

District-Satkhira.

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

Present:

Mr. Justice Md. Toufiq Inam

Civil Revision No. 212 of 2021.

Md. Fazle Morhal and another.

----- Defendants-Appellants-Petitioners.

-Versus-

Ad. Alhaj Md. Nawsher Ali being dead his legal heirs:

1(a) Md. Mehedi Hasan and others.

----- Plaintiffs-Respondents-Opposite Parties.

Mr. Md. Razzakul Kabir with

Mr. Md. Habibur Rahman, Advocates.

----- For the Defendants-Appellants-Petitioners.

Mr. Sachchidananda Ballav, Advocate.

----- For the Plaintiffs-Respondents-Opposite Parties.

**Heard on: 26.10.2025 and Judgment
Delivered On: 29.10.2025.**

Md. Toufiq Inam, J.

This Rule was issued calling upon the opposite-party Nos. 1 and 2 to show cause as to why the judgment and order dated 09.11.2020 passed by the learned Additional District Judge, 1st Court, Satkhira, in *Miscellaneous Appeal No. 07 of 2013*, dismissing the appeal and thereby affirming the judgment and order dated 18.10.2012 passed by the learned Senior Assistant Judge, Satkhira Sadar, Satkhira, in *Other Class Suit No. 265 of 2011* allowing the application under Order

XXXIX, Rule 1 read with section 151 of the Code of Civil Procedure, now pending before the said Court, should not be set aside and/or such other or further order or orders be passed as to this Court may seem fit and proper.

The opposite-party Nos. 1 and 2 as plaintiffs instituted *Other Class Suit No. 11 of 2011* in the Court of the learned Senior Assistant Judge, Satkhira Sadar, Satkhira, against the defendants-petitioners seeking a declaration of title upon confirmation of possession over the suit land. During pendency of the suit, the plaintiffs-opposite-parties filed an application under Order XXXIX, Rules 1 and 2 of the Code of Civil Procedure, praying for a temporary injunction to restrain the defendants from interfering with their possession. Upon hearing both sides and considering the materials on record, the trial Court found the existence of a *prima facie* case, the balance of convenience, and the likelihood of irreparable injury in favour of the plaintiffs, and accordingly allowed the prayer for temporary injunction.

Being aggrieved, the defendants-petitioners preferred *Miscellaneous Appeal No. 07 of 2013* before the learned District Judge, Satkhira. Upon hearing, the learned Additional District Judge, 1st Court, Satkhira, by the impugned judgment and order dated 09.11.2020, dismissed the appeal and affirmed the order of injunction passed by the trial Court. The defendants thereafter moved this Court and

obtained the present Rule, which is now taken up for hearing and disposal.

Mr. Md. Razzakul Kabir, learned Advocate appearing with Mr. Md. Habibur Rahman for the petitioners, submits that both the Courts below committed an error of law and fact in granting injunction without holding a local inspection to ascertain actual possession. He contends that the materials on record do not establish the plaintiffs' possession, and that the injunction has caused undue hardship to the defendants who are in possession. It is further argued that the Courts below failed to appreciate the settled principle that temporary injunction cannot be granted in favour of a party who is not in possession of the suit property.

On the other hand, Mr. Sachchidananda Ballav, learned Advocate appearing for the opposite-party Nos. 1 and 2, supports the impugned orders. He submits that the plaintiffs-opposite-parties have consistently been in possession over the suit land, their names have been duly mutated, and they have been paying rent regularly, which constitute strong collateral evidence of possession. The trial Court, upon full contest, found sufficient materials to justify an order of temporary injunction, which was rightly affirmed by the appellate Court. He contends that the concurrent findings of fact of the Courts

below are based on proper appreciation of evidence and, therefore, should not be interfered with in revisional jurisdiction.

Heard the learned Advocates for both sides and perused the impugned judgments and orders along with the connected record. It appears that both the Courts below, upon considering the pleadings, documents, and oral submissions, concurrently held that the plaintiffs-opposite-parties had been able to establish a *prima facie* case warranting protection of their possession through temporary injunction. The concurrent findings of the Courts below are essentially factual in nature, and unless such findings are shown to be perverse or based on misreading of evidence, interference by this Court in its revisional jurisdiction is not warranted.

However, it is evident that at the time of issuance of this Rule, the operation of the order of injunction was stayed, and presently both the parties are claiming possession over the suit land. In such circumstances, any continuation or vacation of the injunction may prejudice one party or the other before the final adjudication of title and possession in the main suit.

Accordingly, to preserve the rights of both parties and to maintain peace and order over the disputed property, this Court is of the view that justice would be best served if an order of *status quo* as to

possession and position of the suit property is maintained by both parties until final disposal of the suit.

In view of the above discussions, **the Rule is disposed of** with the following directions:

1. Both parties shall maintain *status quo* in respect of possession and position of the suit property till the final disposal of *Other Class Suit No. 11 of 2011*.
2. The learned trial Court is directed to dispose of the suit expeditiously, preferably within six (6) months from the date of receipt of this order.

There will be no order as to costs.

The office is directed to communicate this order to the Court concerned at once for necessary compliance.

(Justice Md. Toufiq Inam)

Sayed. B.O.