

**In the Supreme Court of Bangladesh**  
**High Court Division**  
 (Civil Revisional Jurisdiction)

**Present:**  
**Mr. Justice Mamnoon Rahman**  
**And**  
**Mr. Justice Ashish Ranjan Das**  
**First Miscellaneous Appeal No. 377 of 2018**

In the matter of:  
 Md. Shamsuddin and others  
       ..... Appellants.  
 -Versus-

Katrina Andalib Chowdhury and others.  
       ..... Respondents.  
 Mr. Mohammad Eunus, Advocate  
       .....for the Appellants.  
 Mr. Probir Neogio, Advocate with  
 Mr. Md. Hamidur Rahman, Advocate.  
       ..... for the -Respondents.

**Heard on 12.12.2018, 03.01.2019 and**  
**judgment on: 09.01.2019.**

**Ashish Ranjan Das, J.:**

Learned Joint District Judge, 4<sup>th</sup> Court, Dhaka by order dated 05.08.2018 passed in Title Suit No.293 of 2018 rejected the plaintiff's application for temporary injunction under order 39 rule 1 and 2 of the Code of Civil Procedure in respect of a piece of landed property.

We have heard the learned advocate for the respective parties and perused the record.

Short fact is that according to the plaintiff petitioner they have been the legal heirs of R.S. recorded tenant

Romizuddin. While the defendants have been without title and possession. While the case of the defendant respondents is that the respondent Nos. 14 and 15 is that the properties belonged to Akramunnessa Bibi, Abdus Jobbar and Seratullah the C.S recorded tenants. The S.A. record was accordingly prepared Akramunnessa died leaving Badoruddin and Romij Uddin and the subsequent R.S. record was accordingly prepared. Recorded tenant Seratullah transferred 24 decimals of land and the contested defendants have been their gradually heirs. They have been with actual possession of the land. Thus it appears that both the parties admitted share of Ramizuddin. The issue of temporary injunction is much old and in this complex situation without assessing evidence of the parties it can not be and rather should not be decided possession of a particular party. The learned trial court would be in appropriate position to decide the issues upon assessment of evidence and the parties are instructed to press the respective cases and evidences before the trial court.

With the findings this first miscellaneous appeal is disposed of.

Accordingly, the appeal is disposed of.

No order as to costs.

Send down the Lower Court records at once.

Communicate the Judgment and Order to the concern Court  
at once.

**Mamnoon Rahman,J**

**I agree**

**Md. Atikur Rahman, A.B.O**