

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

Present:

Mr. Justice S M Kuddus Zaman

And

Ms. Justice Tamanna Rahman Khalidi

FIRST APPEAL NO.224 OF 2020

Kalipada Das

...Appellant

-Versus-

Ananda Chandra Das (Minor) and others

... Respondents

Mr. Nur Mohammad Talukder, Advocate with
Mr. Manik Lal Ghosh, Advocate

... For the appellant.

Mr. Abdus Sabur Khan, Advocate with
Mr. Mohammad Shariful Islam, Advocate

Ms. Jannatul Ferdousi, Advocate

Mr. Md. Iqbal Hossain, Advocate

... For the respondent No.1.

Heard on 28.07.2026 and Judgment on 29.07.2026.

S M Kuddus Zaman, J:

This First Appeal is directed against the impugned judgment and decree dated 10.09.2020 passed by the learned Joint District Judge, 2nd Court, Gazipur in Title Suit No.145 of 2010 dismissing the same.

Facts in short are that the appellant as plaintiff instituted above suit for declaration that the registered kabla deed No.4665 dated

30.05.2010 executed by defendant Nos.1 to defendant No.2 is a forged and ineffective document which is not binding upon the plaintiff alleging that disputed $17\frac{13}{100}$ decimal land belonged to defendant No.2 who left this country for good at the age of 14 years by transferring above land to the plaintiff by oral sale and living in India and he never come back to Bangladesh. Father of defendant No.1 has created above registered kabla deed in the name of his minor son defendant No.1 by false persuasion and the defendant did not get valid title and possession pursuant to above kabla deed.

Defendant No.1 contested above suit by filing written statement alleging that defendant No.2 while owning and possessing disputed $17\frac{13}{100}$ decimal land he transferred the same to defendant No.1 by registered kabla deed dated 30.05.2010 and delivered possession and defendant is in possession in above land.

At trial plaintiff and defendants examined three witnesses each. Document produced by the plaintiff was marked as Exhibit No.1 and those of the defendants were marked as Exhibit No. "Ka" to "Jha".

The learned Joint District Judge dismissed above suit.

Being aggrieved by and dissatisfied with above judgment and decree of the trial Court above plaintiff as appellant moved to this Court and preferred this First Appeal.

Mr. Nur Mohammad Talukder, learned Advocate for the appellant submits that due to lack of professional skill and knowledge of law the appointed Advocate drafted the plaint of above suit poorly. The learned Advocate did not mention that the plaintiff was also heir of defendant No.2 who has by this time died in India nor a declaration of title for disputed land was sought. The plaintiff and defendants both are in possession in disputed $17\frac{13}{100}$ decimal land by constructing dwelling houses but above important fact was not mentioned in the plaint. PW1 - PW3 have in their evidence admitted defendant's possession in above land since defendant is the nephew of the plaintiff and they are in joint possession of above land which comprises their ancestral home. The learned Advocate lastly submits that the ends of justice will be met if the impugned judgment and decree is set aside and above suit is remanded for retrial after giving the plaintiff an opportunity to amend the plaint and adduce further evidence.

Mr. Md. Abdus Sabur Khan, learned Advocate for the respondent No.1 submits that the impugned kabla deed of defendant No.1 was registered in the Kaligonj Sub-registry Office on 30.05.2010 which carries a presumption of correctness. The plaintiff has claimed to have purchased above land from defendant No.2 while he was a minor of 14 years but could not adduce any evidence in support of above claim. On the basis of above oral purchase relevant Khatians were not prepared in

the name of the plaintiff. It is admitted that S. A. Khatian No.111 and R. S. Khatian Nos.129 and 132 were prepared in the name of defendant No.2. The plaintiff did not claim that above khatians were erroneously prepared. While giving evidence as PW1 Kalipada Das has admitted defendant's possession in the disputed land. PW2 Awlad Hossain Mollah and PW3 Abdul Hai Mollah have also admitted defendant's possession in above land and defendant possesses above land on the basis of registered kabla deed dated 30.05.2010 (Exhibit No."Gha"). On consideration of above facts and circumstances of the case and evidence on record the learned Joint District Judge rightly dismissed above suit which calls for no interference.

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

It is admitted that disputed $17\frac{13}{100}$ decimal land belonged to defendant No.2 and S. A. Khatian No.111 and corresponding R. S. Khatian Nos.129 and 132 were recorded in the name of defendant No.2.

Plaintiff claims that registered kabla deed dated 30.05.2010 (Exhibit Nos."1" and "Gha") executed by defendant No.2 to defendant No.1 for above land is a forged document created by false persuasion. While giving evidence as DW1 defendant No.1 produced above registered kabla deed dated 30.05.2010 in original which was marked as Exhibit No."Gha". Above kabla deed shows proper registration by

the concerned Registry Office executed by defendant No.2 for disputed $17\frac{13}{100}$ decimal land and there is no apparent inconsistency in above document. Plaintiff claims that the executants of above kabla deed defendant No.2 left this country for good before 1947 but in the plaint or in his evidence as PW1 the plaintiff could not provide a specific date of alleged departure of defendant No.2 to India. It is admitted that S. A. Khatian No.111 and corresponding R. S. Khatian Nos.123, 129 and 132 were prepared in the name of defendant No.2 for above land. Plaintiff did not claim that above record of rights in the name of defendant No.2 was erroneous. If above khatians were rightly prepared how can it be said that defendant No.2 left this country long before preparation of above survey khatians. PW1 Kalipada Das has admitted in cross examination that defendant is in possession in the disputed land. PW2 Awlad Hossain Mollah and PW3 Abdul Hai Mollah have stated in their respective evidence that defendant lives in the house which is situated in the disputed land.

A plaintiff of a Civil Suit has to prove at the very beginning that he has locus standi or legitimate claim in the disputed property to maintain the suit. The plaintiff has claimed to have purchased disputed land from defendant No.1 while he was a boy of 14 years and above sale was oral. No specific date was provided for above oral purchase of the disputed land. On the basis of above oral purchase relevant S. A. or

R. S. Khatians were not prepared in the name of the plaintiff. The plaintiff did not seek a relief for declaration of title for above land. As such the plaintiff did not have locus standi to institute and maintain above suit or challenge the legality and propriety of the registered kabla deed date 30.05.2010 executed by defendant Nos.2 to defendant No.1.

In above view of the facts and circumstances of the case and materials on record we hold that the instant First Appeal is devoid of any substance in the impugned judgment and decree passed by the learned Joint District Judge does not suffer from any illegality or irregularity and this First Appeal is liable to be dismissed.

In the result, the First Appeal is dismissed.

However, there will be no order as to cost.

Send down the lower Court's record immediately.

Tamanna Rahman Khalidi, J:

I agree.

MD. MASUDUR RAHMAN
BENCH OFFICER