

IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(CIVIL APPELLATE JURISDICTION)
Present
Mr. Justice Md. Riaz Uddin Khan

First Miscellaneous Appeal No. 226 of 2000
With
Civil Rule No. 701 (FM) of 2000

IN THE MATTER OF:

Abdur Rahman and another

... Defendant-Appellants

-Versus-

Mohammad Mashuk and another

... Plaintiff-Respondents

None

...For the parties

Judgment on: 14.05.2026

Md. Riaz Uddin Khan, J:

This First Miscellaneous Appeal is directed against the order dated 01.06.2000 passed by the Sub-ordinate Judge, 1st Court, Moulvi Bazar in Title Suit No.29 of 2000 allowing an application filed under Order XXXIX Rule-1 of the Code of Civil Procedure directing the parties to maintain status-quo.

A Division Bench of this Court admitted this appeal by order dated 17.08.2000 and on the same date issued Rule in Civil Rule No.701(FM) of 2000 and stayed the operation of the impugned order so far it relates to the appellant-petitioners concerned and further observed that the suit before the trial court would proceed in accordance with law.

It appears from record that the learned advocates for both the parties died long ago for which a Division

Bench of this Court by order dated 05.03.2025 directed the office to issue notice in the form of N-10 upon both the parties and accordingly N-10 notices were issued but none appears for the parties.

Though this first miscellaneous appeal was admitted by a Division Bench of this Court as per the then rule of the Supreme Court (HCD) Rules, 1973 but as present as per Rule-1B of Chapter-II of the Rules, 1973 this appeal is to be heard by a Single Bench.

Facts for disposal of this Miscellaneous Appeal in brief are that the opposite parties as plaintiffs filed Title Suit No.29 of 2000 for partition. Thereafter, the plaintiffs filed an application for temporary injunction under Order-XXXIX Rule-1 of the Code of Civil Procedure. The defendant-appellants filed written objection. After hearing both the parties the trial court by the impugned order dated 01.06.2000 directed both the parties to maintain status-quo.

Being aggrieved by and dissatisfied with the impugned order dated 01.06.2000 this First Miscellaneous Appeal has been filed before this Court and a Division Bench of this Court by order dated 17.08.2000 was pleased to admit this appeal.

I have perused the memorandum of appeal and also gone through the impugned order. I have also perused the application for stay along with the annexures including the plaint, application for temporary injunction and written objection.

The original title suit is filed for partition and both parties admitted that they are co-sharers in the suit land. It appears from record that this Court by

order dated 17.08.2000 stayed the operation of impugned order so far it relates to the defendant-appellants concerned and further observed that the title suit should proceed in accordance with law. In the mean time, more than 25 years has been elapsed. Since no one appears for the parties for which this Court was not informed about the present position of the Suit. It is legitimate expectation that the suit would be disposed of within reasonable time, especially when this Court directed the trial Court to proceed with the Title Suit in accordance with law.

Be that as it may, in my view, since the interim order was passed by this Court on 17.08.2000 and there is no information regarding the latest position of the suit, the parties should be maintained their possession till disposal of the Title Suit No.29 of 2000, if the suit is not already disposed of.

With this observation this appeal is **disposed of**. The connected Rule being No. 701(FM) of 2000 is also disposed of in the light of this judgment. However, there will be no order as to cost. The interim order dated 17.08.2000 passed by this Court **stands vacated**.

Communicate this judgment at once.