

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

**Present:**

**Mr. Justice Md. Khairul Alam**

**Civil Revision No. 2603 of 2021**

**With**

**Civil Rule No. 15 (Vio) (R) of 2022**

Mawlana Md. Yeasin.

..... Petitioner.

-Versus-

Murad Hossain and others.

..... Opposite parties.

Mr. Hossain Ahamed (Ashik), Advocate

..... For the petitioner.

Mr. Khondaker Quamrul Hassan Ripon with

Mr. Md. Mizanur Rahman, Advocates

..... For the opposite parties.

**Heard on 10.08.2025 and**

**Judgment on: 11.08.2025.**

Since both the Rules involve the same point of law and facts, they have been heard together and are being disposed of by this common judgment.

On an application under section 115(1) of the Code of Civil Procedure, at the instance of the plaintiff-petitioner, this Rule was issued on the following terms:

“Let a Rule be issued calling upon the opposite parties to show cause as to why the judgment and order dated 18.11.2021 passed by the learned Additional District Judge, 1<sup>st</sup> Court, Noakhali in Miscellaneous Appeal No. 51 of 2021 dismissing the appeal upon modifying the judgment and order dated 07.10.2021 passed by the learned Senior Assistant Judge, Sadar, Noakhali in Title Suit No. 424 of 2021 should not be set aside and as to

why the opposite parties shall not be directed to restore status-quo ante upon removing all the structures developed by the defendant Nos. 1-8 even after the order of stay was granted on 18.10.2021 by the learned District Judge, Noakhali and/or why such other or further order or orders as to this Court may seem fit and proper, shall not be passed.”

At the time of the issuance of the Rule, the opposite parties were restrained by an order of injunction from proceeding with further construction on the suit premises.

Subsequently, on an allegation of violation of the said order, another Rule was issued on the following terms:-

“ Let a rule be issued calling upon the opposite parties to show cause as to why the proceedings should not be drawn up against them for violating the court’s order dated 13.12.2021 passed by the Hon’ble Court in C.R Case No. 2603 of 2021.”

Relevant facts for disposal of both the Rules are that the present petitioner, as plaintiff, filed Title Suit No. 424 of 2021 in the Court of Senior Assistant Judge, Sadar, Noakhali impleading the present opposite parties as defendants praying for permanent injunction in respect of the suit property as described in the schedule to the plaint. In the said suit, the plaintiff filed an application under Order XXXIX rule 1 of the Code of Civil Procedure praying for a temporary injunction. The defendants contested the said application by filing a written objection denying the material allegations made in the application. The learned Senior Assistant Judge, Sadar, Noakhali after hearing the parties by the order dated 07.10.2021 allowed the same and thereby restrained the defendants from interfering with the plaintiff’s peaceful possession over the suit land.

Against the said order dated 07.10.2021, the defendants preferred Miscellaneous Appeal No. 51 of 2021 before the Court of District Judge, Noakhali which was heard and disposed of by the learned Additional District Judge, 1<sup>st</sup> Court, Noakhali who by the judgment and order dated 18.11.2021 though dismissed the appeal, but modified the order of injunction of the trial Court into one of maintaining status quo in respect to the suit land.

Being aggrieved thereby, the plaintiff moved before this Court in revision and obtained the present Rule and an ad interim order of injunction restraining the defendants from further construction on the suit premises.

Alleging further construction on the suit premises violating the ad interim order of injunction, the plaintiff obtained the subsequent Rule on violation.

Mr. Hossain Ahamed (Ashik), the learned Advocate appearing for the petitioner submits that the appellate court below committed an error in modifying the order of injunction, since the plaintiff had already established a prima facie case of possession, for which the trial court had rightly granted an order of injunction. He further submits that the defendants, in violation of the order of injunction, started construction over the suit land, and thereby are liable for detention in civil prison.

Mr. Khondaker Quamrul Hassan Ripon, the learned Advocate appearing for the opposite parties, on the other hand, submits that the plaintiff has failed to prove his exclusive possession over the suit land. He next contends that the appellate court was correct in directing the parties to maintain the status quo in respect of the suit property since

the question of possession cannot be conclusively determined at this interlocutory stage. He further submits that the defendants did not make any construction on the suit land, in violation of the order of injunction.

Heard the learned Advocates for the contending parties, peruse the revisional application and other materials on record.

It appears from the materials on record that both parties are claiming possession of the suit land. The trial court, however, granted an order of injunction in favour of the plaintiff, but the appellate court, upon consideration of the documents and pleadings, by the impugned judgment and order modified the order of injunction of the trial Court into one of status quo. Since both parties are claiming possession and there is no scope for the Court to conclusively determine the issue of actual possession at this interim stage, an order of status quo is justified. In passing the impugned judgment and order, the court of appeal below held to the effect:-

“বর্তমান মোকদ্দমায় বাদীপক্ষের প্রাইমাফেসী কেইস বিদ্যমান থাকলেও হাল রেকর্ড বিবেচনায় Balance of convenience সমান্তরালে চলমান দেখা যায়। তাই সার্বিক বিবেচনায় ন্যায় বিচারের স্বার্থে মোকদ্দমা নিষ্পত্তিকালতক নালিশী জমি সংক্রান্তে স্থিতাবস্থা বজায় রাখা আবশ্যিক ”।

Against the said judgment and order, the plaintiff filed the revisional application and obtained the Rule and an order of injunction. During the pendency of this Rule, the petitioner filed an application stating, inter alia, that the opposite parties No. 1-8 had been constructing a building violating the order of injunction passed at the time of issuance of the Rule and accordingly, the subsequent Rule on violation was issued.

It appears from the record that there are no sufficient documents to adjudicate the issue of possession at this stage of the proceeding. Therefore, without further evidence being led, it is not possible to conclusively determine the issue of actual possession or whether any violation has indeed occurred. Such questions are to be decided only upon trial and final adjudication.

It is informed that the lower court's record remained in this Court in connection with the Civil Revision No. 1236 of 2022, and therefore, the original suit has not proceeded, and it is expedient that the same be disposed of expeditiously.

In the above facts and circumstances of the case, it appears to this Court that justice would be best served without entering into the merit of the suit if the Rule is disposed of with a direction.

Accordingly, both the Rules are disposed of without any order as to cost.

The learned Senior Assistant Judge, Sadar, Noakhali is hereby directed to dispose of Title Suit No. 424 of 2021 as early as possible and the parties are directed to maintain status quo in respect of possession of the suit land till disposal of the suit.

However, the plaintiff is at liberty to raise the issue of alleged dispossession before the trial court, and the trial court is at liberty to consider the same in accordance with the law.

Let a copy of the judgment and order be communicated at once.

Kashem, B.O