

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

Present:

Mr. Justice Sheikh Abdul Awal

And

Mr. Justice S.M. Iftekhar Uddin Mahamud

First Miscellaneous Appeal No. 119 of 2002

In the matter of:

Saber Uddin Molla and another

.....Defendant No.5 -appellant.

-Versus-

Abdus Sattar and others

..... Plaintiff-respondents.

No one appears

..... For the defendant No.5 -appellant.

Mr. A.K.M. Rezaul Karim Khandaker, D.A.G with

Mr. Md. Manowarul Islam, A.A.G with

Mr. Papia Sultana, A.A.G with

Mr. Mokhlesur Rahman, A.A.G.

.....For the Govt. respondents.

Heard and judgment on: 12.03.2026

S.M. Iftekhar Uddin Mahamud, J.

This first miscellaneous appeal is directed against the order dated 30.05.2001 passed by ‘the-then Subordinate Judge’, 3rd Court, Dhaka in Title Suit No. 86 of 2000 directing the parties to maintain status-quo in respect of selling and transferring the suit land.

This matter arises out of an application filed by the plaintiff-respondent praying for temporary injunction over the suit land during the pendency of partition suit.

The facts of the case, in brief, are that the instant appellant preferred this miscellaneous appeal against the order dated 30.05.2001 passed by 'the-then Subordinate Judge', 3rd Court, Dhaka in Title Suit No. 86 of 2000 directing the parties to maintain status-quo in respect of transferring the suit land.

That the plaintiffs filed the suit for partition stating that they have right and title over the suit land what they have inherited from their predecessor and as in much S.A. and R.S. khatian have been recorded in their names and that the defendant-appellants have constructed building over the suit land without any inheritance.

The plaintiff-respondent also stated that the suit for partition is pending and the defendants are piling the materials for constructing building over the suit land and hence an order of interim injunction is required to pass to restrain the defendants from constructing any structure over the suit land.

On the other hand, the case of the defendant-appellant in short, is that they have right and title over the suit land and they are also in possession of the same by erecting structure thereon.

No one appears to press the appeal on repeated calls.

It shows from the record that the order of status-quo is granted on 30.05.2001 and the trial Court in disposing the application for temporary injunction held in its finding that if an order of status-quo be passed it will not prejudice any of the contesting parties of the suit. The learned Court also held that this application arises out of the suit for partition which is pending before the Court and the shares of the contesting parties are yet to be determined. The learned Court further held that the defendants-appellant conceded that they are in possession in the suit land by constructing a structure over there and also submitting that the suit be disposed of expeditiously and the Court below held that they will not be prejudiced if an order of status-quo be passed. At this stage, the learned Court held that there is a prima-facie case lies in favour of the plaintiff-respondents as well as balance of convenience and inconvenience lies with the plaintiffs and as such the application for temporary injunction be allowed with an amended form so that the plaintiffs and defendants i.e. defendant Nos. 5, 26 and 59 be restrained by an order of status-quo from transferring or selling the suit land till disposal of the suit.

It also shows from the record that this miscellaneous appeal is pending for a long period of 25 years which is stifling and frustrating the due process of law.

In the facts and circumstances of the case and under the discussion made above, we are not inclined to interfere with the impugned order dated 30.05.2001 passed by the learned Subordinate Judge, 3rd Court, Dhaka in Title Suit No. 86 of 2000 directing the parties to maintain status-quo in respect of selling and transferring the suit land.

In view of the matter, having regard to the facts and circumstances of the case as stated above, this appeal must fail. No interference is, therefore, called for.

In the result, this First Miscellaneous Appeal is dismissed without any order as to costs. However, the trial Court concerned is directed to hear and dispose of the suit as early as possible preferably within 06 (six) months, if any, from the date of receipt of a copy of this judgment.

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

Sheikh Abdul Awal, J:

I agree.