

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

First Miscellaneous Appeal No. 272 of 2009

In the Matter of:

Mosammat Jahanara Begum  
.....Plaintiff-appellant.

-Versus-

Abdur Rob Akond and others.

..... Defendant- respondents.

No one appears

....For the appellant

No one appears

...For the respondents.

Mr. Abdul Mannan Abid, D.A.G.

**Judgment on 23.06.2026**

**Sheikh Abdul Awal, J:**

This First Miscellaneous Appeal is directed against the order dated 11.08.2009 passed by the learned Joint District Judge, 1st. Court, Patuakhali in Title Suit No. 35 of 2006 rejecting an application for ad-interim injunction.

The short fact of the case is that the appellant as plaintiff and others instituted Title Suit No. 35 of 2006 in the Court of the learned Joint District Judge, 1st. Court, Patuakhali impleading the

defendant respondents for declaration of title in respect of “Ka” schedule property as described in the schedule of the plaint.

Thereafter, while the suit was in progress the plaintiffs filed the application for ad-interim injunction stating, inter-alia, that defendants have/had no right, title and possession in the suit land although they are hatching conspiracy to evict the plaintiffs from the suit land.

Defendant No. 50 entered appearance in the suit and resisted the injunction application stating, inter-alia, that the suit property is a mortgaged property of bank. The plaintiffs filed the application for injunction on false allegation, the application is liable to be rejected.

The learned Joint District Judge by the impugned order dated 11.08.2009 rejected the application for injunction.

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

No one appears to press the Appeal on repeated calls. Despite of fact that this appeal has been appearing in the list for a number of days with the name of the learned Advocates.

In view of the fact that this petty old First Miscellaneous Appeal of 2009 has been dragging before this Court over a period

of 16 years arising out of an order, we are inclined to take it up for disposal on merit perusing the available materials on record.

On scrutiny of the record, it appears that appellant as plaintiff and others filed Title Suit No.35 of 2006 for declaration of title. Thereafter while the suit was in progress the plaintiffs filed an application under Order 39, Rule 1 and 2 read with section 151 of the Code of Civil Procedure for temporary injunction restraining the defendants from transferring the suit land as well as not to disturb the plaintiffs in any way whatsoever in the suit property. Thereafter, the defendant No. 50 resisted the said application by filing written objection stating, inter-alia, that plaintiffs have/had no right, title and possession in the suit land, the suit property is a mortgaged property and plaintiffs filed the application for injunction on false statements. The learned trial Judge after hearing the parties and on considering the materials on record by the impugned order dated 11.08.2009 rejected the application for injunction on the finding that the suit property is a mortgaged property, plaintiffs have no prima facie case in the suit land, balance of convenience and inconvenience is in favour of the defendants.

On going through the available materials on record together with the impugned order, we find no flaw in the reasonings of the trial Court or any ground to assail the same. The impugned order appears to be well founded in law and facts. No interference, is therefore, called for.

In the result, the First Miscellaneous appeal is dismissed without any order as to costs. The impugned order dated 11.08.2009 is hereby maintained. There it may be mentioned that the connected Rule being Civil Rule No. 950(FM)/2009 has already been discharged. Since the suit is an old one of 2006, the trial Court concerned is directed to dispose of the suit expeditiously preferably within a period of 6 (six) months from the date of receipt of this judgment, if any.

Communicate this order at once.

**Md. Rafizul Islam, J:**

I agree.