

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

Present:

Mr. Justice S M Kuddus Zaman

CIVIL REVISION NO.2863 OF 2024

In the matter of:

An application under Section 115(4) of the Code of Civil Procedure.

And

Provas Saha and others

... Petitioners

-Versus-

Government of Bangladesh and others

... Opposite parties

Mr. Purnindu Bikash Das, Advocate

... For the petitioners.

Mr. Saifur Rahman, Deputy Attorney General

Mr. Md. Moshihur Rahman, Assistant Attorney General.

Mr. Md. Mizanur Rahman, Assistant Attorney General.

Mr. Md. Arifur Rahman, Assistant Attorney General.

....For the opposite party Nos.1-3.

Heard on 22.06.2025 and Judgment on 21.07.2025.

This Rule was issued calling upon the opposite party No.1 to show cause as to why the impugned judgment and order dated 09.04.2024 passed by the learned Additional District Judge, 1st Court, Madaripur in Civil Revision No.08 of 2024 disallowing the same and thereby affirming the judgment and order dated 09.01.2024 passed by the learned Joint District Judge, 1st Court, Madaripur in Title Suit No.96 of 2012 allowing an application for staying all further proceedings of Title Suit No.96 of 2012 till disposal of Miscellaneous Case No.55 of

2023 filed under Order 9 Rule 13 and under Section 151 of the code of Civil Procedure should not be set aside and/or other or further order or orders as to this Court may seem fit and proper.

Facts in short are that the petitioners as plaintiffs instituted Title Suit No.65 of 1982 in the Court of Joint District Judge, 1st Court, Madaripur for declaration of title and partition for 1.32 acres land and above suit was decreed ex-parte and for setting aside above ex-parte judgment and decree defendant as petitioner preferred Miscellaneous Case No.55 of 2023 under Order 9 Rule 13 of the Code of Civil Procedure.

In above Miscellaneous Case the petitioner submitted a petition for stay operation of above ex-parte judgment and decree which was allowed by the trial Court. Challenging the legality and propriety of above judgment and order of the trial Court above opposite parties as petitioners preferred Civil Revision No.08 of 2024 to the District Judge, Madaripur which was heard by the learned Additional District Judge, 1st Court who rejected above revision and affirmed the judgment and order of the trial Court.

Being aggrieved by and dissatisfied with above judgment and order of the Court of revision below above petitioners as petitioners moved to this Court under Section 115(4) of the Code of Civil Procedure and obtained this Rule with leave.

Mr. Purnindu Bikash Das, learned Advocate for the petitioners submits that in the mean time the learned Joint District Judge has

allowed above Miscellaneous Case No.55 of 2023 and set aside the impugned judgment and decree of Title Suit No.65 of 1982 and restored above Title Suit. As such the impugned order of stay of further proceeding the impugned order of stay of further proceeding of above suit has become infructuous.

Mr. Saifur Rahman, learned Deputy Attorney General also submits that submits that above Miscellaneous Case No.55 of 2023 has already been allowed and impugned ex-parte judgment and decree has been set aside. As such the impugned order of stay has become infructuous.

On consideration of above submissions of the learned Advocates for the respective parties and carefully examined all materials on record I hold that since above Miscellaneous Case has already been allowed on merit the order of stay passed in above Miscellaneous Case has become infructuous. As such the Rule is discharged since the same has become infructuous.

In the result, the Rule is discharged as being infructuous.

However, there will be no order as to costs.