

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

Present:

Mr. Justice Zafar Ahmed

Civil Revision No. 1046 of 2023

Md. Sabilar Rahman Sardar and others

Defendant-appellant -petitioners

-Versus-

Md. Pear Ali Dhali and another

Plaintiff-respondent-opposite parties

Mr. Sheikh Habib-Ul-Alam, Advocate

...For the petitioners

Mr. Shaikh Atiar Rahman, Advocate

... For the opposite parties

Heard on: 25.11.2024

Judgment on: 09.12.2024

The instant revisional application filed under Section 115(1) of the Code of Civil Procedure (CPC) is directed against the judgment and order dated 18.01.2023 passed by the learned Additional District Judge, 2nd Court, Satkhira in Miscellaneous Appeal No. 51 of 2019 dismissing the appeal and affirming the judgment and order dated 05.11.2019 passed by the learned Senior Assistant Judge, Kaliganj, Satkhira in Title Suit No. 107 of 2019 allowing the application for temporary injunction filed by the plaintiffs. This Court issued a Rule on 28.03.2023.

The defendants are the petitioners in the instant Rule. The suit land measures an area of 1.93 acre. The plaintiffs' case is that they got title and possession of the suit land through Court on 25.07.2019 in Execution Case No. 01 of 2018 arising out of Partition Suit No. 214 of 2008. The present defendants were parties in the said partition suit. Part of the suit land was wrongly recorded in B.R.S. Khatian No. 29 in the names of defendant Nos. 1 and 2. The plaintiffs filed Land Survey Tribunal Suit No. 55 of 2014 and obtained decree. The defendants' case, on the other hand, is that they are the owner of the suit land by way of succession.

Both the Courts below, while allowing the application for temporary injunction filed by the plaintiffs, concurrently observed that the plaintiffs have *prima facie* case in their favour, balance of convenience and inconvenience lies in favour of the plaintiffs and that if temporary injunction is not granted the plaintiffs would suffer irreparable loss and injury. Be it mentioned that the defendant Nos. 1-5 contested the application for injunction both in the trial Court and in the appellate Court below.

The plaintiffs' claim is in respect of 1.93 acre of land. The defendants' claim, on the other hand, relates to 2 acres of land, which includes the lands of the plaintiffs. It appears from the plaint and application for injunction filed by the plaintiffs that the suit land comprising 1.93 acre has been identified by giving metes and bounds.

This Court, at this stage, is dealing with an interlocutory matter. The merit of the cases of the respective parties shall be decided by the trial Court upon taking evidence. Since, the Courts below concurrently found that the plaintiffs have made out a case for getting a temporary injunction, this Court does not find any cogent ground to interfere with the findings of the Courts below. Be that as it may, defendants are directed not to interfere with the possession of the plaintiffs in the suit land comprising 1.93 acre of land as described in the schedule of the plaint. At the same time, the plaintiffs are directed not to interfere with the possession of the defendants' land save and except their lands that is 1.93 acre.

With the above observations and directions, the Rule is disposed of.