

Present:
Mr. Justice Md. Iqbal Kabir
And
Mrs. Justice Jesmin Ara Begum

First Appeal No. 285 of 2000

Hajee Haris Ali and others
....Appellants

Versus
The Government of the People's Republic of
Bangladesh, represented by the Deputy
Commissioner, Sunamgonj and others
....Respondents

Mr. Md. Khabir Uddin Bhuiyan, Advocate with
Mr. Muhammad Shafiuddin Bhuiyan, Advocate
....For the Appellants

Mrs. Nahid Hossain, D.A.G. with
Mr. Md. Jahirul Islam, DAG,
Mr. Md. Towhidul Islam, A.A.G.
Md. Md. Sabbir Hossain, AAG,
Mr. Nooray Alam Shiddique, AAG and
Ms. Nasrin Khandaker, AAG
....For the Respondents

Heard on 30.10.2025, 04.11.2025 and Judgment on
12.11.2025.

Md. Iqbal Kabir, J:

At the instance of the plaintiffs-appellants, this First Appeal is directed against the judgment and decree dated 30.03.2000 and 04.04.2000 passed by the learned Subordinate Judge, First Court, Sunamgonj in Title Suit No. 60 of 1989, dismissing the suit for declaration of title.

The precise facts leading to preferring this appeal are that the present appellants, as plaintiffs, filed the aforesaid suit for declaration of title over the 34.82 acres of land described in the schedule to the plaint.

It has claimed the plaintiffs are the lawful owners in possession of the suit lands since their predecessors by way of settlement from the then Jamidar Sree Babu Shukhmoy Chowdhury Roy Bahadur, Sree Babu Rajendra Narayan Chowdhury, and Sree Babu Harendra Narayan Chowdhury through a registered Patta deed dated 04.05.1928. Against which the yearly rent was fixed at the rate of Tk. 110/-. Upon obtaining the land, they regularly paid their rent and possessed the suit land. However, during the settlement period, the persons who are involved with the jarip, along with government officials, give an

assurance that they will record the land in the name of the plaintiffs. Innocent plaintiffs believed such assurance, and they were reluctant to further communicate. However, local tahsildar in the year 1369 B.S declared that the land in question had been recorded in the name of the government and directed the plaintiffs to vacate the land in question. Thereafter, the plaintiffs inquired into the matter and on 28.05.1989 came to learn that the land in question had been recorded in the name of the Government. Though the Government has no title or possession over the suit land, the plaintiffs obtained a settlement from the Jamidar, and since then, they have possessed the land. The plaintiffs claimed that since the khatian has not been prepared in the name of the plaintiffs, the title has been clouded. Thus, they sought a declaration over the suit land.

On the contrary, the defendant Government contested the suit by filing a written statement denying all the material allegations so made in the plaint. It has also brought notice that the land measuring 24.37 acres under Dag No. 2306, land measuring 15.59 acres under Dag 1271, fall under layak patito, and measuring land 3.84 acres brought under Dag 1329 falls into the river, and those lands have been recorded as Government land, and those kash lands have been distributed among different individuals every year. It has also been claimed that the plaintiff Nos. 2, 6, 10, 17, and 34 obtained leases, and those lands have been leased by the Government to the plaintiffs. However, the defendant claims that based on a forged and fabricated patta deed, the land in question has been claimed. According to them, based on forced documents, they claimed the suit land.

However, the Judge of the Trial Court, after conclusion of the trial and upon consideration of the materials on record, dismissed the suit.

Being aggrieved by and dissatisfied with the judgment and decree dated 30.03.2000 and 04.04.2000 passed by the learned Subordinate Judge, First Court, Sunamgonj in Title Suit No. 60 of 1989, the plaintiffs, as appellants, preferred the instant First Appeal.

Mr. Md. Khabir Uddin Bhuiyan, learned Advocate for the appellants, submits that the Court below did not consider the evidence adduced by the plaintiffs, both oral and documentary, and most illegally dismissed the suit. He

submits plaintiffs had successfully proved their right, title, and possession over the suit lands described in the schedule to the plaint by adducing oral and documentary evidence. According to him Court below did not consider those aspects and most illegally dismissed the suit. He claims that the Court below, without any legal basis, wrongly held that the registered patta deed dated 04.05.1928 Exhibit-I is not a genuine one and accordingly, dismissed the suit and as such, committed a gross miscarriage of justice, which, being illegal and not sustainable in law, is liable to be set aside.

He submits that on 28.05.89, for the first time, plaintiffs came to know that the suit land described in the schedule to the plaint has been recorded in the name of Government. According to him, the plaintiffs instituted the instant suit within time from the date of knowledge, and it has been proved by the plaintiffs, but the learned Court below, having not considered those aspects, however, wrongly held that the instant suit is barred by law.

