

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

**Civil Rule No. 349 (F) of 2021**

In the matter of:  
An application for injunction.

AND

In the matter of:  
Md. Motahar Hossain (Shimu) and others

.... Petitioners

-Versus-

Mustari Begum and others

....Opposite-parties

Mr. Md. Mamun Aleem, Advocate

... For the petitioners

None represented

....For the opposite parties

**Heard and Judgment on 18.08.2024**

**Present:**

Mr. Justice Md. Mozibur Rahman Miah

And

Mr. Justice Md. Bashir Ullah

**Md. Mozibur Rahman Miah, J:**

At the instance of the plaintiffs in Title Suit No. 72 of 2011 and those of the respondent nos. 1-8 in First Appeal No. 52 of 2017, this rule was issued calling upon the appellants-opposite party nos. 2-4 to show cause as to why they shall not be restrained by an order of injunction from entering into the suit property or from transferring or selling the suit land measuring 0.55 acres

of land and/or such other or further order or orders passed as to this court may seem fit and proper.

At the time of issuance of the rule, the parties were directed to maintain status quo in respect of possession and position of the suit land for a period of 06(six) months and the said order of status quo was subsequently extended from time to time and it was lastly extended on 05.02.2024 for another 06(six) months.

The short facts leading to issuance of the rule are:

The respondent nos. 1-8 herein petitioners as plaintiffs filed the aforesaid Title Suit for declaration to that effect that, the deed so have been described in scheduled is illegal, collusive, inoperative and not binding upon the said plaintiffs and of recovery of khas possession of the suit property so mentioned in schedule 'kha' to the plaint. In the said suit, among others the defendant no. 10,12,13 and 14 contested the same and ultimately vide impugned judgment and decree dated 05.02.2017 the suit was decreed on contest against those defendants herein appellants. Challenging the said judgment and decree the defendants as appellants preferred this appeal and on an application filed by the appellants, the operation of the impugned judgment and decree was also stayed. However, during pendency of the appeal the appellants tried to enter into the suit property being emboldened with the facts that the RS record in respect of the suit property was prepared in the name of the respondents- petitioners and the appellants got an order of stay upon preferring this appeal. The petitioners apprehended that if the appellants becomes successful by entering into the possession of the suit property forcevily they will hold on possession indefinitely and then it is none but the

respondents-petitioner would suffer irreparable lose and injury. Basing on that assertion, this court while issuing rule passed an order of status quo.

Mr. Md. Mamum Aleem, the learned counsel appearing for the respondents-applicants by taking us to the application in particular paragraph no. 5 thereof at the very outset submits that, the RS record in respect of 1.95 acres of land was prepared in RS khatian no. 193 in the name of the respondents. He further submits that, the predecessor of the present respondent, Samir Ahmed had earlier filed a Suit being Title Suit No. 65 of 1994 for partition and in the said suit the predecessor of the present petitioners was made as defendant no. 14 and though the said suit was decreed yet the predecessor of the petitioners were given sahan to the extent of 1.95 acres of land out of which in the suit the plaintiffs claiming the suit land and after preparation of RS record in the name of the predecessor of the respondents-petitioners, they have regularly been paying rent to the government so they are enjoying possession in the suit property. The learned counsel further contends that, since the suit was decreed in favour of the respondents-petitioners so they have acquired indefeasible title and possession over the suit property and if the appellants have been able to dispossess the respondents-petitioners they will be highly prejudiced as a very good prima facie case stands in their favour.

Record shows that, though the notice of this rule have duly been served upon the appellant opposite parties but none represented to oppose the rule.

We have considered the submission so placed by the learned counsel for the petitioners, perused the application for injunction and other documents annexed with the said application. It is our considered view that, since the suit

which was filed by the petitioner was ultimately decreed so it proves that the plaintiffs-respondents-petitioners have a good prima fact case and for that obvious reason an order of status quo was granted at the time of issuance of the rule and if the said order remains in place till disposal of the First Appeal none of the parties to the appeal will be prejudiced.

Accordingly, the rule is made absolute however without any order as to costs.

The order of status quo so passed at the time of issuance of the rule will continue till disposal of the First Appeal No. 52 of 2017.

The defendants-appellants are directed to strictly maintain the said order of status quo.

**Md. Bashir Ullah, J:**

I agree.