deed No.5274 dated 13.06.1964 and deed No.5541 dated 10.04.1967 which are ext 'Gha' and 'Umma'. This exht.'Gha' and 'Umma' do not create any title in favour of Tajul Islam as Jamila Khatun was the heirs of Akbar Ali admittedly whose property was auctioned and subsequently Ceramot Ali purchased his whole share. So the Tajul Islam had no right, title and interest in the suit land to exchange it by the exchange deed, exhibit 'Ga' and therefore, the defendant No.1 purchased the

property from the persons having no right and title.

The defendant No.1 claimed that Nabi Hossain and others were owner of .40 acres of land and then sold .18 acres of land to the defendant No.1 on 29.12.2009 and obtained possession and the rest .22 acres of land were in possession of one Abul Kashem. This defendant No.1-appellant failed to adduce the said Abul Kahsem as witness to prove that he is in possession in rest .22 acres of land in plot No.158 and he is also failed to adduce Nur Hossain as witness before the Court to prove his deed as well as his previous possession.

The plaintiff-respondents have become successful in proving that there is only .44 acres of land in plot No.158 and this total land of C.S. plot No.158 have been allotted in favour of plaintiffs by the Final Decree of their predecessors partition suit No.84 of

1958 and they got possession over the land through Court by the partition Execution case and as such there is no scope for any person to possess any land in the plot No.158.

On perusal of the purchase deed of defendant No.1 the Ext 'Jha' it is found that defendant No.1 purchased .18 acres of land from plot Nos.379, 381, 382, 383, 396, 403, 404,405,406,253 and 162 under Mouza Bahadurpur and plot NO.158 and 159 under Mouza Mojupur. He purchased .18 acres of land from total 13 plots among which 11 plots are in different mouza with which the suit land or the owner of the suit land have no nexus but inserting various plot numbers in the deed, it is written in the purchase deed of defendant that he will get possession from plot No.158 and 159 under the suit mouza of Mojupur though the whole land of plot NO.158 have already been handed over to the plaintiffs' predecessors through the

partition Execution Case No.100 of 1966 on 29.07.1966. So it has been proved by the documentary evidences that the defendant No.1 purchased land on 29.12.2009 from persons who have no right-title and possession over the suit land.

On perusing the oral testimonies of P.W.s it appears that all the P.Ws. have categorically stated and supported the case of the plaintiffs and the trial Court discussed all the P.Ws in details and found properly that the defendant No.1 forcefully dispossessed the plaintiffs from the suit land on 15.07.2011. The P.W.1 in his chief stated that on behalf of all plaintiffs plaintiff No.7 and 12 possessed the suit land and in such a situation on 15.07.2011 the defendants forcibly entered the land mentioned in the 'Ga' schedule of the plaint and built 2 tin houses at the suit plot No.158 and 28 and defendants forcibly

occupied the rest land. P.W.1 also stated in his examination in chief that until the time of dispossession they were in possession of the suit land and the defendants had no right, title and possession in the suit land. P.W.1 specifically denied the claim of defendant in his deposition by saying that, "it is not true that Abul Kashem became the owner of 40 decimals of land form Tajul Islam and others by deed of exchange dated 05.04.1997 and sold 18 decimals of land to defendant No.1 by deed dated 19.12.2009". In his cross P.W.1 stated that Belayet (the defendant No.1) with 20/25 other people dispossessed him from the suit land, he was there when they dispossessed him. They dispossessed him at around 10:00/10:30 morning.

So the plaintiffs in their plaint and on behalf of all plaintiffs the P.W.1 asserted that since their ancestors they have been

possessing the suit land as owner in possession of the suit land and on 15.07.2011 the defendant dispossessed them. It is proved by the P.Ws that the cause of action arose on, that is, the dispossession occurred on 15.07.2011 and the plaintiffs filed the suit on 28.09.2011, which, is within the period of limitation. The learned Senior Advocate for the defendant-appellant though submitted that the suit is barred by limitation on quoting some statements made by P.W.1 in his cross but on careful sifting and analyzing it appears that he actually made this submission in misreading the statements made in cross-examination of P.W.1. Actually those statements are the part of denials. The learned Advocate missed the last words “সত্য নহে।” The actual recital of this part of cross-examination of P.W.1 would be, ছেরামত আলীর ওয়ারিশ মো: তাজুল ইসলাম গত ০৫.০৪.১৯৯৭ সনে ৩১২৪ এওয়াজ বিনিময় দলিল মূলে ৪০ ডিং ভূমি আবুল কাসেম গং এর সহিত এওয়াজ বিনিময় করে দখল অর্পন করে। নূর

নবী ও তোফায়েল আহমেদবিগত২৯/১২/২০০৯ সনে ১৩৪৯৯ নং সাফ কবলা মূলে ১৮ ডিং ভূমি উত্তরকারী ১নং বিবাদীর নিকট বিক্রয় করে। নূর নবী গাং তাজুল ইসলামের ওয়ারীশ। সত্য নহে। So we can rightly accept the submission made by the learned Advocate appearing for the plaintiffs-respondents that the learned Advocate for the appellant quoted a piece of words wrongly from the testimony of P.W.1 and it is the established principle of law that evidences are to be considered as a whole. So the suit is not barred by limitation.

