Present:-
Mr. Justice Md. Riaz Uddin Khan
And
Ms. Justice Urmee Rahman

First Miscellaneous Appeal No. 256 of 2021
(with Civil Rule No. 588(F.M) of 2020)

Mrs. Jahanara Imam
..... Appellant
-Versus-
Mrs. Nasima Firdousi Imam and others
..... Respondents
Mr. Rezwan Siddique, Advocate with
Mr. Md. Jahangir Zomadder, Advocate
…. For the appellant
Mr. Md. Hamidur Rahman, Advocate
… For the respondents

Heard on 13.08.2026, 01.09.2026 and 13.09.2026

Judgment on 14th September 2026

Urmee Rahman, J. :

The instant First Miscellaneous Appeal is directed against the Order No. 8 dated 01.09.2020 passed by the learned Joint District Judge, 1st Court, Dhaka in Title Suit No. 339 of 2020 restraining the defendants-opposite parties from the sale of Schedule-A and Schedule-B properties and shares respectively as mentioned in the schedule to the plaint but refusing to restrain the defendants-opposite parties from transferring or otherwise disposing of and/or dealing with Schedule-C property, which are F.D.R Account No. 052110413411 dated 27.09.2018 and F.D.R

Account No. 053110413724 dated 01.08.2019, both maintained with Pubali Bank Limited, New Market Branch.

It appears from the order book that by the order dated 07.12.2020 this Division issued a Rule in the following terms:

" Let a Rule be issued calling upon the defendant-respondent-opposite party Nos. 1-5 to show cause as to why the defendant-respondent-opposite party Nos. 1-5 should not be restrained by an order of ad-interim injunction from transferring/ changing nature or character of the Schedule-A property by way of Heba, allotment, mortgage, or otherwise dispose of by any other method and dealing with the Schedule-A property as mentioned in the instant application in anyway whatsoever, transferring or otherwise disposing of and dealing with the Schedule-B sharers anyway whatsoever or rectification of sharer register of the shares as mentioned in Schedule-B of the instant application, withdrawing or causing withdrawal of the money from F.D.R account No. 053110413724 dated 01.08.2019 both maintained in Pubali Bank Limited, New Market Branch (Pro-forma Defendant-opposite party No. 7), as mentioned in Schedule-C of the instant application, withdrawing or causing withdrawal of the money from the accounts maintained in the

name of late Md. Hasan Imam in Pubali Bank Limited, New Market Branch (Pro-forma Defendant-opposite party No. 7) and Rupali Bank Limited (Pro-forma Defendant-opposite party No. 8) as mentioned in Schedule-D and E of the instant application and/or pass such other or further order or orders as to this court may seem fit and proper."

Pending hearing of the Rule, the parties were further directed to maintain status-quo in respect of transferring or changing the nature or character of 1/16th portion of the Schedule-A property or 1/16th portion of the Schedule-B shares, FDR Account being Nos. 052110413411 and 053110413724 dated 27.09.2018 and 01.08.2019 respectively as mentioned in Schedule-C as well as 1/16th portion of money in bank accounts as mentioned in Schedule-D for a period of 6(six) months from date.

This order of status-quo was extended from time to time and finally by the order dated 19.02.2024 the order of status-quo granted earlier was extended till disposal of the Rule.

During the hearing of the First Miscellaneous Appeal learned Advocate Mr. Rezwan Siddique appearing with learned Advocate Mr.

Md. Jahangir Zomadder for the Appellant submitted that both the parties are contemplating to resolve the dispute between them by way of compromise and with that end in view they filed an application before the trial court under Order 23 Rule 3 of the Code of Civil Procedure for passing a decree on compromise.

On the other hand, learned Advocate Mr. Md. Hamidur Rahman entered appearance on behalf of the opposite party Nos. 1-3 and submitted that though the parties field an application before the trial court for decreeing the suit on compromise, the learned Judge of the trial court by the order dated 07.09.2025 was pleased to reject the application on a technical ground and fixed the next date for framing issues.

Learned Advocate for the respondents further submitted that, the defendant-respondents are also inclined to resolve the matter through amicable settlement and for that reason they have executed a *solenama* (a deed of compromise), which has already been submitted before the trial court. However, the said *solenama* does not contain all the properties which have been mentioned in the schedule to the plaint of the suit and therefore, remains as an incomplete one. Hence, he prayed that this First Miscellaneous Appeal may be disposed of by directing the

parties to execute a fresh *solenama* including all the properties mentioned in the schedule to the plaint and giving them an opportunity to file another application under Order 23 Rule 3 of the Code of Civil Procedure before the trial court.

We have heard the learned Advocates for the appellant as well as for the respondents and perused the impugned order and the documents on record meticulously.

