

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

**Present:**

Mr. Justice Md. Khairul Alam

**Civil Revision No. 5680 of 2023**

Kazi Safayet Hossain and others.

..... Petitioners.

-Versus-

Sheikh Zulfiker Rahan (Uzzal)

.....Opposite party.

No one appears

..... For the petitioners.

Mr. Manoj Kumar Bhowmick, Advocate

..... For the opposite parties

Heard on 13.08.2025 and

**Judgment on: 17.08.2025.**

This Rule was issued calling upon the opposite party No. 1 to show cause as to why the judgment and order dated 16.07.2023 passed by the learned Additional District Judge, 3<sup>rd</sup> Court, Satkhira in Miscellaneous Appeal No. 15 of 2023 dismissing the appeal and thereby affirming the order dated 01.03.2023 passed by the learned Senior Assistant Judge, Sadar, Satkhira in Title Suit No. 465 of 2021 rejecting an application filed by the plaintiffs-petitioners under Order XXXIX rule 1 and 2 read with section 151 of the Code of Civil Procedure for temporary injunction should not be set aside and/or such other or further order or orders passed as to this Court may seem fit and proper.

Relevant facts for disposal of the Rule are that the present petitioners as plaintiffs filed Title Suit No. 465 of 2021 in the Court of Senior Assistant Judge, Sadar, Satkhira, seeking a declaration of title in respect of 32.5 decimals of land as described in the schedule to the

plaint. The case of the plaintiffs, in short, is that 1.17 acres of land of S.A. Plot No.1599, SA Khatian No. 1023 of Mouza- Katia, Police Station-Sadar, District- Satkhira originally belonged to Kanchan Bibi. Out of the said land, Kanchan Bibi sold 25 decimals of land to Kazi Shahadat Hossain, Kazi Hedayet Hossain, Sadek Hossain, Jahid Hossain and Taher Hossain vide a registered kabala bearing No.479 dated 17.02.1965. Although the said deed was executed in the name of five brothers, the purchase money was paid by Shahadat Hossain alone for his benefit and interest. All four brothers of Kazi Shahadat Hossain used to live in India who orally gifted him the land on 25th June, 1992. Kazi Shahadat Hossain also got 7.5 decimals of land of the khatian from his brother Kazi Hedayet Hossain through an exchange deed dated 05.10.1985. Thus, Kazi Shahadat Hossain became the owner and possessor of the said 32.5 decimals of land and has been possessing the same by constructing a dwelling house thereon. In the present settlement, DP Khatian Nos. 2713 and 1748 in respect of the suit land were prepared in the name of Kazi Shahadat Hossain. Kazi Shahadat Hossain died leaving behind the plaintiffs. On 06.09.2021, the defendants threatened the plaintiffs with dispossession, hence the suit.

In the said suit, the plaintiffs filed an application under Order XXXIX rules 1 and 2 read with section 151 of the Code of Civil Procedure praying for a temporary injunction, reiterating the statements made in the plaint. The defendant No. 1 contested the application by filing a written objection denying the material allegations made in the application, contending inter alia, that 1.17 acres of land of S.A. Plot No.1599, SA Khatian No. 1023 of Mouza-

Katia, Police Station-Sadar, District- Satkhira originally belonged to Kanchan Bibi, who transferred 12.25 decimals of land to Most. Razeka Khatun vide a registered kabala deed bearing No. 2000 dated 10.06.1964, 12.25 decimals of land to Mobersher Ali vide a registered kabala deed bearing No.478 dated 17.02.1965, 25 decimals of land to the five brothers namely Kazi Shahadat Hossain, Kazi Hedayet Hossain, Sadek Hossain, Jahid Hossain and Taher Hossain vide a registered kabala deed bearing No. 479 dated 17.02.1965 and also transferred 29.5 decimals of land to Mobersher Ali vide a registered kabala deed bearing No. 2431 dated 30.04.1968. The aforesaid Mobersher Ali and Razeka Khatun gifted disputed 12.5 decimals of land, including undisputed 66.75 decimals of land to Mahamuda Khatun @ Jahanara Khatun vide registered deed No.6910 dated 21.12.1970. Amongst the said transferee, Most. Razeka Khatun, Kazi Hedayet Hossain and Mahamuda Khatun @ Jahanara Khatun exchanged their land by a registered exchange deed bearing No. 8759 dated 05.10.1985. As per the exchange deed, Kazi Hedayet Hossain got 7.50 decimals of land of suit Plot No. 1599 who transferred the same to defendant No. 1 by a registered sale deed bearing No. 5586 dated 24.08.2021. Accordingly, 7.50 decimals of land of suit Plot No. 1599 was mutated in the name of defendant No. 1 vide Mutation Case No. 1838/21-22 and defendant No. 1 has been paying the rent. The plaintiffs did not possess the disputed land. Hence, the application for temporary injunction is liable to be rejected.

The learned Senior Assistant Judge, Sadar, Satkhira after hearing the said application by the order dated 01.03.2023 rejected the said application. Against the said order, the plaintiff filed

Miscellaneous Appeal No. 15 of 2023 in the Court of District Judge, Satkhira which was subsequently transferred to the Court of Additional District Judge, 3<sup>rd</sup> Court, Satkhira who by judgment and order dated 16.07.2023 dismissed the appeal and thereby affirmed the order passed by the trial Court.

Being aggrieved thereby, the petitioners filed this civil revision and obtained the Rule and an order of status quo in respect of the possession and position of the suit land.

No one appears to support the rule.

Mr. Manoj Kumar Bhowmick, the learned Advocate appearing for the opposite parties submits that out of 32.5 decimals of suit land, the present opposite party No. 1 is the owner and possessor of 7.5 decimals of land by purchase vide Kabala No. 5586 dated 24.08.2021 which has been mutated in his name vide Miscellaneous Case No. 1838 of 21-22, and a separate khatian bearing No. 1841 was prepared in his name and he is paying rent for the same, therefore, both the courts below rightly rejected the application for temporary injunction, and this Rule is liable to be discharged.

Heard the learned Advocate for the opposite parties, perused the revisional application and other materials on record including the impugned judgment and order.

The issue to be adjudicated is whether the courts below were justified in rejecting the application for temporary injunction of the petitioners.

Now it is well settled that in considering the application for a temporary injunction under Order XXXIX Rule 1 of the Code of Civil Procedure, the Court must consider about three essential elements,

namely: (i) the prima facie case, (ii) the balance of convenience and inconvenience, and (iii) the likelihood of irreparable loss or injury.

It appears that the petitioner prayed for a temporary injunction over 32.5 decimals of suit land. From the materials on record, prima facie, it also appears that out of 32.5 decimals of disputed land, the present opposite party No. 1 purchased 7.5 decimals of land vide a registered kabala bearing no. 5586 dated 24.08.2021. He mutated the land in his name vide Miscellaneous Case No. 1838 of 21-22, and a separate khatian bearing No. 1841 was prepared in his name and he is paying the rent for the same. In such circumstances, granting an injunction against the defendants in respect of the land in his possession is not only inequitable but also against the three essential elements, namely: (i) the prima facie case, (ii) the balance of convenience and inconvenience, and (iii) the likelihood of irreparable loss or injury.

Therefore, I am of the view that both the courts below rightly passed the impugned judgment and order rejecting the application for temporary injunction of the petitioners and do not find any reason to interfere with the same.

In the result, this Rule is discharged, however, there is no order as to costs.

The order of status quo passed at the time of issuance of the Rule is hereby recalled and vacated.

Communicate a copy of this judgment to the concerned court.

Kashem, B.O