

**In the Supreme Court of Bangladesh
High Court Division
(Civil Revisional Jurisdiction)**

Present:

Mr. Justice Md. Lutfor Rahman

Civil Revision No. 4016 of 2025

In the matter of:

Sheikh Md. Rayech

....Defendant-Appellant-Petitioner.

-Versus-

Md. Abdul Momin and another.

....Plaintiffs-Respondents-Opposite Parties.

Mr. Abdul Awal, Advocate

.....for the defendant-Appellant-Petitioner.

Mr. Golam Ahmed, Advocate

....Plaintiffs-Respondents-Opposite Parties.

**Heard on 13.11.2025, 23.11.2025, and
Judgment on: 08.02.2026.**

Md. Lutfor Rahman, 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 10.09.2025 passed by the learned Additional District Judge, 6th Court, Dhaka in Civil Revision No. 95 of 2025 disallowing the revision and thereby modifying the order dated 27.02.2025 passed by the learned Joint District Judge, 4th Court, Dhaka in Title Suit No.401 of 2023 should not be set aside and/or why such other or further orders as to this Court may deem fit and proper.

Short facts necessary for the disposal of this Rule are that the opposite party Nos.1-2 as plaintiffs instituted Title Suit No. 401 of 2023 in the Court of learned Joint District Judge, 4th Court,

Dhaka for declaration of title and recovery of khas possession and for further declaration that record of right is erroneous as well as deed Nos. 3769, 4448, 3768 and 594 are not binding upon the plaintiffs. The specific case of the plaintiffs, in short is that land measuring 11 decimals out of 31 decimals appertaining to C.S. khatian No. 196 corresponding to S.A. khatian No. 178 and R.S. khatian No. 749, C.S. and S.A. plot No. 39 corresponding R.S. plot No. 59 under Mouza Chunkutia, Police Station-Keranigonj, District-Dhaka belonged to Nandalal Malo who died issueless. He took his nephew namely Radhika Mohan Malo adopted. Radhika Mohon Malo died leaving behind son Sree Rakhil Chandra Malo. In a family settlement said land came under the Saham of Rakhil Chandra Malo and accordingly S.A. and R.S. Khatians were prepared in his name. He died leaving behind 3 sons namely Sree Shubol Chandra Malo, Sree Shokha Charan Malo and Ram Vokto Malo. That Shubol Chandra Malo and others sold 3 decimals of land to Md. Habibur Rahman by kabala deed No. 2149 dated 22.04.1992. Habibur Rahman sold the said land to Abdus Sattar Chaklader by kabala deed No. 4309 dated 27.07.1993. Abdus Sattar sold the land to Md. Abul Molla by deed No. 4622 dated 12.07.1994. Abul Molla sold the land to Abdul Jabbar Bepary and his 2 sons by kabala deed No. 2229 dated 03.04.1997. Abdul Jabbar Bepari and his 2 sons sold 03 decimals of land to Mojnu Sheikh vide registered deed No. 405 dated 07.01.2009. Then

Mojnu Sheikh in need of money sold 03 kathas of land to the plaintiff no.1 by registered deed n0o. 4807 dated 20.06.2019. Original owner Sree Ram Vokto Bormon appointed plaintiff No.01 as his attorney by executing deed of Power of Attorney No. 5766 dated 30.06.2021 in respect of 2 decimals of land. Then plaintiff No. 01 sold 2 decimals of land to his wife by deed No. 5938 dated 18.07.2021. Thus the plaintiff No. 1 owned 03 decimals and his wife 02 decimals of land in total 05 decimals of land. They erected boundary wall surrounding the land and let out the same to the tenants after mutating their names in the khatian. Plaintiffs after collecting the defendant deeds and khatians came to know that the defendant intentionally inserted plot No. 59 in his purchase deed. Defendant purchased land from plot No.69 but he forcibly took possession from plot No.59. Defendant dispossessed the plaintiff from 02 decimals of land from plot No. 59 and hence the suit.

