Bench:
Mr. Justice Md. Ali Reza

Civil Revision No. 6619 of 2023

Aziz Al Kaiser
......petitioner

-Versus-

Mrs. Tabassum Kaiser and others
......opposite parties

Mr. Mustafizur Rahman Khan, Senior Advocate with
Mr. Kazi Ershadul Alam,
Mr. Asif Hasan and
Ms. Shammi Ahsan, Advocates
......for the petitioner

Mr. Probir Neogi, Senior Advocate with
Mr. Md. Anisul Hassan,
Mr. Hossain Mohammad Shahidul and
Ms. Rubiyet Zoha, Advocates
......for opposite party 1

Mr. Khairul Alam Choudhury, Senior Advocate with
Mr. Syed Mehedi Hasan,
Mr. Nur-E-Alam Chowdhury and
Ms. Shaila Sharmin, Advocates
......for opposite party 7

Mr. Kazi Akhtar Hosain, Advocate with
Mr. Tasbir Sharif,
Mr. Zahangir Alam and
Mr. Md. Mosiur Rahman, Advocates
......for opposite party 8

Heard on: 06.08.2026, 25.08.2026 and 30.08.2026

Judgment on: 01.09.2026

This Rule was issued at the instance of the plaintiff-petitioner calling upon the opposite parties to show cause as to why the order Number 2 dated 12.11.2023 and order Number 3 dated 19.11.2023 passed by the Joint District Judge, 1st Court, Dhaka in Title Suit Number 899 of 2023 should not be set aside and/or such other order or orders be passed as to this Court may seem fit and proper.

The petitioner as plaintiff filed Title Suit Number 899 of 2023 on 12.11.2023 before the Joint District Judge, 1st Court, Dhaka seeking mainly a declaration that defendant 1 did not invest any amount of money of her own for acquiring the shares described in Schedules I, II and III of the City Bank Limited or for any dividend accrued thereto or any part thereof in her name. The plaintiff further sought a declaration that defendant 1 has no right, title or interest in those shares or in any dividend accrued or to be accrued therefrom. It was also prayed that defendant 1 be declared to be holding the said shares and the dividends therefrom in her name for the benefit of pro forma defendants 11 and 12. A decree for permanent injunction was also sought in respect of the subject matter of the suit.

On the date of filing of the suit the plaintiff filed an application under Order 39 Rules 1 and 2 read with Section 151 of the Code of Civil Procedure seeking temporary injunction. Upon that application the trial Court fixed 11.01.2024 for hearing and directed defendant 1 to show cause within ten days from the date of receipt of notice as to why an order of temporary injunction as prayed for should not be passed.

It appears from order Number 3 dated 19.11.2023 that 19.11.2023 was not a date fixed for the suit. On that date the plaintiff filed another application supported by an affidavit under Section 151 of the Code of Civil Procedure praying for an order of temporary injunction. The trial Court kept the application on record and fixed the next date already fixed in the suit that is on 11.01.2024 for hearing of the injunction matter.

Being aggrieved by and dissatisfied with order Number 2 dated 12.11.2023 and order Number 3 dated 19.11.2023 the plaintiff preferred the instant Civil Revision before this Court.

Upon hearing the matter this Court on 06.12.2023 issued the Rule and passed an ad-interim order of injunction. By that order defendant-opposite party 1 and pro forma defendant-opposite party 7 the City Bank Limited were restrained from transferring and/or disposing of the shares described in Schedules I, II and III which were lying in BO Account

Number 1204500021478785 of defendant-opposite party 1 maintained with pro-forma defendant-opposite party 8 City Brokerage Limited. They were also restrained in respect of the cash dividends accrued to those shares and received by defendant-opposite party 1 which were then lying in the Schedule IV bank accounts. The injunction was made operative for a period of eight weeks from the date of the order.

Defendant-opposite party 1 being aggrieved by the said order of injunction dated 06.12.2023 approached the Honourable Appellate Division by filing Civil Petition for Leave to Appeal Number 82 of 2024 with a prayer for staying the operation of the said order of injunction.

The matter was heard by the Honourable Judge-in-Chamber of the Honourable Appellate Division. By order dated 14.01.2024 the Honourable Judge-in-Chamber modified the order of injunction dated 06.12.2023 to the extent that the order of injunction would not operate so far as it related to the cash dividends received by defendant-opposite party 1 which were then lying in the Schedule IV bank accounts. The Honourable Judge-in-Chamber further fixed the leave petition for full hearing on 11.03.2024 as after Item Number 20.

Thereafter Civil Petition for Leave to Appeal Number 82 of 2024 was heard by a Full Bench of the Honourable Appellate Division on 29.04.2024. The Honourable Appellate Division took note of the order dated 14.01.2024 passed by the Honourable Judge-in-Chamber and observed that in the interest of justice the matter namely the Rule should be disposed of by the High Court Division on merit. To that end the Rule was sent to the Court of Mr. Justice Md. Zakir Hossain for expeditious disposal particularly within thirty days.

