

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

Present:

Mr. Justice S M Kuddus Zaman

And

Ms. Justice Tamanna Rahman Khalidi

CIVIL REVISION NO.3927 OF 2018

In the matter of:

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

And

Nurnahar Chowdhury and others

... .Petitioners

-Versus-

Dipak Banik and others

.... Opposite party

None appears

.... For both the sides.

Heard and Judgment on 23.04.2026

S M Kuddus Zaman, J:

On an application under Section 115(1) of the Code of Civil Procedure the Rule was issued calling upon the opposite parties to show cause as to why order No.22 dated 16.08.2017 passed by the learned Joint District Judge, 1st Court, Brahmanbaria in Title Suit No.18 of 2013 should not be set aside and/or pass such other or further order or as to this Court may seem fit and proper.

Facts in short are that opposite party No.1 as plaintiff instituted above suit for partition of 58 decimal land appertaining to S. A. Khatian No.99 corresponding to C. S. Khatian No.91 seeking a saham for 0.1383 acre land alleging that above property belonged to Kashinath Banik and

others and relevant C. S. Khatian was correctly prepared who died leaving three sons namely Haridan Banik, Manmohan Banik and Shasi Muhan Banik and wife Nabodurga Banki as heirs. Plaintiffs claims title in above land as heirs of Haridan Banik.

Defendant Nos.8-10 and 12 contested above suit by filing a joint written statement alleging that the plaintiffs and their father had transferred all their land in above khatian and they did not have any subsisting interest in above khatians and above suit is liable to be dismissed. It was further stated above defendants purchased $16\frac{3}{4}$ decimal land by seven registered kabla deeds from Manmohan Banik and possessing above land by erecting 17 tin shed shops.

In above suit plaintiffs submitted a petition under Order 39 Rule 1 of the Code of Civil Procedure for an order or temporary injunction and the learned Judge of the trial Court directed the defendants to show cause as to why an order of temporary injunction should not be passed and in the meantime both parties were directed to maintain status-quo as to the possession of above property vide order dated 30.04.2017. On 03.08.2017 defendant No.19 submitted a petition under Section 151 of the Code of Civil Procedure alleging that defendant No.2 has locked his shop on 28.07.2017 in violation of above order of status-quo and sought an order of the Court defendant No.9 directing him to unlock above shop. On hearing the learned Advocate for the respective parties the

learned Joint District Judge directed defendant No.9 to unlock above shop within two working days vide impugned order dated 16.08.2017.

Being aggrieved by above order of the learned Joint District Judge defendant No.9 preferred Civil Revision No.26 of 2017 to the District Judge, Brahmanbaria and sought an order of stay of the trial of above suit which was refused and subsequently on an order passed by the High Court Division in Writ Petition No.7053 of 2016 above Civil Revision was withdrawn and above defendants as petitioners moved to this Court with his Civil Revisional application under Section 115(1) of the Code of Civil Procedure and obtained this Rule.

No one appears for the petitioners or the opposite parties when this Rule was taken up for hearing although this matter was appeared in the list for hearing today.

It turns out from Paragraph No.11 of Civil Revision No.26 of 2017 filed by the petitioner before the District Judge that the petitioners have admitted that defendant No.19 was their first cousin and their tenant in the disputed shop but defendant No.19 claimed title of above shop on the basis of sale deed No.3989 dated 12.10.1969 executed by Sunil Chandra Banik and Kamakhkha Charan Banik. Above defendants could not show above original sale deed which was a forged document and due to raising above unlawful claim of title defendant No.9 locked above shop on 28.04.2017. The petitioners did not mention in the instant Civil Revisional application that defendant No.19 was their tenant in

above shop. But there is no specific claim that the petitioners were running business in above shop. The petitioners have admitted to have locked up above shop. If the petitioners were in possession and running business in above shop and then what prompted them to shut above shop and kept the same locked?

On consideration of above materials as available in the Civil Revisional application of the petitioner it is crystal clear that defendant No.19 was in possession in above shop and he was running business in the same and defendant No.19 has locked above shop and stopped the business of above defendant.

If a tenant denies title of his landlord then he is liable to eviction but that has to be done through legal process and none can be allowed to take the law in his own hand. The genuinity or falsity of kabla deed No.3989 dated 12.10.1969 of defendant No.19 cannot be determined without evidence. It has been claimed by the petitioners that they locked above shop on 28.04.2017 about two days before the passing of the order of status-quo by the trial Court. The learned Joint District Judge found that defendant No.9 locked above shop in violation of status-quo passed by the order of the Court and defendant No.9 admitted above facts in Court.

On consideration of above facts and circumstances of the case and materials on record we hold that the ends of justice will be met if above shop is unlocked and defendant No.19 is allowed to continue his

business till disposal of above partition suit on merit and the impugned order does not called for interference by this Court.

In above view of the materials on record we are unable to find any substance in this Civil Revisional application and the Rule issued in this connection is liable to be discharged.

In the result, the Rule is hereby discharged.

However, there is not order as to costs.

Tamanna Rahman Khalidi, J:

I agree.

MD. MASUDUR RAHMAN
BENCH OFFICER