The sole defendant entered appearance denying the material allegation and contending inter-alia that land measuring 16 decimals appertaining to C.S. plot No. 48 under C.S. khatian No. 122 ka and 135 kha of Mouza-Chunkutia, Police station-Keranigonj, District-Dhaka belonged to Moharani Bewa. Subsequently S.A. khatian No. 105 was prepared in her name. She died leaving behind only daughter Purna Laxmi. Purna Laxmi died leaving behind son Parsonath Malo who died leaving behind

4 sons namely Amullo Bormon, Gurudas Malo, Nimai Malo and Gour Chandra Malo. They sold the land to Moslem Miah by different kabala deeds. Thereafter Moslem Miah died leaving behind 2 sons and 3 daughters namely Md. Badsha, Md. Jashim, Munni Begum, Tinni Begum and Akhi Akhter. Md. Badsha Mia and others sold 3 decimals of land out of 12 decimals to this defendant by kabala No. 594 dated 13.01.2022. This defendant after purchase mutated his name in the khatian and paid rent. Plaintiff No. 1 got a power of attorney from titleless Sree Ram Vokto Bormon and thereby collusively made a transfer in favour of plaintiff No. 2 by kabala dated 18.07.2021. So plaintiffs did not acquire any title in the suit land by virtue of the deed. Sree Ram Vokto Bormon became titleless by transferring 10.50 decimals of land out of 11 decimals and rest 0.50 decimal went to the road long ago. Plaintiffs have filed the suit stating some false statements and as such the suit is liable to be dismissed with cost.

That, the trial of the suit is going on and pending hearing of the suit plaintiffs filed an application under Order 40 Rule 1 of the Code of Civil Procedure for appointing receiver contending inter alia that to realize rent from the suit land a receiver is required to be appointed.

The sole defendant filed written objection contending inter alia that the plaintiffs did not acquire any title in the suit land and as such there is no need to appoint a receiver therein.

The learned Joint District Judge, 4th Court, Dhaka heard the application in presence of both the parties and thereby allowed the same by Order dated 27.02.2025 and appointed the Officer-In-Charge, Dakhkhin Keranigonj Thana as receiver.

Being dissatisfied with the said Order dated 27.02.2025, the sole defendant as petitioner filed Civil Revision No. 95 of 2025 before the learned District Judge Dhaka and on transfer the revision was heard by the learned Additional District Judge, 6th Court, Dhaka who was pleased to disallow the Revision by the Judgment and Order by dated 10.09.2025.

Mr. Md. Abdul Awal, the learned Advocate for the defendant petitioner takes me to the impugned orders, plaint, application for appointing receiver, written objection etc. and submits that the plaintiffs failed to make out any case of apprehension of waste, damage or alienation of the suit property as provided by law to appoint receiver. He further submits that the defendants right to property can not be taken away prior to disposal of the suit by appointing receiver and that the order of appointing receiver was given on the basis of a finding of criminal court but the finding of criminal court is not acceptable in Title suit. He next submits that the revisional court for realization of rent made erroneous calculation which is not supported by any evidence.

In support of his submission the learned Advocate cited decision reported in 48 DLR (AD)373.

Mr. Golam Ahmed, the learned Advocate appearing for the opposite parties submits that considering the facts and circumstances of the case the trial court rightly allowed the application for appointing a receiver finding that if the rent of the suit property is not kept in an account, the plaintiffs will be prejudiced if they succeed in the suit and the defendant will not be prejudiced by that order and if the suit fails the defendant will withdraw the amount. Moreover multiplicity of suits will arise if the receiver is not appointed and in affirming the order the revisional court did not commit any illegality rather for ends of justice modified the order to the extent of appointing an Advocate as receiver in place of the Officer-In-Charge, Dakhkhin Karanigonj, Dhaka.

He next submits that in allowing the application for appointing receiver the trial court examined and discussed the documents submitted by both the parties and it found that since rent is realized from the suit land it is desirable that the rent should be deposited in Bank and after trial it would be disbursed to the successful party. The trial court also found that the defendants filed an undertaking in Petition Case No. 86 of 2022 filed by the plaintiff under section 145 of the Code of Criminal Procedure on 30.03.2022 wherein the defendant admitted the possession of the

plaintiffs in the suit land. Since the defendant dispossessed the plaintiffs forcefully and has been earning money through monthly tenants from the suit land it rightly allowed the application for appointing receiver for securing ends of justice and the revisional court also concurred with the finding of trial court. Since there is no illegality, infirmity or any perverseness, this revisional court should not interfere with the concurrent findings of the two courts below.