It is material to note that while disposing of the said Civil Petition for Leave to Appeal the Honourable Appellate Division specifically directed that:

"However the order dated 14.01.2024 passed by the learned Judge-in-Chamber shall continue till disposal of the Rule."

Accordingly Civil Petition for Leave to Appeal Number 82 of 2024 was disposed of in terms of the said observation and direction of the Honourable Appellate Division.

It further appears from the order sheet that the ad-interim order of injunction passed by this Court on 06.12.2023 was further extended for one year by order dated 03.07.2025.

Subsequently by order dated 10.07.2025 the said order dated 03.07.2025 was recalled. Thereafter by order dated 15.07.2025 the injunction order was again extended for a further period of three months. The said order dated 15.07.2025 was subsequently recalled by order dated 21.07.2025.

It is also relevant to note that a Contempt Petition being Number 63 of 2025 was filed arising out of the orders dated 14.01.2024 and 29.04.2024 passed by the Honourable Appellate Division. In the said contempt proceeding the Honourable Appellate Division by order dated 10.06.2026 observed that the interest of justice would be best served if Civil Revision Number 6619 of 2023 was disposed of on merit by the High Court Division within three weeks from the date of receipt of a copy of the said order. In view of the said observation and direction the contempt petition was disposed of.

Consequently the matter has been heard by this Court.

Learned Senior Advocate Mr. Mustafizur Rahman Khan along with Mr. Kazi Ershadul Alam, Mr. Asif Hasan and Ms. Shammi Ahsan appearing for the petitioner submits that the Court below committed an error of law resulting in an error in the order which occasioned failure of justice. He submits that the Court below failed to appreciate that unless an ad-interim injunction is granted there is a real probability that defendant 1 would transfer and dispose of the scheduled shares and the cash dividends relating thereto. In that event the subject matter of the suit would be frustrated and the suit would become infructuous leaving the plaintiff-petitioner without an effective remedy.

Learned Senior Advocate further submits that defendant 1 is not legally entitled to transfer or dispose of the scheduled shares and the cash dividends relating thereto. Unless she is restrained from doing so the very purpose of the suit would be frustrated. He contends that if the shares and dividends are transferred or disposed of the petitioner would face difficulty in executing the decree if the suit is ultimately decreed in his favour and would thereby suffer irreparable loss and injury. He contends that the balance of convenience and inconvenience also lies heavily in favour of the petitioner and the petitioner has a strong *prima facie* case.

Learned Senior Advocate Mr. Mustafizur finally submits that the impugned orders having been passed contrary to the principles of law and equity cannot be sustained. He therefore prays that the Rule be made absolute. Alternatively he submits that the Rule may be disposed of with a direction upon the Court below to dispose of the original application for injunction expeditiously.

On the other hand learned Senior Advocate Mr. Probir Neogi along with Mr. Md. Anisul Hassan, Mr. Hossain Mohammad Shahidul and Ms. Rubiyet Zoha for the opposite party 1 submits that if prayers A and B of the plaint are read together it becomes apparent that the suit relates to a benami transaction. According to him a claim based upon such transaction is not legally maintainable and therefore the question of establishing a *prima facie* case by the plaintiff does not arise.

Learned Senior Advocate Mr. Neogi refers to Section 14A(2) and (3) of the Bank Companies Act, 1991 and submits that the plaintiff is required to establish that he did not purchase any shares previously in the name of any other person. According to him the prayers made in the plaint disclose a violation of the said statutory provision.

In reply learned Senior Advocate Mr. Mustafizur submits that the said contention is misconceived. He submits that Section 14A of the Bank Companies Act, 1991 has to be construed in its proper statutory context and Sub-sections (2) and (3) thereof cannot be read in isolation and those are contingent to Section 14A(1).

Learned Senior Advocate Mr. Mustafizur further submits that the question of a benami transaction does not arise in the present case since the subject matter consists of shares and not immovable property and the provision of Section 82 of the Trust Act shall apply in the instant case.

At one stage of the hearing learned Senior Advocate Mr. Neogi referred to a notice dated 21.08.2025 issued by defendant 1. He also placed before the Court a letter dated 28.08.2025 issued by the City Bank Limited bearing Reference Number CBPLC/HO/MD and CEO's Office/ 2025/ 805.

From the said letter it appears that defendant 7 received a letter dated 01.07.2025 from the plaintiff requesting the Bank not to disburse the cash dividends in respect of the aforesaid shares until disposal of Title Suit Number 899 of 2023. The plaintiff relied upon the then subsisting injunction of the High Court Division and the modified order of the Honourable Appellate Division and contended that the modified order did not interfere with the accrued cash dividends.

