

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

Present:

**Mr. Justice S M Kuddus Zaman
And
Mr. Justice Md. Saiful Islam**

CIVIL REVISION NO.4116 of 2008.

In the matter of:

An application under section
115(1) of the Code of Civil
Procedure.

And

Purna Chandra Sardar @ Sarker
...**Petitioner**
-Versus-

Md. Alamasuddin Howlader being
dead his legal heirs;
1(a) Abdur Rab Mia and others
...**opposite parties**

No one appears
...**For the petitioner**

Mr. Md. Ashraf Uddin Khan,
Advocate
...**For the opposite party**
Nos.9-12, 22-24 and added
opposite party Nos.60-68.

Heard on: 02.11.2025 & 10.11.2025.

Judgment on: 23.11.2025.

S M Kuddus Zaman, J

This Rule was issued calling upon the
contesting defendants-respondents-opposite
parties Nos.1(a)-1(a)(v), 2, 3, 7-12 and 22-24 to
show cause as to why the judgment and decree
dated 05.03.2008 passed by the learned Additional
District Judge, 8th Court, Dhaka in Title Appeal
No.404 of 2006 allowing the appeal and up holding

judgment and decree dated 08.08.2006 passed by the learned Joint District Judge and court of Arbitration Dhaka in Title Suit NO.91 of 2005 dismissing the suit against defendants Nos.9, 11-15, 25-27 on contest and ex-parte against the rest without any order as to cost should not be set aside and/or pass such other or further order or orders as to this Court may seem fit and proper.

Facts in short are that the petitioner as plaintiff instituted above suit for declaration of title for 87 decimal land as described in "Ka" schedule to the plaint and recovery of khas possession for 57 decimal out of above 87 decimal as described in "Kha" schedule alleging that above property belonged to Rajchandra Sardar and Mahesh Chandra Sardar in equal shares and C.S. khatian No.724 was correctly recorded. Above Mahesh Chandra Sardar died leaving only daughter Nanda Rani and he transferred 30 decimal land to above Nanda Rani by deed of gift and he transferred his remaining 107 decimal land to four sons of his brother Rajchandra Sardar namely Joy Chandra Sardar, Shamchandra Sardar, Jadunath Sardar and Upendranath Sardar by registered deed

of gift No.1609 dated 19.03.1919. Above four sons of Rajchandra also inherited the share of their father. Above Upendranath Sardar died leaving three brothers Joy Chandra Sardar, Shamchandra Sardar and Jadunath Sardar as heirs who possessed above property by amicable partition and Jadunath Sardar was allocated 87 decimal land of "Ka" schedule who died leaving the plaintiff as only son and sole heir. Plaintiff was in possession of above land through his caretaker Helaluddin who erected several huts and tenanted the same to several persons and paying rent to the plaintiff. Above property was not rightly recorded in the name of plaintiff or his father in relevant S.A. and R.S. khatians. But those were erroneously recorded in the names of Rajchandra Sardar, Mahesh Chandra and Nanda Rani. In September 1999 plaintiff's caretaker removed some tenants and inducted defendant Nos.1-27 in above huts and the plaintiff asked his caretaker Helaluddin and defendant Nos.1-27 to hand over vacant possession of above property to him but they refused and claimed title.

Defendant Nos.9, 11-15 and 25-27 contested above suit by filing a joint written statement

wherein they have denied all claims and allegations made in the plaint and alleging that Joy Chandra Sardar and others while owning and possessing 2.75 acres land of C.S. and S.A. plot No.1078 and they transferred above land to Sudonno Chandra Das and others by an unregistered deed of Amalnama and delivery possession. Above Sudonno Chandra Das was owning and possessing 61 decimal land and died leaving four sons namely Dinesh Chandra Das, Paresh Chandra Das, Naresh Chandra Das and Suresh Chandra Das as heirs. But S.A. khatian No.834 was not recorded in their names which was erroneously prepared in the name of Rajchandra and Mahesh Chandra. The son of above Joy Chandra Rabati Mohan and son of Shamcharan namely Chittoronjon Sardar executed and registered a deed of Nadabipattra being No.30482 dated 04.12.1976 to above four sons of Sudonno Chandra Das and on the basis of above deed they mutated their name and paying rent to the government and transferred 30 decimal land to above defendants by registered kobla deeds dated 10.07.1978, 22.09.1985, 21.09.1978, 07.07.1977, 16.08.1978, 07.07.1976 and 26.12.1979 and defendants are possessing above land by

constructing their pakka dwelling houses. The plaintiff was never in possession in above land nor the defendants dispossessed him from the same.

At trial plaintiff examined five witnesses and defendants examined seven. Documents of the plaintiff were marked as Exhibit Nos.1-7 and those of the defendants are marked as Exhibit Nos.Ka-Na.

On consideration of facts and circumstances of the case and evidence on record the learned Joint District Judge dismissed above suit.

Being aggrieved by above judgment and decree of the trial court above plaintiff as appellant preferred Civil Appeal No.404 of 2006 to the District Judge which was heard by the learned Additional District Judge, 8th Court who dismissed above appeal and affirmed the judgment and decree of the trial court.

Being aggrieved by and dissatisfied with above judgment and decree of the court of appeal below above appellant as petitioner moved to this court with this civil revisional application under section 115(1) of the Code of Civil Procedure and obtained this rule.

No one appears on behalf of the petitioner at the time of hearing although this matter appeared in the list for hearing on several dates.