He next submits that any order passed under Order XL Rule 1 is appealable under Order XLIII Rule 1(s) but the defendant preferred revision before the District Judge without preferring appeal, hence the revision is not maintainable and prayed for discharging the rule.

I have heard the learned advocates for both the parties at length, and perused the Civil Revisional Application, the impugned judgment and all the materials on record.

It appears that the trial court discussed and examined the documents submitted by the parties and came to its conclusion that the plaintiffs became able to prove prima facie case in support of their prayer to appoint receiver in the suit land. The trial court found that prior possession of the plaintiffs in the suit land was admitted by the defendant in petition case No. 86 of the 2022 and to secure the waste, damage of the rent rightly allowed the application for appointment of the receiver and the revisional

court also concurrently found the same. On perusal of the records, it appears that the defendant purchased 3 (three) decimals of land from plot No. 69 of R.S. Khatian No. 831 by Saf-Kabla deed No. 594 dated 16.01.2022. On the other hand, the plaintiff purchased 3 (three) decimals of land from plot No. 59 of R.S. Khatian No. 749 vide Saf-Kabla deed No. 4807 dated 20.06.2019. Since the plots and Khatians are different. The dispute seems unusual. The claim of the plaintiff is that he has been in possession since 2019 and took 20 Lac Taka loan from Jamuna Bank Keraniganj Branch, Dhaka by mortgaging the said 3 (three) decimals of land by submitting application for loan on 09.12.2021. The defendant ousted the plaintiff on 16.01.2022 by way of his purchase on that date. That the learned Advocate for the opposite party submits that the order passed by the trial court is appellable and learned advocate for the petitioner admits that the order passed by the trial court is appellable but wrongly the defendant preferred revision.

This court observes that the object and purpose of appointment of receiver is to be the preservation of the subject-matter of the litigation pending judicial determination of the rights of the parties. In taking any action under this rule, it is the duty of the court to see that the rights of the parties are not jeopardized and the ends of justice not defeated. The rule empowers the court to appoint a receiver for the proper management of any property which is subject-matter of a suit. The receiver is appointed for the

benefit of all concerned; he is a representative of the court and of all parties interested in the litigation wherein he is appointed. He is supposed to be an impartial person appointed by the court to manage the property in suit during the pendency of the suit when the court is satisfied that none of the parties to the suit should be allowed to manage it.

The court has power to appoint a receiver in respect of the properties which are in the possession of the defendants. The extent to which the receiver may be authorised to do, or may exercise the power to take over physical possession of the properties by removing the persons in actual possession thereof will depend upon the facts and circumstances in each case.

The rule provides that where it appears to the court to be just and convenient, the court may appoint a receiver. The court is to take into account all the facts and circumstances of the case or the purpose of protecting the rights of all the parties interested in the controversy and in the subject-matter. If there is a reasonable apprehension of waste, malversation, misappropriation or removal of the property which may result in irreparable loss, appointment of a receiver would be justified. The primary thing for the court to see is how the suit property is best preserved without being wasted.

The receiver can be appointed only when a property is exposed to manifest peril of waste, damage or alienation. Before passing an order appointing receiver, the court must state the circumstances in which such appointment is found necessary. A plaintiff applying for appointment of receiver must show that he has a strong case and good title to the property has a special equity in his favour, and the property in the hands of the defendant is in danger of being wasted.

Since the order of appointing receiver did not cause any prejudice to the defendant and for avoiding multiplicity of suits, my opinion is to affirm the orders of both the courts below. The decision cited by the learned advocate is not applicable in the instant case.

It further appears that the courts below did not commit any error of law or reached in any legal infirmities or perverseness in passing the impugned judgment and orders and the impugned judgment and orders is based on material findings having no illegality and absurdity and it requires no interference by the High Court Division and as such the Rule is liable to be discharged.

In the aforementioned facts, I find no merit in the rule and accordingly the rule is discharged without any order as to cost.

The trial court is directed to conclude the trial expeditiously preferably within 1 (one) year.

The order of appointing receiver (as modified by the learned Additional District Judge, 6th Court, Dhaka) is hereby upheld.

Communicate the Judgment and order of the courts below at once.

(Md. Lutfor Rahman)

Md. Atikur Rahman, A.B.O