Provision regarding compromise during the pendency of a suit has been dealt with in Order 23 Rule 3 of the Code of Civil Procedure, which is quoted herein under:

> *"Where it is proved to the satisfaction of the Court that a suit has been adjusted wholly or in part by any lawful agreement or compromise, or where the defendant satisfies the plaintiff in respect of the whole or any part of the subject-matter of the suit, the Court shall order such agreement, compromise or satisfaction to be recorded, and shall pass a decree in accordance therewith so far as it relates to the suit."*

It appears from the order dated 07.09.2025 passed by the learned Joint District Judge, 1st Court, Dhaka in Title Suit No. 339 of 2020 (Annexure-'B' to the counter affidavit filed by the Respondent-Opposite party Nos. 1-3) that, after submitting the application along with the

solenama the plaintiff herself deposed as P.W. 1 and the defendant No. 1 deposed for herself and also on behalf of her 2(two) minor children defendant Nos. 2 and 3. Defendant No. 4 also deposed before the Court in support of the *solenama*. The plaintiff further deposed on behalf of the defendant No. 5 i.e. her daughter.

It appears that, the defendant Nos. 4 and 5 filed written statements through their constituted attorney Md. Hossain but the plaintiff deposed on behalf of defendant No. 5 as her attorney. In this situation the court below questioned legality of the deposition so made by the plaintiff on behalf of defendant No. 5 when the earlier Power of Attorney of Md. Hossain is very much on record. Hence, the learned Joint District Judge arrived at the finding that, the solenama was not executed lawfully and rejected the application for compromise.

On perusal of the plaint of the Title Suit No. 339 of 2020 we find that the plaintiff instituted the suit for partition of all the properties left behind by her deceased husband as mentioned in the schedule to the plaint impleading the second wife of her husband and 2 (two) minor children of that second wife as well as her 2(two) children. From the averment made in the plaint it transpires that, plaintiff's main contention

is against the defendant Nos. 1-3, which has given rise to the cause of action of this suit, she does not have any grievance against the defendant Nos. 4 and 5, who are her son and daughter respectively.

Besides, there is no mandatory Rule to record any deposition in support of a *solenama* when the same has been executed and signed by all the respective parties to the suit and the court is satisfied that the suit has been adjusted by a lawful compromise. So, there was no lawful basis for rejecting the application for compromise. Although the said order dated 07.09.2025 has not been challenged by either party, we find that since that order was passed during pendency of this First Miscellaneous Appeal, this Court can take into consideration of that order while disposing of the instant First Miscellaneous Appeal.

Since both the parties have clearly submitted before us that their intention is to resolve the dispute between them regarding partition of all the properties, movable and immovable, left by deceased Md. Hasan Imam, we have no hesitation to dispose of this miscellaneous appeal in the manner as has been prayed for by both the parties appearing before us.

By submitting a supplementary affidavit dated 13.09.2026 the learned Advocate for the appellant produced a photocopy of the *solenama* along with a copy of the application made before the trial court under Order 23 of Rule 3 of the Code of Civil Procedure, which are on the record before the trial court.

On perusal of the *solenama* we find that in fact it does not contain all the properties as has been mentioned in the schedule to the plaint of Title Suit No. 339 of 2020. The requirements for a valid compromise decree are: (1) there should be a lawful agreement or compromise between the parties, (2) the compromise must be recorded by the court (3) a decree on such compromise is passed so far it relates to the suit. The decree shall be passed as per the terms of the compromise. Thus, if any property mentioned in the schedule to the plaint is left out in the *solenama,* there may arise complications in future in resolving the dispute completely on compromise.

Hence, this First Miscellaneous Appeal is hereby disposed of with a direction upon the parties to file a fresh application before the trial court mentioning all the properties that has been included in the schedule to the plaint of Title Suit No. 339 of 2020 and the parties shall be at

liberty to amend the *solenama* if they desire. In case an application is so filed by the parties, the trial court should proceed in accordance with law.

Since an order of status-quo was granted by this Court during pendency of this First Miscellaneous Appeal, for the interest of justice we are further directing the parties to maintain status-quo in respect of the properties mentioned in the schedule to the plaint of Title Suit No. 339 of 2020, now pending before the court of Joint District Judge, First Court, Dhaka till disposal of the suit either by way of compromise or in any other manner.

With the directions given hereinabove this First Miscellaneous Appeal is hereby disposed of.

The connected Civil Rule No. 588(F.M) of 2020 is also disposed of.

However, there will be no order as to costs.

The trial court is further directed to dispose of the suit expeditiously.

Communicate a copy of the judgment to the Court concerned at once.

Md. Riaz Uddin Khan, J:

I agree.

Helal/Abo