

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

*Present:*

*Mr. Justice S M Kuddus Zaman*

*And*

*Ms. Justice Tamanna Rahman Khalidi*

**FIRST APPEAL NO.238 OF 2015**

Md. Shahin Ferdous

... Appellant

-Versus-

Md. Abdul Mannan and others

... Respondents

Mr. Md. Golam Mostafa, Senior Advocate with

Mr. Sharif Uddin, Advocate

Ms. Turzana Khanom, Advocate

.... For the appellant.

None appears

.... For the respondents.

**Heard on 18.05.2026 and Judgment on 15.06.2026.**

**S M Kuddus Zaman, J:**

This First Appeal is directed against the impugned judgment and decree dated 15.01.2015 passed by the learned Joint District Judge, 1<sup>st</sup> Court, Thakurgaon in Other Class Suit No.24 of 2013 dismissing the same.

Facts in short are that the appellant as plaintiff instituted above suit for declaration of title for 1.51 acre land appertaining to Plot No.1678 and for further declaration that the Memo dated 07.04.2013 issued by defendant No.1 as described in "Kha" schedule is unlawful and not binding upon the plaintiff alleging that above land belonged to the District Board, Thakurgaon and the same was correctly recorded in

C. S. Khatian No.529. The Government acquired above land vide L. A. Case No.1 of 1933-34 on 21.10.1933 and the same was correctly recorded in S. A. Khatian No.1 in the name of the Deputy Commissioner who gave settlement of above land to landless peasant Omar Ali and Khoaz Uddin by two registered deed of Kabuliyat dated 20.02.1974. Above Omar and Khoaz Uddin possessed above land by cultivation and transferred the same to the plaintiff by two registered kabla deeds dated 12.08.1989 and 30.12.1990. Plaintiff possessed above land by constructing dwelling huts and excavating pond. The defendants denied plaintiff's title in above land and issued a notice for handing over possession of above land to the defendant on 07.04.2013.

Defendant Nos.1 and 2 contested above suit by filing a joint written statement alleging that above property belonged to the District Board and the same was correctly recorded in C. S. Khatian No.429. During British Rule above land was acquired by L. A. Case No.1 of 1933-34 dated 21.10.1933 and handed over to the District Board. Above land was never acquired by the Government nor the Deputy Commissioner had any title and possession in above land and the S. A. record of above land was erroneously prepared.

At trial plaintiff and defendant Nos.1 and 2 examined one witness each. Documents of the plaintiff were marked as Exhibit Nos.1-11 and those of the defendants were marked as Exhibit Nos."Ka" to "Ga".

On consideration of facts and circumstances of the case and evidence on record the learned Joint District Judge dismissed above suit.

Being aggrieved by and dissatisfied with above judgment and decree of the trial above plaintiff as appellant moved to this Court and preferred this First Appeal.

Mr. Md. Golam Mostafa, learned Senior Advocate for the appellant submits that disputed 1.51 acre land belonged to the District Board and the same was correctly recorded in C. S. Khatian No.429 and above land was acquired by the Government by L. A. Case No.1/1933-34 and handed over to the Deputy Commissioner which was rightly recorded in his name in S. A. Khatian No.1. The Deputy Commissioner gave settlement of above land to Omar Ali and Meraj Uddin in 1974 by two registered kabuliyats who transferred above land to the plaintiff by two registered kabla deed dated 12.08.1989 and 30.10.1990. While giving evidence as PW1 the plaintiff has produced above two kabuliyats of Omar Ali and Meraz Uddin and registered kabla deeds of the plaintiff dated 12.08.1989 and 30.12.1990. It is admitted that plaintiff is in possession in above land by constructing his dwelling house, excavating pond and growing trees and the defendants do not have any possession in above land. On consideration of above facts and circumstances of the case and evidence on record the learned Joint District Judge should have decreed above suit. But the learned Joint District Judge utterly failed to consider that defendant Nos.1 and 2 did

not have any lawful right to issue ejection notice to the plaintiff and most illegally dismissed above suit which is not tenable in law.

Respondents did not enter appearance in this First Appeal nor anyone was found available for the respondents at the time of hearing of this First Appeal although this First Appeal appeared in the list for hearing on several dates.

We have considered the submissions of the learned Advocate for the appellant and carefully examined all materials on record.

The plaintiff has admitted both in the plaint and in his evidence as PW1 that disputed 1.51 acre land belonged to the Dinajpur District Board and the same was rightly recorded in C. S. Khatian Nos.4-9. It is also admitted that above land was recorded in the name of the Deputy Commissioner in S. A. Khatian No.1 who gave settlement of above land to Omar Ali and Meraz Uddin by two registered deed of kabuliyats dated 20.02.1974. It is also admitted that above Omar Ali and Meraz Uddin transferred above land to the plaintiff by two registered kabla deeds dated 12.08.1989 and 30.12.1990 who in possession of above land by constructing dwelling huts, excavating pond and growing trees.

It has been alleged by the plaintiff that above land of the District Board was acquired by the Government by L. A. Case No.1/1933-34 on 21.10.1933 and Deputy Commissioner became the rightful owner of the same. But the plaintiff could not produce any document in support of their claim that the central Government acquired the property of the District Board by a land acquisition case. It turns out from certified

copy of C. S. Khatian No.429 (Exhibit No.1) that above property was acquired by L. A. Case No.1/1933-34 declaration No.11545 dated 21.10.1933 and above acquisition was the basis of C. S. record of above land in the name of the District Board.

S. A. Khatian or State Acquisition Khatian was prepared for the purpose of acquisition of rent receiving interest of the zaminders and above khatian was not prepared on the basis of land survey. A record of right is not a title deed nor such a document is conclusive proof of possession. It is true that the plaintiff is in possession in above land by constructing dwelling hut and excavating pond but the plaintiff could not prove that above property belonged to the Deputy Commissioner or the Central Government nor the plaintiff could prove any lawful basis of above S. A. Khatian No.1. As such the title of the District Board in above property remains unaffected and in the absence of any claim of title against District Board by adverse possession we are unable to see how the plaintiff acquired title in above land.

Above property belonged to the District Board and the Deputy Commissioner did not have any right to give settlement of above land to Omar Ali and Meraz Uddin nor above Omar Ali and Meraz Uddin had any lawful right to transfer above land to the plaintiff. Since the plaintiff did not acquire any valid title in above land they are not entitled to get a decree for title.

As far as the issuance of eviction notice by the defendants is concerned since above property still belongs to the District Board we

are unable to find any illegality in the issuance of above eviction notice to the plaintiff.

In above view of the facts and circumstances of the case and materials on record we are unable to find any illegality or irregularity in the impugned judgment and decree passed by the learned Joint District Judge nor we find any substance in this First Appeal which is liable to be dismissed.

In the result, this First Appeal is dismissed.

However, there will be no order as to cost.

Send down the lower Court's record immediately.

**Tamanna Rahman Khalidi, J:**

I agree.

MD. MASUDUR RAHMAN  
BENCH OFFICER