He submits that the plaintiffs are lawful owners in possession of the suit lands since their predecessors, by way of settlement from the then Jamindar through a Registered patta deed dated 04.05.1928, and the Government has no right, title, and possession over the suit lands described in the schedule to the plaint as proved by the plaintiffs adducing evidence in Court. But the learned Court below, having not considered those aspects, wrongly held that the plaintiffs are not the owners in possession of the same and accordingly, dismissed the instant suit, which, being illegal and not sustainable in law, is liable to be set aside.

Mrs. Nahid Hossain, learned DAG appearing on behalf of the defendant Government's claims that the suit was contested by filing a written statement denying all the material allegations so made in the plaint. She claims that the plaintiff/appellant did not submit any legal documents or papers in respect of the plaintiff's right to the scheduled property. According to the learned DAG, the plaintiffs submitted a Patta Dolil, which is forged and not issued through any legal process of the Government. Accordingly to the Government Grants Act, 1895, no person can claim any right or interest in Government land except by a valid and duly executed grant or settlement by an authorized officer, a private

agreement made on the basis of a forged document amounts to criminal fraud and misrepresentation and is not binding upon the Government in any manner.

She submits that under section 20 of the State Acquisition and Tenancy Act, 1950 and the Government Grants Act, 1895, all khas land vested absolutely upon the Government; no person can claim ownership, possession, or lease of khas land without a valid settlement deed, and those have to be approved and executed by the competent authority.

However, we have considered the submissions of the learned counsel for appellants, perused the memorandum of appeal, including the impugned judgment and decree, and all other connected documents appended in the paper book, and given our anxious consideration to the facts.

Now, the only question that calls for our consideration in this appeal is whether the trial Court committed any error in finding that the plaintiffs, by adducing sufficient evidence, have succeeded in proving their case.

This Court considered the submissions made by the parties and also examined the record. It is pertinent to note that it was the claim of the plaintiffs that they enjoyed the property in question, but did not feel compelled to give rent for the last 30/35 years. On 28.05.89, for the first time, they came to learn that the land had been recorded in the name of the Government. However, from the exhibit No. 2 series, it appears that plaintiffs deposited rent for the year 1342 to 1396 B.S to the Jaminder serista, though no reason for the delay was explained in the plaint. In this context, it was claimed that the plaintiffs disclosed such data about the record only to institute the suit.

The allegations made by the plaintiffs are absolutely the subject matter of the evidence and circumstances.

This Court examined the deposition of the P.WS and D.Ws, as it was the claim of the respondent that the patta deed is forged. It was claimed that the patta deed No. 242 dated 4.05.28 was recorded in the page Nos. 123-124 of Book No. 1, Volume No. 6 under the Sylhet Sub-registrar Office. On our examination, it appears D.W-1 in respect of patta in his deposition stated that আমি জেলা রেজিস্ট্রার সিলেট এর মহাফেজ খানা থেকে ৬/১৯২৮ ইং নং বালাম বইটি এনেছি। এই বালামের ১২৩-১২৪ পৃষ্ঠা ছিঁড়ে গেছে। মোট ৩০০ পৃষ্ঠার বালাম। সে হিসেবে ১২৩-১২৪ পৃষ্ঠা এই বালামে ছিল। In his cross-examination he clearly stated that ১২৩-১২৪ পৃষ্ঠা এই বালাম বই থেকে কিভাবে বিচ্ছিন্ন হলো তা আমি

জানিনা। D.W.2 in his deposition stated that আমি ১৯২৮ ইং সনের ৬ নং ভলিয়ম এনেছি। এই ভলিয়মে ১২৩ থেকে ১২৪ পৃষ্ঠা নেই বিধায় Index I & II এনেছি। ... ২৪২/২৮ ইং সনের দলিলের দাতা ও গ্রহিতার নাম লেখা আছে উক্ত সনের ১ নং ইনডেক্স এ। দাতার নাম ছিঁড়ে গেছে। ইনডেক্স দেখে বুবা যাচ্ছে দাতা মহিলা ছিল। তার স্বামীর নাম মোঃ ইছাক এবং পিতার নাম আঃ হেলিম লেখা আছে। সুকুমার রায় চৌধুরী গং দাতা এবং রসুন আলী গং গ্রহিতা নামীয় ২৪২/২৮ ইং নং দলিলের বিবরন ১৯২৮ সনের ১ ও ২ নং ইনডেক্স ভূত্ত নয়। উল্লিখিত ইনডেক্স দ্বয়ে ২৪২/২৮ নং দলিলের সংখ্যা থাকলেও সুকুমার রায় চৌধুরী গং দাতা ও রসুন আলী গং গ্রহিতাদের নাম দেখা যায় না। D.W.3 in his deposition stated that আমি অদ্য সিলেট সদর সাব-রেজিঃ অফিসের ১৯২৮ ইং সনের ৬ নং ভলিয়ম বই আদালতে নিয়ে এসেছি। বই নং-১ ভলিয়ম নং-৬। এই ভলিয়মে ১২৩-১২৪ পৃষ্ঠায় ৫১৭ নং দলিলের বিবরন দেয়া আছে। ৫১৭ নং দলিলের দাতা আহং জাং সিং মনিপুরী ও মুকাসিম মনিপুরী পিং মৃত গোলাপ সিং মনিপুরী। গ্রহিতার নাম বিমলা চরন শর্মা পিং মৃত ব্রজনাথ শর্মা। দলিলটির সম্পাদন তারিখ ১/২/২৮ ইং ভলিয়মে উঠেছে ৩/২/২৮ ইং তে। দলিলের তপছিলে সিলেট শহীবর আদিত্য পাড়ার একটি বসত বাড়ী বন্ধকের বিবরন আছে।