Learned Senior Advocate Mr. Neogi submits that notwithstanding the orders dated 14.01.2024 and 29.04.2024 of the Honourable Appellate Division the Bank took the position that defendant 1 was not prevented from receiving the cash dividends until disposal of the Rule. According to him such a position amounts to complete disregard of the order of the Honourable Appellate Division and would undermine the administration of justice. He therefore submits that the Rule should be discharged and the original application for injunction should be directed to be disposed of expeditiously.

I have heard the learned Advocates for both the sides and perused the materials on record.

The case of the plaintiff in brief is that the plaintiff and defendant 1 were married in 1993. According to the plaintiff between 1993 and 2002 defendant 1 obtained the scheduled shares of the City Bank Limited by way of transfer from the plaintiff and through other means. The purchase price of the said shares was paid by the plaintiff. It is further contended that at no material time defendant 1 had the financial ability to purchase the said shares from her own resources.

Subsequently the marital relationship between the plaintiff and defendant 1 deteriorated and in 2022 defendant 1 left the matrimonial home. According to the plaintiff despite his request defendant 1 deliberately avoided the issue of settlement of the shares held in her name with defendant 7 the City Bank Limited. When defendant 1 started withdrawing the dividends lying in the scheduled bank accounts the plaintiff filed the suit and prayed for injunction.

The case of defendant 1 in brief is that there is no written instrument evidencing the alleged trust or arrangement pleaded by the plaintiff. In the absence of any documentary evidence the claim of the plaintiff is wholly unsustainable. It is further contended that if the plaintiff seeks to invoke the doctrine of an implied trust he must establish that such trust arose either as a resulting trust or on a constructive basis. According to defendant 1 the concept of constructive trust is not recognised in Bangladesh under the Trusts Act or under any other statute and therefore such a contention has no legal basis. It is also contended that an injunction cannot be granted as a matter of course without the plaintiff establishing a *prima facie* case.

It appears from the record that Title Suit Number 899 of 2023 was filed on 12.11.2023 and the application for temporary injunction under Order 39 Rules 1 and 2 read with

Section 151 of the Code of Civil Procedure was also filed on the same date. The Joint District Judge fixed 11.01.2024 for hearing of the injunction application. In the meantime on 19.11.2023 the plaintiff filed another application under Section 151 of the Code of Civil Procedure praying for temporary injunction and the said application was kept on record for consideration on the date already fixed.

At this stage a matter of some importance requires consideration. Article 20 of the Manual of Practical Instructions for the Conduct of Civil Cases specifically reminds the Courts that interlocutory applications are ordinarily urgent in nature and that delay in their disposal may cause unnecessary hardship to the parties and may in some cases render the proceeding infructuous. The instruction further contemplates that such applications should ordinarily be heard on the first date fixed for appearance and hearing and certainly on the next succeeding date if a short adjournment is exceptionally necessary.

In the present case the application for injunction was filed on the very date on which the suit was instituted. Yet the matter was fixed for hearing on 11.01.2024. A further application under Section 151 of the Code was filed on

19.11.2023. From the orders impugned it does not appear that the aforesaid practical instruction relating to expeditious disposal of interlocutory applications was followed in its true spirit.

Being aggrieved by the aforesaid orders the plaintiff preferred the instant Civil Revision. On 06.12.2023 this Court issued the Rule and passed an ad-interim order of injunction restraining defendant-opposite party 1 and proforma defendant-opposite party 7 the City Bank Limited from transferring and/or disposing of the shares described in Schedules I, II and III lying in BO Account Number 1204500021478785 of defendant-opposite party 1 maintained with proforma defendant-opposite party 8 City Brokerage Limited. The order also operated in respect of the cash dividends accrued to the said shares and received by defendant 1 which were then lying in the Schedule IV bank accounts.

Defendant 1 challenged the said order before the Honourable Appellate Division by filing Civil Petition for Leave to Appeal Number 82 of 2024. The Honourable Judge in Chamber of the Honourable Appellate Division by order dated 14.01.2024 modified the order of injunction to the extent that the injunction would not operate so far as it related to the cash dividends received by defendant 1 and lying in the Schedule IV bank accounts. The leave petition was thereafter placed before the Full Bench of the Honourable Appellate Division.

On 29.04.2024 the Civil Petition for Leave to Appeal Number 82 of 2024 was heard by the Full Bench of the Honourable Appellate Division. The Honourable Appellate Division having considered the matter directed that the Rule be disposed of on merit by the High Court Division. At the same time the Honourable Appellate Division expressly directed that:

"However the order dated 14.01.2024 passed by the learned Judge-in-Chamber shall continue till disposal of the Rule."