On perusal of the evidences it also appears that the plaintiff No.3 has deposed before the Court on behalf of all the plaintiffs as P.W.1 and categorically stated the plaint case in his examination-in-chief and he was present at the time of dispossession. It was not the case that plaintiff Nos.7 and 12 were present at the time of dispossession, so the plaintiff Nos.7 and 12 are not direct witness of

dispossession, so there is no legal scope to take legal presumption against plaintiffs under section 114(g) of Evidence Act for their non examination as witnesses.

To determine whether the claim of dispossession has been sufficiently proved we have gone through the testimonies of P.Ws and found that, it is the plaintiff's case that the dispossession took place by day long. P.W.1 was present at the time of dispossession then P.W.2 and P.W.3 were also present at that date of dispossession P.W.2 found the P.W.3 when he went to the suit land. He further said he found that the defendants were threatening the P.W.3 and at that moment none of the plaintiffs was present there. P.W.2 uttered the word "at that moment" it does not mean the P.W.1 was not present on that occurrence of dispossession. It at best means the plaintiff was not present when the P.W.2 went to the

suit land. The P.W.3 said he saw the defendants were taking possession then he informed the plaintiffs and when he returned 2nd time he found defendants already erected a tin-shed house. On the other hand, the P.W.2 found the P.W.3 in the suit land when he went to the suit land. By these statements it is clear that there is time gap of appearance of the P.Ws in the suit land as the dispossession took place by long time. So the plaintiffs have become successful in proving their case of dispossession by corroborative supportive witnesses. So the submission made by the learned Advocate of the appellant by bringing the descriptions of the P.Ws regarding the question of dispossession are just minor descriptions of facts but it in any way is not a contradiction of P.Ws.

The plaintiffs have proved that their title over the suit land have already been established by the Partition Suit No.84 of

1958 and they got possession over the suit land by the Final Decree of the partition suit and by Execution Case of the final decree. The plaintiffs also proved that they have been dispossessed from the suit land on 15.07.2011 and filed this suit within the period of limitation. They also filed the suit in compliance of the provision of Code of Civil Procedure. The suit is filed under section 8 of the Specific Relief Act, Where it is provided that, "A person entitled to the possession of specific immovable property may recover it in the manner prescribed by the Code of Civil Procedure".

The provision of section 8 of the Specific Relief Act is full and final, it is not dependable on the condition of seeking consequential relief as like as under section 42 of Specific Relief Act. Recovery of possession by an entitled person under section 8 of Specific Relief Act is not

conditional to declaration of title. So there is no bar in section 8 of the Specific Relief Act to pass a decree for recovery of khash possession in favour of plaintiffs.

Importantly that, the partition Suit No.84 of 1958 was decreed on contest and the contesting defendants Ceramot Ali or his heirs did not file any appeal against the decree or nobody went to take shelter to the Higher Court against the final decree or against any order of the Execution Case No.100 of 1966 by which the possession over the suit land was given to the plaintiff's predecessors through Court by measuring the suit land and by fixing red flags in the boundaries and by informing the locality by beating drum. If there were any obstacle in getting possession through Court then the plaintiffs' predecessor must went to the Court to get possession by removing the obstacle or by destroying any structure. As

no such question was arose at that time and as the decree holder, the predecessor of plaintiffs were satisfied with the Execution Proceeding so it is evident that the plaintiffs' predecessor got actual possession through Court by the Execution Case.

In view of the above, we do not find merit in the appeal and in the rule as well as in the submissions of the learned Senior Advocate for the appellant.

Resultantly, First Appeal No.285 of 2017 is dismissed without any order as to costs.

The impugned judgment and decree dated 20.06.2017 passed by the learned Joint District Judge, 1st Court, Lakshmipur in Title Suit No.64 of 2011 is hereby affirmed.

Since the appeal is dismissed by this judgment the connected rule being Civil Rule No. 589(F) of 2017 is discharged.

Send down the LCR along with a copy of this judgment and order to the concerned Court below at once.

Md. Iqbal Kabir, J:

I agree.

Md. Anamul Hoque Parvej
Bench Officer