

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

Present:

Mr. Justice Md. Riaz Uddin Khan

Civil Revision No. 2965 of 2023

IN THE MATTER OF :

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

-And-

In the Matter of:

Aowrangazeb Palwan and others

... Plaintiff-Petitioners

-Versus-

Siraj Palwan and others

... Defendant-Opposite Parties

Mr. Uzzal Bhowmick, with

Mr. Manoz Kumar Kirtania, Advocates

... For the petitioners

Mr. Mohammad Mijanur Rahman, with

Mr. Md. Abu Nasar, Advocates

... For the Opposite Party Nos.1-3,5 and 8

Judgment on: 21.01.2026

Md. Riaz Uddin Khan, J-

At the instance of the plaintiffs Rule was issued upon the opposite parties to show cause as to why the judgment and order dated 13.04.2023 passed by the District Judge, Shariatpur in Miscellaneous Appeal No. 37 of 2022 dismissing the appeal and thereby affirming the judgment and order dated 29.08.2022 passed by the Senior Assistant Judge, Sadar (Chikondi) Shariatpur in Title Suit No. 40 of 2022 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 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 from date which was extended time to time.

Brief facts for disposal of this Rule is that the present petitioners as plaintiffs filed Title Suit No. 40 of 2022 for declaration of Title of 13 decimals of land in RS Dag No. 1771 under RS Khatian Nos.1146 and 1144. The plaintiffs filed an application for temporary injunction under Order-XXXIX, Rule-1 of the Code of Civil Procedure. In that application the plaintiffs sought injunction upon the defendant Nos.1-8 so that they cannot dispossess the plaintiffs or cannot change the nature of the suit property or cannot erect or build any buildings or houses on the land or cannot disturbed the peaceful possession of the plaintiffs. The defendants contested it by filing written objection contending *inter alia* that the RS record was wrong and the latest record of rights, i.e. BRS record has been published in their names and they are possessing the suit property for long time peacefully demarketing the land by erecting boundary wall.

After hearing the plaintiff-petitioners the court initially issued an interim order of status-quo, however, after hearing both the parties the trial court rejected the application for temporary injunction by order dated 29.08.2022.

Against that order of the trial court the plaintiffs filed Miscellaneous Appeal No. 37 of 2022 before the District Judge who after hearing dismissed the appeal and thereby affirmed the order passed by the

trial court by the impugned judgment and order dated 13.04.2023.

Being aggrieved by and dissatisfied with the said judgment and order passed by the Appellate Court affirming the order of the trial court, the petitioners filed the instant civil revision before this Court and obtained Rule and order of status-quo as stated at the very outset.

Mr. Uzzal Bhowmick, the learned advocate appearing for the plaintiff-petitioners submits that the trial court failed to apply its judicial mind that on the very date of passing of impugned order, the court itself in one hand allowed an application filed under Order-VI Rule-17 of the Code of Civil Procedure for amendment of the application for temporary injunction filed by the plaintiff but on the other hand on same date rejected the prayer for adjournment of the hearing of the application and ultimately rejected the application for temporary injunction by a non speaking order only on the ground of not-pressing the application when the matter was taken up for hearing.

The learned advocate for the petitioners then submits that the Appellate Court also failed to consider that aspect of the facts and dismissed the appeal on the finding that “অত্র আদালতে আপীলকারী-বাদীপক্ষ নালিশী জমিতে তাদের স্বত্ব দখল প্রমাণ করতে সক্ষম হয়নি। এছাড়া বি.আর.এস রেসপনডেন্ট-বিবাদীদের নামে এবং উক্ত জমিতে তাদের বাড়ী ঘর আছে। রেসপনডেন্ট-বিবাদীপক্ষের অনুকূলে সুবিধা অসুবিধার ভারসাম্য আছে। সেক্ষেত্রে বিজ্ঞ নিম্ন আদালতের আদেশ ও বিশ্লেষণ সঠিক বলে অত্র আদালতের কাছে প্রতীয়মান হয়। বিজ্ঞ নিম্ন আদালতের আদেশের উপর হস্তক্ষেপ করার কোন কারণ আছে বলে প্রতীয়মান হয় না।” The learned advocate submits that from this finding it is apparent that the lower appellate court did not at all apply its judicial mind as the trial

court rejected the application for not-pressing the application when the matter was taken up for hearing. So, the finding of the Appellate Court is not only wrong but without any basis.

The learned advocate for the petitioners finally submits that from the documents annexed by the opposite parties in the counter-affidavit, in a criminal proceeding it was observed that the defendants are in possession and erected a building up to the plinth level of 1st Floor whereas in the written objection the defendants claimed that they are possessing the suit land by a boundary wall only, which clearly shows that during pendency of the suit and of this Rule the defendants by violating the courts' order continued to built new structure on the suit land. As such the order of *status-quo* in respect of possession and position of the suit land passed by this Court at the time of issuance of Rule should be continued and the trial court may be directed to dispose of the suit expeditiously.

Per-contra Mr. Mohammad Mijanur Rahman, the learned advocate appearing for the opposite parties submits that a report filed by the office of the Assistant Commissioner (Land) shows that opposite parties are in peaceful possession by way of erecting house and boundary wall in the suit land. The learned advocate then submits that the predecessors as well as the defendants are in possession since 1974. The learned advocate next submits that the appellate court rightly held that the *prima-facie* title and possession and balance of convenience and inconvenience is in favour of the opposite parties and by the order passed

by the courts below are in no way prejudiced the plaintiffs. The learned advocate for the opposite parties finally submits that the order of *status-quo* in respect of possession and position of the suit land passed by this Court is creating hamper upon the peaceful possession and enjoyment of the property of the opposite party which they are enjoying from 1974. Hence, he prays for discharging the Rule.

I have heard the learned advocate for both the parties, perused the application along with the annexures.

It appears from the plaint and the application for temporary injunction and the written objection filed by the defendants that both the parties claimed the record of rights are wrong. The plaintiffs claim title and possession of 13 decimals of land on the basis of RS record while the defendants claim title and possession over more than 62 decimals land including the suit property on the basis of BRS record claiming the RS record wrong. Since there is claim and counter claim over title and possession of the suit property and there is contradiction regarding the present position of the suit property as stated in the written objection and the report filed by the local office of the Assistant Land Officer. The suit is still pending before the trial court in preliminary stage and the trial court did not pass order on merit regarding the application for temporary injunction rather rejected it as the application was not placed before him. On the other hand the court of appeal below observed that the order passed by the trial court was correct. The title and possession is to be determined by the trial court

after taking evidence. The application for temporary injunction was not disposed of on merit by the trial court. Be that as it may, considering all the aspect, in my view, justice would be met if the parties are directed to maintain status-quo in respect of possession of the suit property only but not on position of the suit property and in this respect the interim order passed by this Court is modified as above.

It appears that the Lower Court Records (LCR) were called for which is lying before this Court since 17.09.2025. It is unfortunate that though the proceeding of the suit was not stayed by this Court but because of calling of the LCR, the suit could not be proceeded with. However, the trial court is directed to conclude the trial expeditiously as far as practicable without allowing adjournment to the parties except in dire necessity.

With this observation the Rule is **disposed of**.

Send down the Lower Court Records along with this judgment and order at once.