

**Present:**

**Mr. Justice Sheikh Abdul Awal  
and  
Mr. Justice Md. Rafizul Islam**

In the Matter of:

**First Miscellaneous Appeal No. 294 of 2023**

Chandra Banu and others.

....Plaintiff-appellants.

-Versus-

Khurshid Nayeem and others.

.....Defendant-respondent.

None appears.

..... For the appellant.

Mr. M.A. Azim Khair, Senior Advocate with  
Mr. Md. Iqbal Hossain with  
Mr. Md. Sultanuzzaman, Advocates.

**Heard and judgment on 05.05.2026**

**Sheikh Abdul Awal, J:**

This First Miscellaneous Appeal is directed against the judgment and order dated 20.04.2022 passed by the learned Joint District Judge, 4<sup>th</sup> Court, Dhaka in title Suit No. 236 of 2017 dismissing the suit in allowing the application under Order 11, Rule 21 of Code of Civil Procedure for non-compliance of the order for submitting the documents.

The brief fact relevant for disposal of this appeal is that the appellants as plaintiffs filed Title Suit No. 236 of 2017 in the Court of the Joint District Judge, 4<sup>th</sup> Court, Dhaka impleading the defendants for correction of the record and recovery of khas possession.

The defendant Nos. 1, 2, 11, 53, 86-89, 91-93 and 112-118 entered appearance in the suit and filed written statement denying all the material allegations made in the plaint stating, inter-alia, that the suit is not maintainable in its present form and manner. The plaintiffs filed the suit on false averments by using forged documents and as such, the suit is liable to be dismissed. Thereafter, while the suit was in progress the defendant-respondents on 16.01.2020 filed an application under Order 11, Rule 14 & 15 of the Code of Civil Procedure for producing the original documents in support of the plaint with a set of Photostat copy of the original documents. The learned Joint District after hearing the parties allowed the application directing the plaintiffs to produce all original documents in support of the plaint, as prayed for.

Thereafter, the learned Joint District Judge on several occasions on the prayer of the plaintiffs adjourned the suit for submitting original documents in support of the plaint. Finally, the matter was fixed on 20.04.2022 for filing the documents in support of the plaint by the plaintiffs but the plaintiffs did not turn to file the documents and thereby the learned Joint District Judge on 20.04.2022 by the impugned order dismissed the suit under Order 11, Rule 21 of the Code of Civil Procedure.

Aggrieved thereby the plaintiffs filed this First Miscellaneous Appeal before this Court.

No one found present to press the appeal on repeated calls.

In view of the fact that this petty old appeal arising out of an interlocutory order, we are inclined to dispose of the same on merit perusing the record.

On scrutiny of the record, it appears that the appellants as plaintiffs filed the suit for correction of the record and recovery of khas possession. Thereafter, the defendant Nos. 1, 2, 11, 53, 86-89, 91-93 and 112-118 entered appearance in the suit and filed written statement denying all the material allegations made in the plaint. The main case of the defendants is that the plaintiffs by using forged documents filed the suit on false averments.

Thereafter, while the suit was in progress the defendant-respondents filed an application under Order 11, Rule 14 & 15 of the Code of Civil Procedure for submitting the original documents of the plaintiffs in support of their suit although the plaintiffs on taking several adjournments could not file any original documents in support of the plaint.

Under the circumstance on 18.01.2021 the learned Joint District Judge allowing the prayer for time to file original documents gave costs of Taka 1000/- fixing next date on 24.02.2021 and thereafter the trial Court adjourned the matter again and again on the prayer of the plaintiffs to file documents. The matter did not end there. The trial Court again on the prayer of the plaintiffs adjourned the suit for filing documents fixing next date on 12.04.2022 for order but on that date (12.04.2022) the plaintiffs could not submit the documents in support of the plaint resulting the trial Judge fixed next on 20.04.2022 in the following language:

অদ্য আদেশের জন্য দিন ধার্য আছে। বিবাদী পক্ষ পৃথক পৃথক হাজিরা দাখিল করিয়াছে। বাদী হাজিরা দাখিল করে নাই। নথি পেশ করা হইল।

দেখলাম। বাদীপক্ষ হাজিরা দাখিল না করায় আগামী ধার্য তারিখের মধ্যে মূল কাগজ দাখিলপত্র দাখিলসহ উপস্থিতির নির্দেশ প্রদান করা হইল।

আগামী ২০/০৪/২০২২ ইং তারিখ মূল কাগজপত্র দাখিল ব্যর্থতায় মোকদ্দমা খারিজ।

Thereafter, on 20.04.2022 both the parties filed hajira but the plaintiffs' could not produce any documents in support of the plaint. under the attending facts and circumstances the learned Joint District Judge on a detailed discussions into the matter came to the conclusion that- “উভয় পক্ষের বিজ্ঞ আইনজীবী বক্তব্য বিবাদীপক্ষের দরখাস্ত পর্যালোচনায় অত্র আদালতের নিকট প্রতীয়মান হয় যে, বিবাদীপক্ষ তার আর্জির সমর্থনে কাগজপত্র দাখিলের জন্য একাধিকবার সময় গ্রহণ করেও মূল কাগজপত্র দাখিল করতে সক্ষম না হওয়ায় অর্থাৎ অত্র আদালতের গত ইংজৌ ১৬/১/২০২০ খ্রি. তারিখের আদেশ পালন না করায় অত্র মোকদ্দমাটি দেওয়ানী কার্যবিধি আইনের ১১ আদেশের ২১ বিধি মোতাবেক খারিজযোগ্য।”

This finding certainly indicates that the learned Joint District Judge considered all aspects of the matter and thereafter, recorded the order of rejection. The reasonings given by the learned Joint District Judge appear to us to be proper and sound and we, do not find any reason to differ from it.

Order XI Rule 21 of the Code of Civil Procedure (CPC), 1908, mandates consequences for non-compliance with court orders regarding discovery or inspection of documents. It empowers the court to dismiss a plaintiff's suit or strike out a defendant's defense if they fail to answer interrogatories or produce requested documents. If the defaulting party is the plaintiff, the suit may be dismissed for want of prosecution. If the defaulting party is the defendant, their defense may be struck out, and they may be placed in the same position as if they had not defended the suit.

As we have already noticed that in this case, the plaintiff side hopelessly failed to produce any documents in support of their plaint, inspite of several orders.

On a reading of the impugned order together with available materials on record, we find no prima-facie arguable case in favour of the plaintiff-appellants. Therefore, we are unable to differ with the well founded order passed by the learned Joint District Judge, Dhaka. The impugned order appears to be well founded in law and facts. No interference is, therefore, called for.

In the result, the appeal is dismissed without any order as to costs.

Since the appeal is dismissed, the connected Rule being Civil Rule 530 (FM) of 2023 is discharged. The order of status-quo granted earlier by this Court stands vacated.

Communicate this order at once.

**Md. Rafizul Islam, J:**

I agree.