

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

*Present:*

*Mr. Justice S M Kuddus Zaman*

**CIVIL REVISION NO.442 of 2022**

In the matter of:

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

And

Hakim Abdus Sattar and others

... Petitioners

-Versus-

Mukbul Ahammed being dead his heirs- Ambiya Khatun and others

... Opposite parties

None appears

... For the petitioner.

Mr. Tapan Kumar Bepary, Advocate

... For the opposite Nos.1(Ka) -  
1(Neo).

**Heard on 22.08.2024 and Judgment on 07.01.2025.**

On an application under Section 115(1) of the Code of Civil Procedure this Rule was issued calling upon the opposite parties to show cause as to why the impugned judgment and decree dated 15.07.2014 passed by the learned Joint District Judge, 1<sup>st</sup> Court, Cumilla in Title Appeal No.93 of 2006 affirming the judgment and decree dated 17.01.2006 passed by the learned Senior Assistant Judge, Chouddagram Court, Cumilla, in Title Suit No.08 of 1995 should not be set aside and/or pass such other or further order or as to this Court may seem fit and proper.

Facts in short are that opposite party as plaintiff instituted above suit for rectification of three registered deeds as described in Schedule No.'K' to the plaint alleging that defendant No.1 and his two minor sons transferred by three registered deeds three registered deeds to defendant Nos.2 and 3 disputed 27 decimal land from plot No.167 but erroneously Plot No.130 was written in above deeds. The plaintiff is in possession of above 27 decimal land.

The suit was contested by defendant Nos.1-3 by filing a joint written statement wherein they have denied all claims and allegations made in plaint and stated that the plaintiff does not have any locus standi to maintain this suit. Defendant No.1 transferred 27 decimals land from plot No.130 to Saleh Uddin brother of the plaintiff and delivered possession. Subsequently above defendant registered another document providing for paying of damage if his minor son defendant No.3 makes any claim over his share in above land and defendant No.2 after attaining majority executed and registered another document for the self same property. On the basis of above documents plaintiff got possession in above land and he has already transferred above land.

At trial plaintiff examined three witnesses and defendants examined four. Documents of the plaintiff were marked as Exhibit

Nos.1-6 and those of the defendants were marked as Exhibit No.'Ka' - 'Ga, series.

On consideration of the facts and circumstances of the case and evidence on record the learned Senior Assistant Judge dismissed the suit.

Being aggrieved by above judgment and decree of the trial Court above plaintiff preferred Civil Appeal No.93 of 2006 to the District Judge, Cumilla which was heard by the learned Joint District Judge who dismissed above appeal and affirmed the judgment and decree of the trial Court.

Being aggrieved by above judgment and decree of the Court of Appeal below above appellant as petitioner moved to this Court and obtained this Rule.

No one appears on behalf of the petitioners at the time of hearing of this Rule although this Rule appeared in the list for hearing on several dates.

Mr. Tapan Kumar Bepary, learned Advocate for the opposite party Nos.1(Ka) - 1(Neo) submits that it has been stated in the plaint and in the evidence of the plaintiff as PW1 that Saleh Ahmed brother of the plaintiff purchased disputed 27 decimals land by the impugned kabala deed from defendant No.1 and subsequently obtained

supplementary registered deeds from defendant Nos.2 and 3. The plaintiff is no party to above impugned registered deeds and Saleh Ahmed who is recipient of above deeds is not a party to this suit nor he has given evidence as a plaintiff witness. As such, both the Courts below rightly held that the plaintiff does not have any locus standi to maintain this suit for rectification of above documents. The learned Advocate further submits that all three PWs have admitted that at the time of the execution and registration of above sale deed they were not present and Saleh Ahmed received possession of the land acquired by above deeds and he got above land recorded in his name in the recent land survey.

On consideration of above evidence on record the learned Judges of both the Courts below have concurrently held that the plaintiff could not prove his claim that instead of Plot No.130 Plot No.167 was erroneously written in above deeds and above concurrent findings being based on evidence on record this Court cannot interfere with above concurrent findings of facts.

I have considered the submissions of the learned Advocate for the opposite parties and carefully examined all materials on record.

It is admitted that Defendant No.1 and his two minor son defendant Nos.2 and 3 were the lawful owners and possessors of

disputed 27 decimals land and defendant No.1 alone sold above land to Saleh Ahmed by registered kabala deed dated 11.10.1986 (Exhibit No.2) and subsequently to avoid future complications above Saleh Ahmed obtained two other registered deeds being Nos.2537 and 2538 from defendant No.2 and defendant No.1 respectively for above land and in all above three deeds land of Plot No.167 was transferred.

At the very outset above Saleh Ahmed who was the sole recipient of impugned three registered deeds (Exhibit Nos.2 series) did not file this suit nor he has been made a party to this suit. A civil suit can be instituted and maintained only by a person whose right to property or office has been affected or invaded or there is an apprehension of such an invasion. A person who has no rightful claim with regard to the subject matter of the suit does not have the locus standi to institute and maintain a civil suit in a Civil Court.

The subject matter of this suit is above mentioned three registered deeds (Exhibit No.3) series and plaintiff does not have any claim over above deeds or the property covered by above documents. On the contrary he has admitted both in the plaint and in his evidences as PW1 that above 27 decimal land of above three registered deeds belong to Saleh Ahmed. Since above Saleh Ahmed has not authorized the plaintiff to file this suit for him the concurrent findings of the learned Judges of

the Courts below that the plaintiff does not have any locus standi to institute and maintain this suit is based on evidence on record.

PW1 has admitted in his evidence that he was not present in the Registry Office at the time of registration of above deeds. He has further admitted that on the basis of above documents Saleh Ahmed got possession of 27 decimals land and he has recorded above land in his name from Plot No.130 in the recent land survey. PW2 Mohammad Ullah has stated that he is not a witness to any of above registered deeds nor he was present at the time of talk of sale of above land. PW3 Amin Hossain has stated that Saleh Ahmed is in possession in the disputed 27 decimals land on the basis of purchase from the defendant. In his cross examination he stated that he is not a witness to any of the above registered deeds. It is crystal clear from above evidence of the plaintiff witnesses that on the basis of purchase by Exhibit No.2 series Saleh Uddin was in possession in disputed 27 decimals land and above land was also recorded in his name in the new survey khatian.

On consideration of above facts and circumstances of the case and evidence on record I hold that the learned Joint District Judge on correct appreciation of the materials on record rightly dismissed the appeal and upheld the lawful judgment and decree of the trial Court which calls for no interference.

I am unable to find any substance in this application under Section 115(1) of the Code of Civil Procedure and the Rule issued in this connection is liable to be discharged.

In the result, the Rule is hereby discharged.

However, there is no order as to costs.

Send down the lower Courts record immediately.

*MD. MASUDUR RAHMAN*  
*BENCH OFFICER*