

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

Present:

Mr. Justice S M Kuddus Zaman

And

Mr. Justice Sayed Jahed Mansur

CIVIL REVISION NO. 4461 OF 2017

In the matter of:

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

And

Razia Begum

.... Petitioner

-Versus-

Afroza Parvin and others

.... Opposite parties

None appears....For the petitioner.

Mr. Md. Mostafa Kamal, Advocate

.... For the opposite party No.3(a)-

3(c).

Mr. Taposh Kumat Dutta, Advocate

.... For the opposite party No.1.

Heard on 30.10.2025 and Judgment on 05.11.2025

S M Kuddus Zaman, J:

On an application under Section 115(1) of the Code of Civil Procedure this Rule was issued calling upon the opposite party Nos.1-3 to show cause as to why the impugned order No.66 dated 27.11.2017 passed by the learned Joint District Judge, 3rd Court, Dhaka in Title Suit No.167 of 2011 rejecting an application dated 27.11.2017 filed by the plaintiff No.1 for transposition of the plaintiff No.2 (Afroza Begum)

from the category of co-plaintiff to the category of proforma-defendant in the suit should not be set aside and/or pass such other or further order or as to this Court may seem fit and proper.

Facts in short are that plaintiff No.1 Razia Begum and her daughter plaintiff No.2 Afroza Begum as plaintiffs jointly filed above suit for declaration of title for $412\frac{1}{2}$ ajutangsha land as described in schedule No."Ka" and for further declaration that three registered kabla deeds described in schedule No."Kha" of the plaint are collusive, without consideration and not binding upon the plaintiff. It was alleged that plaintiff No.1 acquired above property by heba from her husband and purchase from other persons. It was further stated that out of her $412\frac{1}{2}$ ajutangsha land plaintiff No.1 transferred 225 ajutangsha to her daughter plaintiff No.2 by registered deed of kabla dated 14.04.2007.

In above suit plaintiff No.1 submitted a petition under Order 1 Rule 10 of the Code of Civil Procedure for transposing plaintiff No.2 as a defendant. Plaintiff No.2 submitted written objection against above petition and opposed to be transposed as a defendant.

On consideration of submissions of learned Advocates for the respective parties and materials on record the learned Joint District Judge rejected above petition.

Being aggrieved by above judgment and order of the learned Joint District Judge plaintiff No.1 as petitioner moved to this Court with this

civil revisional application under Section 115(1) of the Code of Civil Procedure and obtained this Rule.

No one appears on behalf of the petitioner at the time of hearing of this Rule although this matter appeared in the list for hearing on several dates.

Mr. Mostafa Kamal, learned Advocate for the opposite party Nos.3(a)-3(c) submits that plaintiff No.2 was rightful owner and possessor of 225 ajutangsha land out of disputed $412\frac{1}{2}$ ajutangsha and she jointly filed above suit with her mother who was plaintiff No.1. Plaintiff No.2 has died and above opposite parties are her heirs. Opposite parties oppose the petition of plaintiff No.1 for transposing them as defendants of above suit and the learned Joint District Judge on correct appreciation of materials on record rightly rejected above petition which calls for no interference.

Mr. Taposh Kumar Dutta, learned Advocate for the opposite party No.1 submits that the status of plaintiff Nos.1 and 2 is equal and none of them can transpose the other as defendants.

We have considered the submissions of the learned Advocates for respective parties and carefully examined all materials on record.

As mentioned above two plaintiffs who were mother and daughter jointly filed above suit for declaration of title for $412\frac{1}{2}$ ajutangsha land and further declaration that three registered kabla

deeds were unlawful. It has been stated in the plaint that plaintiff No.1 has transferred 225 ajutangsha land out of the disputed $412\frac{1}{2}$ ajutangsha land to plaintiff No.2 by a registered deed of kabla dated 14.04.2007. As such according to above admission of plaintiff No.1 plaintiff No.2 has prima facie right to maintain above suit as a co-plaintiff.

Where more than one person as plaintiffs file a suit stating their joint and inseparable right and status in the subject matter of the suit than any of above plaintiffs may be transposed as defendant if any conflict of the interest arises among themselves. But one plaintiff cannot transpose another plaintiff without his consent as defendant. If plaintiff No.1 is unwilling to maintain above suit jointly with plaintiff No.2 then she may be transposed as a defendant. But she cannot compel the plaintiff No.2 to be removed from the category of the plaintiff and be added as a defendant of above suit.

In above view of the facts and circumstances of the case and materials on record we are unable to find any illegality or irregularity in the impugned judgment and order passed by the learned Joint District Judge nor we find any substance in this Civil Revisional application under Section 115(1) of the Code of Civil Procedure and the Rule issued in this connection is liable to be discharged.

In the result, the Rule is hereby discharged. The order of stay granted at the time of issuance of the Rule is hereby vacated.

However, there will be no order as to costs.

Sayed Jahed Mansur, J:

I agree.

MD. MASUDUR RAHMAN
BENCH OFFICER