

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

**First Miscellaneous Appeal No. 163 of 1998**

**IN THE MATTER OF:**

Sirajul Alam Chowdhury

... Plaintiff-Appellant

-Versus-

Ahmed Nur Chowdhury and another

... Defendant-Respondents

None

...For the parties

**Judgment on: 14.05.2026**

**Md. Riaz Uddin Khan, J:**

This First Miscellaneous Appeal is directed against the order no.43 dated 12.07.1998 passed by the Sub-ordinate Judge, 1<sup>st</sup> Court, Chittagong in Miscellaneous Case No.247 of 1998 rejecting an application for stay, allowing an application for local inspection and directing the parties to maintain status-quo.

A Division Bench of this Court admitted this appeal by order dated 25.08.1998 and on the same date stayed the operation of the order of status-quo passed by the trial court dated 12.07.1998 and further directed the trial court to proceed with and dispose of the Miscellaneous Case No.247 of 1998 in accordance with law as early as possible.

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 according to 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 appellant as plaintiff filed Other Suit No.139 of 1993 for declaration of title in the suit land and for further declaration that the inclusion of the name of the defendant in registered deed nos.51, 52, 53 and 54 dated 24.01.1993 is illegal, fraudulent, concocted and not acted upon. The suit was decreed ex parte on 26.08.1997 (decree drawn on 28.08.1997). The defendant-respondent filed an application under Order-IX Rule-3 read with section 151 of the Code of Civil Procedure for setting aside the ex parte decree which was registered as Miscellaneous Case No.247 of 1998.

The defendant-respondent filed an application for stay operation of the said judgment and ex parte decree passed in Other Suit no.139 of 1993. The appellant appeared and sought time but the trial court by order dated 02.07.1998 stayed operation of the said judgment and ex parte decree dated 26.08.1997.

Thereafter, the defendant-respondent filed an application for local inspection and another application for temporary injunction against which the appellant filed written objection. The appellant also

filed an application for stay of the Miscellaneous Case no.247 of 1998. After hearing both the parties the trial court by the impugned order dated 12.07.1998 allowed local inspection and directed both the parties to maintain status-quo in respect of nature and character of the suit land.

Being aggrieved by and dissatisfied with the impugned order dated 12.07.1998 this First Miscellaneous Appeal has been filed before this Court and a Division Bench of this Court by order dated 25.08.1998 was pleased to admit this appeal and order of stay as stated at the very outset.

I have perused the memorandum of appeal and also gone through the impugned order. I have also perused the application for stay. The appellant-petitioner did not annex any document except the order sheet.

It appears from record that this Court by order dated 25.08.1998 stayed the operation of impugned order so far it relates to order of status-quo and further directed the trial court to proceed with the Miscellaneous Case No.247 of 1998 in accordance with law as early as possible. In the mean time, more than 27 years has been elapsed. Since no one appears for the parties for which this Court was not informed about the present position of the Miscellaneous Case No.247 of 1998 and/or Other Suit no.139 of 1993. It is legitimate expectation that the Miscellaneous Case as well as the suit would be disposed of within reasonable time, especially when this Court directed the trial Court to

proceed with the Miscellaneous Case in accordance with law as early as possible.

Be that as it may, in my view, since the interim order was passed by this Court on 25.08.1998 and there is no information regarding the latest position of the miscellaneous case and/or other suit, the parties should be maintained their possession till disposal of the Miscellaneous Case No.247 of 1998, if the same is not already disposed of.

With this observation this appeal is **disposed of**. However, there will be no order as to cost. The interim order dated 25.08.1998 passed by this Court **stands vacated**.

Communicate this judgment and order at once.