

Bench:

Mr. Justice Md. Ruhul Quddus

Civil Revision Number 3102 of 1999

Md. Hachen Ali Fakir being dead his heirs  
heiresses Mosammat Aleka Bewa and others  
... Petitioners

-Versus-

Government of Bangladesh represented by the  
Deputy Commissioner, Natore and another  
... Opposite parties

Mr. Shahadat Tanveer Amin, Advocate

...for petitioners number 1(a)-1(i)

Mr. Md. Fazlul Haque Salim., Assistant  
Attorney General

...for opposite party number 1

Hearing concluded on 23.06.2025

Judgment delivered on 23.06.2025

This rule at the instance of the plaintiff-petitioner was issued on an application under Section 115(1) of the Code of Civil Procedure challenging the legality of judgment and decree dated 05.10.1998 passed by the Subordinate Judge (now Joint District Judge) First Court, Natore in Title Appeal Number 135 of 1994 allowing the same on reversing those dated 28.02.1994 passed by

the Senior Assistant Judge, Lalpur, Natore in Other Class Suit Number 30 of 1992.

Facts, relevant for disposal of the rule, are that the plaintiff, the predecessor of petitioners number 1(a)-1(i) instituted the suit for declaration of title over the land as described in the schedule of the plaint stating, *inter alia*, that the suit land originally belonged to Dhanai Pramanik, Boyen, Nazeer and Pati Bewa to the extent of 49 decimal and Dusruddin Sarker, Ebad, Maniruddin and Jashimuddin to the extent of remaining 49 decimals. For the purpose of convenient enjoyment and possession, they also exchanged land with the owners of CS Khatain Number 45. In this way, Dhanai, Boyen, Nazer and Pati Bewa became the owner of - /16/- annas share of plots number 167 and 175. It was further stated that Anar Bibi was the owner of CS Khatain Number 19. After the death of her husband Jugi Pramanik, she got married with Boyen. After death of Anar Bibi her husband Boyen inherited her property. Pati Bewa died leaving behind two sons, namely, Boyen and Nazeer. After the death of Dhanai, Boyen and Nazeer remained in *ejmali* possession of the land. Boyen died leaving behind four sons, namely, Moyen, Saimuddin, Yusuf and Aminuddin. Plaintiff's father Sairuddin took pattan of the suit land from them and remained in possession for more than 12 years. The SA and RS

records were prepared in his name. The plaintiff came to know from the local Tehshil Office that half of the land was recorded in the name of the Government. Hence the cause of action for institution of the suit arose.

The Defendant-Government (opposite party number 1 herein) contested the suit by filing a written statement contending, *inter alia*, that the SA and RS records were prepared in the name of the Government. The Government was the lawful owner of the suit land and settled it to defendant number 2 by a registered *kabuliyat* and she (defendant 2) was in possession thereof.

The trial court framed the issues and proceeded with the trial, in course of which, both the parties examined oral witnesses and adduced in evidence some documents supporting their own cases.

After conclusion of hearing, learned Senior Assistant Judge, Lalpur, Natore decreed the suit by judgment and decree dated 28.02.1994. Being aggrieved, the Government preferred Title Appeal Number 135 of 1994 in the Court District Judge, Natore. Learned Subordinate Judge, First Court, Natore heard the appeal, allowed the same by the impugned judgment and decree reversing the decree of the trial court.

During pendency of the rule, the plaintiff petitioner died and his legal heirs and successors substituted him as petitioners number 1(a)-1(i).

Mr. Shahadat Tanveer Amin, learned advocate for the petitioners submits that the plaintiff clearly pleaded the history of title of the land and proved his title over the same by producing the CS Khatian, rent receipt and other documents, upon which the trial court rightly decreed the suit. But the appellate court without proper consideration of evidence, reversed the decree of the trial court and thereby committed error of law. The court of appeal did also not consider that the Government failed to prove how the suit land included in the Khash Khatian and passed an erroneous decision allowing the appeal.

Mr. Md. Fazlul Haque Salim, learned Assistant Attorney General opposes the rule and submits that the trial court passed the judgment almost in a non-speaking manner. Being the last court of fact, the appellate court discussed each and every piece of evidence and arrived at a definite finding of fact. There has been no error of law in the impugned judgment and decree, the rule is liable to be discharged

I have considered the submissions of the learned Advocate as well as the learned Assistant Attorney General and gone through the records. It appears that the trial court without any itemwise discussion and assessment of evidence, abruptly arrived at the finding regarding title of the plaintiff and decreed the suit. But the appellate court critically assessed and discussed the evidence and arrived at a reasonable finding that the plaintiff failed to prove his pattan as well as the exchange of land from CS Khatian Number 45 as claimed in the plaint as a basis of his title. Being the last court of fact, the appellate court considered the evidence, arrived at definite finding and fact and allowed the appeal. I do not find any error of law resulting in an error in the decision therein.

Accordingly, the rule is discharged.

Send down the records.