The effect of the aforesaid order is clear. The modification made by the Honourable Judge-in-Chamber on 14.01.2024 was not interfered with by the Full Bench of the Honourable Appellate Division. Rather the said order was expressly directed to continue until disposal of the Rule.

Therefore so far as the cash dividends are concerned defendant 1 was not restrained by the order of injunction from receiving the cash dividends accrued in respect of the scheduled shares from 14.01.2024 until disposal of the Rule. This Court is bound to give full effect to the order of the Honourable Appellate Division. No subordinate authority or party can interpret or act upon the said order in a manner which defeats its express direction.

It is therefore necessary to clarify the legal consequence of the orders dated 14.01.2024 and 29.04.2024. Until disposal of the present Rule defendant 1 remains entitled to receive the cash dividends in accordance with the order dated 14.01.2024 as continued by the order dated 29.04.2024 of the Honourable Appellate Division.

In this connection the letter dated 28.08.2025 issued by the City Bank Limited bearing Reference Number CBPLC/HO/MD and CEO's Office/2025/805 has been brought to the notice of this Court. It appears from the said letter that the Bank received a letter dated 01.07.2025 from the plaintiff requesting that the cash dividends relating to the scheduled shares should not be disbursed until disposal of Title Suit Number 899 of 2023. The plaintiff relied upon the pending injunction and the orders of the Honourable Appellate Division.

However the modified order of the Honourable Judge in Chamber dated 14.01.2024 which was expressly continued by the Honourable Appellate Division on 29.04.2024 until disposal of the Rule cannot be read as restraining defendant 1 from receiving the accrued cash dividends. The contrary interpretation would run directly against the express order of the superior Court.

The administration of justice requires that every order of a superior Court be obeyed according to its true meaning and effect. Compliance with a judicial order is not a matter of discretion. It is an essential incident of the rule of law. An order of the Honourable Appellate Division which expressly permits a particular course of action cannot be defeated by an interpretation which produces the opposite result.

In the facts and circumstances of the case and having regard to the specific order of the Honourable Appellate Division this Court considers it necessary to give a clear consequential direction with regard to the cash dividends which accrued from 14.01.2024 until the date of disposal of this Rule.

Accordingly defendant-opposite parties 2-14 and in particular pro forma defendant-opposite party 7 the City Bank

Limited are hereby directed to prepare and furnish a complete and accurate statement showing the total amount of cash dividends to which defendant-opposite party 1 has become entitled from 14.01.2024 up to the date of this judgment.

The said statement shall separately show with the relevant reference and date the amount of cash dividends already paid to defendant-opposite party 1 from 14.01.2024 up to the date of this judgment. It shall also clearly show the amount which remains unpaid as on the date of this judgment.

After adjustment of all amounts already paid from 14.01.2024 onwards the remaining balance of the cash dividends to which defendant-opposite party 1 is entitled shall be paid to her without any obstruction, harassment or unnecessary formality.

The calculation shall be made by a competent and responsible officer of defendant 7 upon verification of the relevant records. The calculation shall be complete, transparent and supported by the relevant references and dates so that the amount already paid and the amount remaining payable can be ascertained without ambiguity. Defendant 7 shall prepare an affidavit-in-compliance containing the aforesaid calculation. Defendant 7 shall pay to defendant 1 the total accrued dividend payable to her for the period from 14.01.2024 up to the date of this judgment after deducting the amount already paid to her during that period if any. The affidavit shall clearly state the total dividend payable and the amount already paid and the exact balance amount paid to defendant 1 pursuant to this direction.

The said affidavit-in-compliance with reference to the instant Civil Revision Number 6619 of 2023 shall be filed before the Registrar General of the Supreme Court within 30 working days from the date of this judgment.

It is further necessary to ensure that the original application for temporary injunction filed before the trial Court is disposed of without further unnecessary delay.

Accordingly in the interest of justice the Joint District Judge, 1st Court, Dhaka is directed to take up and dispose of the original application for temporary injunction filed on 12.11.2023 under Order 39 Rules 1 and 2 read with Section 151 of the Code of Civil Procedure within 10 working days from the date of receipt of a copy of this judgment.

The Court below shall decide the said application independently on the materials before it and in accordance with law. No unnecessary adjournment shall be granted to either party. Adjournment may be granted only for an exceptionally strong and legally acceptable reason.

For the reasons stated above and in view of the orders passed by the Honourable Appellate Division on 14.01.2024 and 29.04.2024 the Rule is disposed of with the aforesaid observations and directions.

There shall be no order as to costs.

The Rule in accordingly disposed of. The application filed by the defendant-opposite party 1 bearing entry Number 4284 dated 09.08.2026 is disposed of accordingly.

Let a copy of this judgment be communicated to the Courts below forthwith.

Md. Ali Reza, J:

Naher-B.O