

District-Dhaka.

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

Present:

Mr. Justice Md. Toufiq Inam

Civil Revision No. 4706 of 2023.

Md. Nazimuddin and others.

..... Plaintiff-Appellant-Petitioners.

-Versus-

Sabiha Khatun and another.

..... Defendants-Respondents-Opposite Parties.

Mr. Md. Saiful Malek Chowdhury, Advocate with
Mr. Md. Khalilur Rahman, Advocate

..... For the Plaintiff-Appellant-Petitioners.

No one appears.

..... For the Defendants-Respondents-Opposite Parties.

Heard and Judgment Delivered On: 22.07.2025.

Md. Toufiq Inam, J.

This Rule was issued calling upon the opposite parties to show cause as to why the impugned judgment and decree dated 29.09.2022 passed by the learned Additional District Judge, Bankruptcy Court, Dhaka in Miscellaneous Appeal No. 105 of 2018, dismissing the appeal and thereby affirming the orders dated 22.08.2017 and 06.02.2018 passed by the learned Senior Assistant Judge, Keraniganj Court, Dhaka in Title Suit No. 375 of 2010 rejecting the application for staying the proceedings of Pre-emption Miscellaneous Case Nos. 42 and 43 of 1998, should not be set aside and/or such other or further order or orders be passed as to this Court may seem fit and proper.

At the time of issuance of the Rule, this Court condoned the delay of 214 days in filing the revisional application. Simultaneously, an interim order was passed directing the parties to maintain status quo in respect of possession and position of the case land for a limited period.

The factual matrix reveals that the petitioner, as plaintiff, instituted Title Suit No. 375 of 2010 before the Court of Senior Assistant Judge, Keraniganj, Dhaka, praying for a declaration of title in respect of the suit land described in the plaint. During the pendency of the suit, the petitioner filed an application seeking to call for the records of Pre-emption Miscellaneous Case Nos. 42 and 43 of 1998, along with a prayer for staying further proceedings thereof.

The trial court, by order dated 06.02.2018, rejected the said application, thereby refusing to stay the proceedings of the pre-emption cases. Being aggrieved, the petitioner preferred Miscellaneous Appeal No. 105 of 2018 before the appellate court, which by judgment and order dated 29.09.2022, affirmed the trial court's decision. Hence, being aggrieved by the concurrent findings of the courts below, the petitioner moved this Court under section 151 of the Code of Civil Procedure and obtained the present Rule.

Mr. Md. Khalilur Rahman, learned Advocate appearing with Mr. Md. Saiful Malek Chowdhury for the petitioner, submits that both the courts below failed to consider the consequence of not granting an order of stay. He argues that unless the proceedings of Pre-emption Miscellaneous Case Nos. 42 and 43 of 1998 are stayed, the very purpose of Title Suit No. 375 of 2010 would be rendered infructuous. He submits that such failure constitutes an error of law resulting in a failure of justice, and accordingly, he prays for making the Rule absolute.

None appears to oppose the Rule on behalf of the opposite parties.

The petitioner has also filed an application before this Court for extension of the earlier order of status quo, asserting that the possession and position of the suit land remains unchanged and no alteration has occurred in the meantime.

Having heard the learned Advocate for the petitioner and upon perusal of the impugned judgment and orders as well as the materials on record, this Court is of the view that no illegality or material irregularity has been committed by the courts below in refusing to stay the proceedings of the pre-emption cases.

A pre-emption proceeding is a creature of statute and governed by specific provisions under the State Acquisition and Tenancy Act, 1950. The right of pre-emption is a statutory and special right conferred upon eligible co-sharers or contiguous landowners to repurchase land transferred without notice or in violation of statutory conditions. The forum and procedure for enforcing such right is distinct, and the law provides a specific period of limitation and criteria for adjudication.

Courts have consistently held that the pendency of a collateral suit, such as a suit for declaration of title or injunction, cannot by itself be a valid ground to stay proceedings under a special statute unless the statute itself permits such suspension. The general civil jurisdiction exercised under the Code of Civil Procedure cannot override or stall proceedings under a special law enacted to serve specific public or social purposes. Staying a pre-emption case merely on account of a pending title suit would result in delaying the statutory remedy of the pre-emptor, thereby defeating the object of the law.

Furthermore, it is well settled that the adjudication in a pre-emption case is limited to the existence of the right of pre-emption, fulfillment of statutory conditions, and the legality of the transfer. It does not conclusively determine title nor operate as *res judicata* in a suit for declaration of title. Therefore, both proceedings can run concurrently. In absence of any statutory bar or exceptional circumstances, a civil court trying a declaratory suit has no jurisdiction to stay a pending pre-emption proceeding instituted under a special statute.

In the present case, the prayer for stay made in Title Suit No. 375 of 2010, though referring to the same property, essentially seeks to interrupt a proceeding governed by statute. The trial and appellate courts rightly declined to grant such stay, and in doing so committed no error of law.

The pre-emption proceedings stem from a statutory right and must be decided independently within the scope of the relevant provisions of the State Acquisition and Tenancy Act. A separate civil suit for declaration of title, even if concerning the same property, cannot and should not arrest the statutory timeline or frustrate the rights vested in the pre-emptor. The trial court has rightly exercised its discretion in declining to interfere with proceedings that are statutory in nature and time-sensitive by design.

This Court finds no jurisdictional error, misreading of evidence, or perverse reasoning in the concurrent findings of the trial and appellate courts that would warrant interference under the revisional jurisdiction of this Court.

Upon perusal of the impugned orders and the materials on record, this Court finds no legal infirmity or jurisdictional error warranting

interference in revision. The concurrent findings of the courts below do not suffer from any perversity or non-application of judicial mind.

However, considering that Title Suit No. 375 of 2010 is still pending adjudication and that the petitioner had earlier obtained an interim order of status quo regarding possession and position of the suit property, the ends of justice would be best served if such status quo is maintained until disposal of the suit or cases.

In view of the above, this Court finds no merit in the Rule. **Accordingly, the Rule is discharged**, however, without any order as to costs.

The parties are hereby directed to maintain status quo in respect of the possession and position of the suit land until the disposal of Title Suit No. 375 of 2010 or Pre-emption Miscellaneous Case Nos. 42 and 43 of 1998, whichever concludes earlier.

The trial court is directed to dispose of Title Suit No. 375 of 2010 as expeditiously as possible, preferably within 1 (one) year from the date of receipt of this judgment.

Let a copy of this judgment be communicated at once to the court below for information and necessary compliance.

(Justice Md. Toufiq Inam)