Mr. Md. Ashraf Uddin Khan learned Advocate for opposite party Nos.9-12, 22-24 and added opposite party Nos.60-68 submits that admittedly Rajchandra and Mahesh Chandra two brothers were owners and possessors of 2.75 acres land appertaining to C.S. khatian No.724. Mahesh Chandra died leaving only daughter Nanda Rani to whom he transferred 30 decimal land by deed of gift and he transferred his remaining 107 decimal land to four sons of his brother Rajchandra namely Joy Chandra, Shamchandra, Jadunath and Upendranath Chandra. It is also admitted that the father of the defendants predecessor Sudhonno Chandra Das acquired 61 decimal land from the heirs of Joy Chandra Sardar by an unregistered Amalnama and subsequently heirs of above Joy Chandra executed and registered a Nadabi pattra on 14.06.1976 (Exhibit No.4) to four sons of Sudhonno namely Denesh, Paresh, Suresh and Naresh. On the basis of above Nadabi pattra above four sons of Sudonno mutated their names and paid rent to the government and transferred above land

by several registered sale deeds to these defendants since 1976 and defendants are in possession in above land by constructing their pakka houses. Defendants have produced above deed of Nadabi pattra as well as all above sale deeds at trial. On the other hand plaintiff himself did not give evidence in above suit in support of above claims. As P.W.1 one Masudur Rahman gave evidence claiming to be constituted attorney of plaintiff Purna Chandra Sardar, but he was authorized only for 30 decimal land. Above attorney did not have personal knowledge as to the claim of the plaintiff that he was sole heir of Jadunath or his previous possession and subsequent dispossession from above land. As such P.W.1 cannot be accepted as a competent witness. Other P.Ws and did not mention their capacity as to giving evidence about possession and dispossession in above land. As such the plaintiff has totally failed to bring home his claims by legal evidence. On consideration of above facts and circumstances of the case and evidence on record the learned Judges of both the courts below concurrently held that the plaintiff could not prove his lawful title in 87 decimal

land and alleged possession and dispossession from 57 decimal land which being based on evidence on record this court cannot in its revisional jurisdiction interfere with above concurrent findings of facts.

We have considered the submissions of the learned Advocate for the opposite parties and carefully examined all materials on record.

It is admitted that Rajchandra and Mahesh Chandra were the owners and possessors of 2.75 acres land and in their names C.S. khatian No.724 was correctly prepared. It is also admitted that above property was recorded in S.A. khatian No.834 and R.S. khatian No.902 in the names of Rajchandra Sardar and Mahesh Chandra Sardar and Nanda Rani and above property was not recorded in above khatians either in the name of the plaintiff or in the name of his father Jadunath Sardar.

Plaintiff has provided a jenology of Rajchandra Sardar and Mahesh Chandra Sardar and claimed that he is the sole heir and son of Jadunath Sarkar who was a son of Rajchandra Sarkar. Defendants did not admit above claim of the plaintiff nor they admit that the plaintiff

ever inherited above property. As such plaintiff was required to give evidence to substantiate above claim that Jadunath Sarkar was a heir of Rajchandra Sarkar and plaintiff was sole heir of above Jadunath Sarkar. Above Purna Chandra Sardar as plaintiff instituted above suit but he opted not to give evidence in above suit. On behalf of above plaintiff one Md. Madusur Rahman, the constituted attorney of plaintiff Purna Chandra Sardar gave evidence as P.W.1 but above Masudur Rahman did not have any personal knowledge as to the jenology of Rajchandra Sardar or the fact that plaintiff Purna Chandra was the sole heir of Jadunath Sardar. No documentary evidence was produced at trial in support of above jenology as alleged by the plaintiff. The learned Advocate for the opposite party points out that this suit involves a declaration of title for 87 decimal land but P.W.1 Masudur Rahman was authorized by deed of power of attorney only for 30 decimal land. The plaintiff was required to prove his previous possession in above 57 decimal land and subsequent dispossession from the same by the defendants by legal evidence. It has been alleged that plaintiff was in possession in above land

through his caretaker defendant No.7 by growing vegetables and by erecting huts. P.W.1 Masudur Rahman did not have any personal knowledge about above manner of possession. Plaintiff has examined four other witnesses namely P.W.2 Mohiuddin, P.W.3 Nuruzzaman P.W.4 Md. Hanif and P.W.5 Deepak Chandra Sarkar, son of the plaintiff, but their names were neither mentioned in the plaint nor P.W.1 stated their names in his evidence.

In the plaint it has been merely alleged that plaintiffs caretaker defendant No.7 Helal Uddin inducted above defendants in above huts. But in support of above claim the plaintiff could not produce oral and documentary evidence. There is no evidence that before inducting above defendants in above huts plaintiff was in possession in above huts by renting out those to others.

On consideration of above facts and circumstances of the case and materials on record we hold that the plaintiff could not prove by legal evidence his lawful title in 87 decimal land or his possession in above land and subsequent dispossession from 57 decimal land and

we are unable to find any illegality and irregularity in the concurrent findings of the learned Judges of the courts below that the plaintiff could not establish his claim of lawful title in 87 decimal land and dispossession from 57 decimal by the defendants by legal evidence.

In above view of the materials on record we are unable to find any substance in this civil revisional application and the rule issued in this connection is liable to be discharged.

In the result, the rule is discharged.

Let the lower Court's record along with a copy of this judgment be transmitted down to the Court concerned at once.

Md. Saiful Islam, J

I agree