Upon close reading of the above, it appears that the above volume does not contain the relevant page; another one discloses a different name who did not execute the Patta. The names of the executants did not appear in the alleged page of the Book. From the above, it appears that there is no record about the alleged patta deed; thus, the contention made by the respondents had substance.

Further, in respect of possession, P.W.1 in his cross-examination clearly stated that সিকান্দার আলীর ছেলে আপতাব আলীকে চিনি। বাদীর ছেলে চেরাগ আলী, তাজুল ইসলাম এদের সবাইকে চিনি। এরা সবাই সরকার থেকে একসমা ম্যাদী নালিশী ভূমি বন্দোবস্ত নিয়ে দখল করে। ... ১৩২৯ দাগের জমি নদী। বাদী গনের মধ্যে অনেকেই নালিশী ভূমি সরকার থেকে বন্দোবস্ত আনে। P.W.2 in his deposition clearly states that ২৩০৬ দাগের পূর্ব দিকে আমার জমি। আমার জমির দাগ নং মনে নেই। বারো জন বাদী এই জায়গা দখল করে। ইশাদ আলী ও সিকান্দার আলীর চোহান্দি জানিনা। ৫০ জনের মধ্যে কে কোন দিকে দখল করে জানি না। P.W.3 in his deposition clearly states that বাদী গনের সংখ্যা ১২। তারা ভিন্ন ভিন্ন পরিবারের লোক। তারা আলাদাভাবে নালিশা জায়গা ভোগ দখল করে। বাদীগণ কে কোন টুকরা দখল করে জানিনা। Further, it appears that প্রদঃ ক ২, ৩৪, ৬, ১০, ১৭ নং বিবাদীগণ এই জায়গা সরকার থেকে বন্দোবস্ত নিয়েছে। তাদের প্রদত্ত খাজনার রসিদসমূহ দিলাম-প্রদঃ খ সিরিজ।

From the above deposition, it appears that some of the plaintiffs took a settlement from the Government; the witnesses do not know how many plaintiffs filed the suit, and do not know which plaintiff possess which portion of land and quantum, etc. On the above count, it appears there was no appropriate explanation from the plaintiffs. Moreover, from the statements and contradictory statements suggested that some of the plaintiffs took lease from

the government, and some of the plaintiffs do not possess the land in question. Further, the document and evidence talk against the plaintiffs, thus, the question does not arise to believe that the patta is genuine and the plaintiffs possess the land in question.

Indeed, the trial Court, as the First Court of fact, and on due consideration of the entire evidence and materials on record, came to its proper conclusion, thereby dismissing the suit for declaration of title.

However, in view of our above discussions made in the foregoing paragraphs, this Court did not find any substantive evidence and or reason to disagree with the findings given by the Court below in the impugned judgment in dismissing the suit for declaration of title over the suit land. Thus, it is now clear that the instant First Appeal must fail. The impugned judgment and decree are based on a proper appreciation of both facts and law, and we do not find any illegality, perversity, or misdirection that would warrant interference of the same sitting in an appellate jurisdiction.

Accordingly, the First Appeal is dismissed without any order as to costs.

The judgment and decree dated 30.03.2000 and 04.04.2000 passed by the learned Subordinate Judge, First Court, Sunamgonj in Title Suit No. 60 of 1989, dismissing the suit for declaration of title, is hereby maintained.

It is pertinent to note that before concluding the judgment, the plaintiffs-appellants submits that they may be allowed to get lease of the land in question. In the above context, it can be said that the appellants have liberty to file an application to get lease of such land, if so advised. However, the concerned respondents are directed to dispose of such application, if any, in accordance with law.

Send down the lower Court records with a copy of this judgment to the Court below at once.

Jesmin Ara Begum, J:
I agree.