

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

*Present:*

*Mr. Justice S M Kuddus Zaman*

**CIVIL REVISION NO.3386 OF 2023**

In the matter of:

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

And

Mrs. Parul Begum and others

.... Petitioners

-Versus-

Md. Sobed Ali and others

.... Opposite parties

Ms. Suria Nasrin, Advocate

.... For the petitioners.

Mr. Md. Abdul Motaleb with

Mr. Sk. Eusuf Rahman, Advocates

.... For the opposite party

No.1-8.

**Heard and Judgment on 22.04.2025.**

On an application under Section 115(1) of the Code of Civil Procedure this Rule was issued calling upon the opposite parties to show cause as to why the impugned judgment and order dated 07.05.2023 passed by the learned Senior District Judge, Dhaka in Civil Revision No.43 of 2023 affirming the judgment and order dated 23.10.2022 passed by the learned Senior Assistant Judge, 1<sup>st</sup> Court, Dhaka in Arpita Sampotty Suit No.237 of 2012 dismissing 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 opposite party as plaintiff instituted above Arpita Sampotty Suit No.237 of 2012 to Arpita Sampotty Prattarpon Tribunal and Senior Assistant Judge, 1<sup>st</sup> Court, Dhaka for release of 59 decimal land and the dwelling house situated in above land from the “Ka” schedule of the Arpita Sampotty Protterpon Ain, 2001 published in the official Gazette dated 02.05.2012 at serial No.242.

In above suit petitioner was added as a defendant and he filed a petition under 26 Rule 9 of the Code of Civil Procedure for appointment of a Commission for local inspection of above property. The learned Judge of above Tribunal rejected above petition and challenging the legality and propriety of above order of the Arpita Sampatty Prottarpon Tribunal above defendant as petitioner preferred Civil Revision No.43 of 2023 under Section 115(1) of the Code of Civil Procedure to the learned District Judge, Dhaka who rejected above revision and affirmed the judgment and order of the Tribunal.

Being aggrieved by above judgment and order of the learned District Judge above petitioners as petitioners moved to this Court with this petition under Section 115(1) of the Code of Civil Procedure and obtained this Rule.

Ms. Suria Nasrin, learned Advocate for the petitioners submits that the petitioners are in exclusive possession in the disputed property which comprises their dwelling house and the opposite party suppressing above facts instituted above suit in the Arpita Sampatty Prottarpon Tribunal for release of above property from “Ka” schedule

of Arpita Sampatty Prattarpon Ain, 2001. The petitioners were added as defendants in above suit and submitted a petition under Order 26 Rule 9 of the Code of Civil Procedure for local inspection to ascertain the nature and character of above property. But the learned Judge of the Tribunal most illegally rejected above petition. The petitioners preferred above Civil Revision to the District Judge, Dhaka challenging the legality and propriety of above order of the Tribunal but the learned District Judge utterly failed to appreciate above facts and circumstances of the case and materials on record and most illegally rejected above Civil Revision which is not tenable in law.

Mr. Md. Abdul Motaleb, learned Advocate for the opposite party Nos.1-8 submits that Section 18 of Arpita Sampatty Pratterpon Ain, 2001 provides that every decision passed by the Arpita Sampatty Prattarpon Tribunal shall be subject to appeal to the Appellate Tribunal. Since Arpita Sampatty Pratterpon Tribunal is not a Civil Court a Civil Revision under Section 115 of the Code of Civil Procedure is not available against any order or judgment passed by above Tribunal. The learned Advocate lastly submits that the opposite party as plaintiff filed Civil Suit No.18 of 1982 for above property and the petitioner contested above suit as defendant and above suit was decreed on contest. The petitioner preferred Title Appeal No.219 of 2008 against above judgment and decree of the trial Court which was also dismissed and title and possession of opposite party in the disputed property was declared. On consideration of above facts and circumstances of the case

and materials on record the learned District Judge rightly rejected the Civil Revision of the petitioner 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 the opposite party as plaintiff instituted Aripito Sampotty Suit No.237 of 2012 to the Arpita Sampatty Pratterpon Tribunal No.1, Dhaka for release of the disputed property from “Ka” schedule of the Arpita Sampotty Pratterpon Ain, 2001 published in the Official Gazette on 02.05.2012 and the petitioners were added as defendants in above suit and filed a petition under Order 26 Rule 9 of the Code of Civil procedure for local inspection which was rejected by the learned Judge of the Tribunal. It is also admitted that challenging the legality and property of above order above defendants preferred above Civil Revision to this District Judge under Section 115(2) of the Code of Civil Procedure which was dismissed.

The learned Advocate for the petitioner submits that the challenging the legality and propriety of judgment and decree passed in Title Appeal No.219 of 2008 this petitioner has preferred Civil Revision No.2597 of 2009 to the High Court Division which is pending for hearing. It is not understandable as to why the petitioner instead of getting expeditious hearing of Civil Revision No.2597 of 2009 or filing a suit to the Arpito Sampotty Protterpon Tribunal for release of above property opted be added as a defendant in Arpita Sampotty Suit No.237 of 2012.

Admittedly instead of obtaining leave of this Court under Section 115(4) of the Code of Civil Procedure the petitioner has filed this second revision under Section 115(1) of the Code of Civil Procedure challenging the judgment and order of the District Judge passed in a Civil Revision under Section 115(2) of the Code of Civil Procedure which is not tenable in law.

The Arpito Sampatty Protterpon Tribunal is not a Civil Court and it has no jurisdiction to determine title or possession of the property enlisted in the "Ka" schedule of the Arpita Sampotty Protterpon Ain. As such submission of a petition by the petitioner under Order 26 Rule 9 of the Code of Civil Procedure to the Tribunal for local inspection of the disputed land is misconceived.

Section 18 of the Arpito Sampotty Protterpon Ain, 2001 mentions that each and every decision passed by a Judge of the Arpita Sampotty Protterpon Tribunal shall be challenged by preferring an appeal to the Appellate Tribunal constituted under above Ain. As such preferring of a Civil Revision to the District Judge under Section 115(2) of the Code of Civil Procedure challenging a decision of the Judge of the Arpita Sampotty Pratterpon Tribunal is misconceived, unlawful and no tenable in law.

In above view of the materials on record I am unable to find any illegality or irregularity in the impugned judgment and order of the learned District Judge 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, the Rule is hereby discharged. The order of stay granted at the time of issuance of the Rule is hereby vacated.

However, there will be no order as to costs.

*MD. MASUDUR RAHMAN*  
*BENCH OFFICER*