

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

Present:

Mr. Justice S M Kuddus Zaman

CIVIL REVISION NO.2396 OF 2020

In the matter of:

An application under Section 115(1) of the Code of Civil Procedure.

And

Sheikh Abul Kalam and others

... Petitioners

-Versus-

M/S. Star Jute Mills Ltd. and others

... Opposite parties

Mr. Md. Mainul Islam, Advocate

... For the petitioners.

Mr. Md. Tassadder Raihan Khan, Advocate with

Mr. Md. Shakh Amir Hamza, Advocate

....For the opposite party No.1.

Heard on 13.07.2025 and 27.08.2025.

Judgment on 28.08.2025.

This Rule was issued calling upon the opposite party Nos.1-2 to show cause as to why the impugned judgment and decree dated 06.10.2020 passed by the learned Special Sessions Judge on Jononirapatta Bignokari Aparad Daman Tribunal in Title Appeal No.250 of 2015 dismissing the appeal and affirming the judgment and decree dated 19.06.2011 passed by the learned Joint District Judge, 1st Court, Khulna in Title Suit No.89 of 1986 decreeing the suit should not be set aside and/or pass such other or further order or orders as to this Court may seem fit and proper.

Facts in short are that the opposite parties as plaintiffs instituted above suit for declaration of title and recovery of possession by removing all structures from 85 decimal land of C. S. Plot No.270 of C. S. Khatian No.427 corresponding to S. A. Khatian Nos.447 and 203 alleging that 1.17 acres land including above 85 decimal was acquired by the Government of Bangladesh by L. A. Case Nos.10 of 56-57, 35 of 55-56 and 33 of 60-61 for construction and running of Star Jute Mill, Plaintiff No.1, who constructed boundary wall surrounding 17 decimal land and kept 1 acre land outside of above boundary wall for future construction of staff quarters, excavation of tank and other purposes. Some people erected huts for running tea stalls and grocery shops in above land and since above property was not needed for immediate use the plaintiff did not take any initiative for eviction of above persons. Defendant Nos.1-5 as plaintiffs filed Title Suit No.312 of 77 in the first Court of Munsef, Khulna for declaration of title for 0.1566 acres land claiming that they had purchased above land from Baidya Nath Raha by registered kabla deed dated 11.11.1976 which was dismissed on contest.

Defendant No.1 contested above suit by filing a written statement alleging that Umesh Chandra Raha and others were the owners and possessors of total land of C. S. Plot No.270 and C .S. Khatian No.427 and Shashi Vushan had title and possession in 29 decimal land who died leaving one son Boidda Nath Raha as heir and the name of Boidya Nath Raha was recorded in S. A. Khatian No.446.

Above boidda Nath Raha transferred 16 decimal land to Defendant Nos.2-5 by registered kabla deed dated 11.07.1970 and defendants are in possession in above land by mutating their names and paying rent to the Government.

On consideration of facts and circumstances of the case and materials on record the learned Joint District Judge decreed above suit and being aggrieved by above judgment and decree of the trial Court defendant No.1 as appellant preferred Title Appeal No.250 of 2015 to the District Judge, Khulna which was heard by the learned Judge of Jananirapatta Bignakari Oparad Tribunal No.1, Khulna who dismissed above appeal and affirmed the judgment and decree of the trial Court.

Being aggrieved by and dissatisfied with the above judgment and decree of the Court of Appeal below above appellants as petitioners moved to this Court with this Civil Revisional Application under Section 115(1) of the Code of Civil Procedure, 1908 and obtained this Rule.

Mr. Md. Mainul Islam, learned Advocate for the petitioners submits that the petitioners as plaintiffs instituted Title Suit No.312 of 1977 which was renumbered as Title Suit No.94 of 1991 to the Court of Joint District Judge, Khulna for declaration of title for 16 decimal land but the same was dismissed on contest. The petitioners preferred Title Appeal No.138 of 2006 to the District Judge, Khulna which was also dismissed on contest. Against above judgment and decree of the Court of Appeal below the petitioners did not prefer any Civil Revision since

the petitioners continued possession in above land peacefully. The petitioners admit that total land of C.S. Plot No.270 was acquired by the Government by three separate Land Acquisition Case Nos.10, 35 of 55-56 and 33 of 60-61. But disputed 16 decimal land was recorded in relevant S.A. Khatian in the name of Boiddya Nath Raha who transferred above land to the petitioner and other three persons by a registered kabla deed dated 11.07.1970 and since above date petitioner is in possession in his 6 decimal land by constructing semi pacca dwelling house. Above possession of the defendant has created valid title by adverse possession. But the learned Judge of the Court of Appeal below utterly failed to appreciate above facts and circumstances of the case and materials on record and most illegally dismissed above appeal and affirmed the flawed judgment and decree of the trial Court which is not tenable in law.

