

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

Civil Revision No. 3926 of 2016

IN THE MATTER OF:

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

AND

IN THE MATTER OF:

Shamima Alam @ Shamim Ara

....Petitioner

Versus

Jahanara Khanam and others

....Opposite Parties

Mr. Syed Hasan Zobair, Advocate

....For the Petitioner

Mr. Khondaker Iqbal Ahmed, Advocate

....For the Opposite Party No. 1

Mr. Ibne Aziz Md. Nurul Huda, Advocate

....For the Opposite Party Nos. 2 and 3

Present:

Mr. Justice Md. Iqbal Kabir

And

Mr. Justice Md. Riaz Uddin Khan

Judgment on 25.06.2025.

Md. Iqbal Kabir, J:

At the instance of the petitioner, this Rule was issued calling upon the opposite parties to show cause as to why the impugned judgment and order No.15 dated 18.09.2016, passed by the learned Joint District Judge, First Court, Khulna, in Title Suit No 208 of 2011, partly rejecting petitioner's prayer for amendment of plaint in Title Suit No. 208 of 2011, should not be set aside and/or such other or further order or orders as to this Court may seem fit and proper should not be passed.

Facts remain that the disputed land in question was acquired by the KDA, thereafter mother of the plaintiff applied to get sanction pursuant to the advertisement published by KDA, and the alleged plot has been allocated to the

mother of the plaintiff Nos. 1 and 2. Thereafter, shops and multistoried buildings were built on the aforesaid land. However, the land was possessed by the successor. Defendant No. 3 got some portion of land as the spouse of Momtaj Alom, in whose favour the land was allocated. Defendant No. 3 transferred his shares to his 3rd wife by way of gift, but that land was not handed over to Defendant No. 2, who transferred said portion of land to Defendant No. 1 without disclosing others. Knowing such being a co-shares, this petitioner, plaintiff prayed for pre motion decree and to transfer the land to the plaintiffs as preemption and the other benefits as per law and equity. Defendants contested the suit by filing a written statement and denying all material allegations.

However, during the pendency of the suit, the petitioner filed an application for amendment of the plaint under Order 6 Rule 17 read with section 151 of the Code of Civil Procedure, 1908. Upon hearing of the parties, the trial Court partly allowed and partly rejected the application filed by the petitioner.

Against which the present petitioner filed this revisional application and obtained the Rule and interim order, thereby, all further proceedings of the Suit have stayed.

Mr. Khondaker Iqbal Ahmed, the lerned Advocate, appearing on behalf of the opposite party No. 1, brings notice to this Court that the petitioner, by filing an application for amendment of the plaint, proposed to add some officials as defendants who are the officials of KDA. He submits that the Court below rightly rejected such a prayer to add those persons as defendants. In support of the impugned order, he submits that the alleged proposed defendants are not a proper or necessary party in the present facts and circumstances. According to him dispute relates to ownership/title, which has to be settled following the Muslim Law, and all the relevant persons are already implicated as parties to the suit.

However, Mr. Syed Hasan Zobair, the learned Advocate for the petitioner, submits that since the land belonged to the KDA, therefore petitioner

proposed those names and they may be added as defendants. However, at the query of this Court, he failed to show how and under what circumstances they are the necessary or proper party.

We have heard the learned Advocate for the parties, and on our perusal, it appears the land belonged to KDA, but the dispute has arisen among the heirs who hold the property, and all have made parties to this suit. Apart from that, it appears, Chairman, KDA, is a party to the suit.

In the above-noted fact and circumstance, we find the impugned order does not suffer from any error or illegality nor has resulted in failure of justice, therefore, the Court below did not commit any illegality in passing the impugned order.

Accordingly, the Rule is discharged.

The order of stay as granted at the time of issue of the Rule is hereby recalled and vacated. The Court below is directed to dispose of the suit under the law.

There will be no order as to cost.

Let a copy of this judgment and order be communicated to the Court concerned forthwith.

Md. Riaz Uddin Khan, J:
I agree.