

**In the Supreme Court of Bangladesh  
High Court Division  
(Civil Revisional Jurisdiction)**

Present:

**Mr. Justice Md. Riaz Uddin Khan**

**Civil Revision No. 3100 of 2023**

**IN THE MATTER OF :**

An application under section 115(1) of the Code of  
Civil Procedure

-And-

In the Matter of:

Md. Abu Sayeed and another

... Plaintiff-Petitioners

-Versus-

Alauddin Sarker and others

... Defendant-Opposite Parties

Mr. Md. Al-Amin, Advocate

... For the petitioners

Mr. Abdul Barek Chowdhury, Advocate with

Mr. Md. Delowar Hossain, Advocate

... For the Opposite Parties

**Judgment on: 20.05.2026**

**Md. Riaz Uddin Khan, J-**

At the instance of the plaintiffs Rule was issued calling upon the defendant-opposite parties to show cause as to why the judgment and order dated 28.03.2023 passed by the District Judge, Dhaka in Miscellaneous Appeal No.23 of 2023 dismissing the Appeal and thereby affirming the order dated 17.01.2023 passed by the Senior Assistant Judge, 2<sup>nd</sup> Court, Dhaka in Title Suit No.304 of 2019 rejecting the application for temporary injunction, should not be set aside and/or such other or further order or orders should not be passed as to this Court may deem fit and appropriate.

At the time of issuance of Rule this Court asked both the parties to maintain status-quo in respect of possession and position of the suit land for a period of 04(four) months initially and which was extended time to time.

Succinct fact for disposal of the instant Rule is that the plaintiffs filed Title Suit No.304 of 2019 against the opposite parties for permanent injunction. The defendants appeared and at one stage of the suit the plaintiffs filed an application for temporary injunction under Order-XXXIX, Rule 1 and 2 read with Section 151 of the Code of Civil Procedure against which the defendants filed written objection. After hearing both the parties the trial court by his order no.21 dated 17.01.2023 rejected the application for temporary injunction.

Against that order dated 17.01.2023 the plaintiffs preferred Miscellaneous Appeal No.23 of 2023 before the District Judge, Dhaka who registered the appeal and on 28.03.2023 fixed the matter for admissibility hearing and on that date, after hearing the appellants dismissed the appeal *in limine*.

Being aggrieved by and dissatisfied with that judgment and order dated 28.03.2023 the plaintiffs filed the instant Civil Revision and obtained the Rule and order of status-quo as stated at the very outset.

Mr. Md. Al-Amin, the learned advocate appearing for the plaintiff-petitioners submits that the ownership of Abdul Jalil Dhali is admitted by both the parties and that Abdul Jalil Dhali by registered Power of Attorney deed No.13304 dated 31.10.2010 in favour of one Tajul Islam Raju authorized him to sell the property and handed over the possession of the suit land and the Attorney by a registered sale deed no.678/18 sold the suit land to the present plaintiffs who by constructing boundary wall are in possession of the suit land and they had mutated their names and paying Government rents. Hence, according to the learned advocate the plaintiffs are entitled to get order of temporary injunction but both the courts below committed error of law resulting in an error in decision occasioning failure of justice in not allowing the application for temporary injunction. The learned advocate for the petitioners lastly submits that this Court should dispose

of this civil revision maintaining the interim order passed by this court.

On the other hand Mr. Abdul Barek Chowdhury, the learned advocate appearing for the defendant-opposite parties submits that the ownership of Abdul Jalil Dhali is admitted who earlier by a registered Power of Attorney appointed Tajul Islam Raju as attorney who violated the terms and condition of the registered Power of Attorney for which Abdul Jalil Dhali by another deed being No.2074 dated 15.02.2011 cancelled the Power of Attorney of Tajul Islam Raju and thereafter by a registered sale deed No.5182 dated 25.04.2011 transferred the suit land to one Mst. Shahin Ahmed and handover the possession of the suit land who after getting the suit land in possession erected a boundary wall and mutated her name and paid the Government rents. The learned advocate then submits that in such view of the matter the trial court as well as the court of appeal below rightly rejected the application for temporary injunction filed by the plaintiff-petitioners. The learned advocate lastly submits that this Court may dispose of this Civil Revision maintaining the interim order passed by this Court.

I have heard the submissions of both the parties, perused the application along with the annexures. I have also examined the order passed by the trial court as well as the judgment and order of the court of appeal below.

It appears from the order of the trial court that the learned Judge rejected the application on the finding that both parties submitted some documents regarding their ownership and possession and at this stage only on perusing the applications and written objections it is not possible for the court to decide who are in possession. The appellate court concurred with the findings of the trial court.

At the time of hearing the application for temporary injunction both parties submitted documents regarding their claim of title and also submitted documents including

mutation papers in their respective names and rent receipts before the trial court. Considering those documents both the courts below concurrently found that without taking evidence at this stage it is not possible for the court to decide who are in possession. Since the trial court as well as the appellate court below could not decide who is in possession by perusing the documents already submitted before it, I do not find any reason to defer with that finding especially when both parties claimed that they are in possession of the suit land by erecting boundary wall.

This Court on 16.07.2023 asked the parties to maintain status-quo in respect of possession and position of the suit land. In the mean time, almost 3 (three) years have elapsed and there is no allegation of violation of that order and as such it is presumable that parties are maintaining their peaceful possession. Be that as it may, in my view, justice would be met, at this stage if the parties are directed to maintain status-quo in respect of possession and position of the suit land till disposal of the suit and this civil revision is disposed of.

Accordingly this civil revision is disposed of with the above direction to maintain status-quo in respect of possession and position of the suit land by the parties till disposal of the suit.

The trial court is directed to dispose of the suit as early as possible without allowing unnecessary lengthy adjournments to the parties.

Communicate the judgment and order at once.