On the other hand Mr. Tassadder Raihan Khan, learned Advocate for opposite party No.1 submits that total land of Plot No.270 was acquired by the Government of Bangladesh vide L. A. Case No.10 of 55-56, 35 of 55-56 and 33 of 60–61 and possession was delivered to the plaintiff as requiring body. After acquisition of total land of Plot No.270 Boiddya Nath Raha did not have any lawful title in above land and the petitioner did not acquire any valid title by alleged purchase from Boidda Nath Raha. The suit of the petitioner for declaration of title for above 16 decimal land was dismissed on contest and appeal preferred against above judgment of the trial Court was

also dismissed. As such petitioner cannot raise any claim of title for above land. On consideration of above facts and circumstances of the case and evidence on record the learned the learned Judge of the Court of Appeal below rightly dismissed the appeal and affirmed the lawful judgment and decree of the trial Court which calls for no interference.

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

It is admitted that C.S. Plot No.270 comprised total 1.17 acres land and above total land was acquired by the Government by Land Acquisition Case No.10 of 55-56, 35 of 55-56, 10 of 55-56, 35 of 55-56 and 33 of 60-61 and possession was delivered to the plaintiff for construction of Star Jute Mills Ltd. As such, whatever title Boiddya Nath Raha or his predecessors had in above land was distinguished by virtue of above acquisition of land by the Government by above Land Acquisition Cases. There is no claim by the defendant that pursuant to above Land Acquisition Cases the plaintiff did not get possession of above land or above land acquisition case suffered from any form of illegality. As such the petitioner and his co-purchasers did not get any lawful title and possession in 16 decimal land by way of purchase from Boiddya Nath Raha by registered kabla deed dated 11.07.1970.

It turns out from schedule of the plaint that the plaintiff has described disputed 85 decimal land mentioning that above land is situated on the eastern side of C. S. Plot No.270. Above land has been further specified by providing an index. As such I am unable to find

and substance in the submissions of the learned Advocate for the petitioners that disputed 85 decimal land remains unspecified and vague.

As mentioned above by above registered kabla deed dated 11.07.1970 the petitioner and other three persons jointly purchased 16 decimal land out of Plot No.270 and above 4 purchasers jointly filed Title Suit No.312 of 1977 which was renumbered as Title Suit No. 94 of 1991 for declaration of title for above 16 decimal land and above suit was dismissed on contest and against above judgment and decree above plaintiffs as appellants preferred Title Appeal No.138 of which was also dismissed on contest. Above appellants did not challenge the legality and correctness of above judgment and decree of the Court of Appeal by preferring a Civil Revision to this Court. As such, above judgment and decree of the Court of Appeal reached finality.

Plaintiffs claim of title and possession in above land against above mentioned 5 alleged purchasers but the petitioner alone contested above suit as defendant No.1. The other alleged purchasers who were defendant Nos.2-5 of above suit but did not contest above suit nor they have preferred any appeal against above judgment and decree of the trial Court. No explanation has been provided by the petitioner as to why his co-purchasers abandoned their claim of title and possession in above land.

The learned Advocate for the opposite party submits that the petitioner was inducted into possession of above land by Boiddya

Nath Raha on 11.07.1970 and this suit was filed by the opposite party on 25.08.1986. As such continuous and peaceful possession of the petitioner in above 6 decimal land was matured into valid title by adverse possession. Above submission of the learned Advocate for the opposite party is out of pleadings and not supported by any evidence on record. There is no material on record to show that Boiddya Nath Rahat inducted the petitioner into possession of 6 decimal land on 11.07.1970.

In above view of the facts and circumstances of the case and materials on record I am unable to find any illegality or irregularity in the impugned judgment and decree passed by the learned Judge of the Court of Appeal below nor I find any substance in this Civil Revisional Application under Section 115(1) of the Code of Civil Procedure and the Rule issued in this connection is liable to be discharged.

In the result, this Rule is hereby discharged.

However, there will be no order as to costs.

Send down the lower Courts records immediately.