

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

**Present:**

**Mr Justice Abdur Rahman**

**Civil Revision No. 2867 of 2023**

The Government of Bangladesh, represented by  
the Deputy Commissioner, Sirajganj.

...Petitioner

**-Versus-**

Begum Sufia and others

...Opposite Parties

**For the petitioner:**

Mr Md. Zahirul Islam, Deputy Attorney General,  
with

Mr Md. Ferdous Sarker, Assistant Attorney  
General.

**For the opposite parties:**

Mr Chanchal Kumar Biswas, with  
Ms Umme Masum Un Nessa and Mr Sougata  
Guha, Advocates.

**Date of Hearing:** 23.06.2026 and 28.06.2026  
A.D.

**Date of Judgment:** 30.06.2026 A.D. Tuesday, 16  
Ashar, 1433 B.S

**JUDGMENT:**

**Abdur Rahman, J:**

This Rule, at the instance of the petitioner, was issued under the authority of Section 115(1) of the Code of Civil Procedure, 1908, calling upon the opposite parties to show cause as to why the judgment and decree dated 03.11.2016 (decree signed on 10.11.2016) passed by the learned Additional District Judge, 2nd Court, Sirajganj, allowing the Other Class Appeal 123 of 2014, by affirming the judgment and decree dated 13.07.2011 (decree signed on 20.07.2011) passed by the learned Senior Assistant Judge, Sirajganj, decreeing the Other Class Suit 129 of 2006, should not be set aside and/or why such other or further order or orders should not be passed as to this Court may seem fit and proper.

**Facts:**

The facts, in brief, are that the opposite party 1, as plaintiff, instituted Other Class Suit 129 of 2006 before the Court of the learned Senior Assistant Judge, Sirajganj,

seeking a declaration of title to the suit property. The plaintiff asserted, *inter alia*, that during the Revisional Settlement (R.S.) operation, the suit land measuring 0.7850 out of 4.58 acres was erroneously recorded in Khas Khatian No.1 in the name of the Government, although the original C.S. recorded tenant was one Krishna Chandra Ghosh, who transferred 0.7850 acres of land to the plaintiff by registered deed No.3202 dated 27.05.1959. Thereafter, S.A. Khatian 84 was correctly prepared and finally published in the plaintiff's name. However, during the subsequent R.S. operation, the suit land was wrongly recorded in the name of the Government. The plaintiff came to know of such erroneous recording when the Tahsildar refused to accept rent on 17.08.2004, compelling her to institute the present suit.

Conversely, the Government of Bangladesh, represented by the Deputy Commissioner, Sirajganj, contested the suit by filing a written statement denying the material allegations made in the plaint. It was

contended that the suit land remained submerged during the rainy season, was used by the local people, and, consequently, 79 decimals thereof were rightly recorded in Khas Khatian 1 during the R.S. operation. It was further asserted that the plaintiff had neither title to nor possession of the suit property and, therefore, the suit was liable to dismissal.

Disposition of the Subordinate Courts:

Upon consideration of the oral and documentary evidence adduced by the parties, the learned trial Court decreed the suit by judgment and decree dated 13.07.2011.

Being aggrieved, the defendant preferred Other Class Appeal 123 of 2014 before the District Judge, Sirajganj, which was subsequently transferred to the Court of the learned Additional District Judge, 2nd Court, Sirajganj. After hearing the parties, the learned appellate Court dismissed the appeal by judgment and decree dated

03.11.2016, thereby affirming the judgment and decree passed by the trial Court.

Feeling aggrieved thereby, the defendant has preferred the present revisional application.

Disputations of the Opposite Parties:

The opposite parties entered appearance and filed a counter-affidavit contending that the grounds taken in the revisional application are wholly misconceived and unsupported by either evidence or law. It was asserted that both the Courts below, upon proper appreciation of the evidence on record, concurrently found that the plaintiff had successfully established her title and possession over the suit land.

It was further contended that the plaintiff produced the original registered deed dated 27.05.1959, proving her purchase from the C.S. recorded owner, and that the land was thereafter correctly recorded in her name in S.A. Khatian No.84. The Government never challenged the S.A.

record. The opposite parties also submitted that although the Government claimed the land was low-lying, the R.S. Khatian classified the land as "Fosoli" (cultivable land), and a fact further corroborated by the report of the Advocate Commissioner. Consequently, the concurrent findings of fact recorded by both the Courts below call for no interference by this Court in exercise of revisional jurisdiction.

Submissions of the Petitioner:

Mr Md. Zahirul Islam, learned Deputy Attorney General, assisted by Mr Md. Ferdous Sarker, learned Assistant Attorney General, appearing on behalf of the petitioner, submitted that the plaintiff failed to produce the original deed before the trial Court, although P.W.1 admitted during cross-examination that the original deed remained in the custody of his elder brother. Instead, only certified copies were produced, casting serious doubt on the plaintiff's claim.

Learned Deputy Attorney General further submitted that the witnesses examined on behalf of the plaintiff were interested witnesses and no independent witness was produced to establish possession. He also contended that the plaintiff failed to prove payment of rent for the suit land and that the Courts below misread the evidence in decreeing the suit.

It is further argued that the suit land has been rightly recorded in Khas Khatian 1 and belongs to the Government; consequently, the plaintiff has no right, title, or possession over the suit property. Therefore, the impugned judgments and decrees are liable to be set aside.

Submissions of the Opposite Parties:

Mr Chanchal Kumar Biswas, learned Counsel, assisted by Mr Sougata Guha, learned Advocate, appearing for the opposite parties, submitted that the plaintiff produced the original registered deed dated 27.05.1959, establishing lawful purchase from the C.S. recorded owner,

and thereafter the land was rightly recorded in her name in S.A. Khatian No.84, thereby proving her title.

Learned Counsel further submitted that the R.S. operation, the authority erroneously recorded the land in the name of the Government by treating it as low land, although the R.S. Khatian itself described the land as "Fosoli". The report of the Advocate Commissioner also supports the same factual position.

He further submitted that both the Courts below concurrently found, upon proper appreciation of the evidence, that the plaintiff successfully proved both title and possession. Such concurrent findings of fact are ordinarily immune from interference by the revisional jurisdiction unless shown to be illegal or perverse.

In support of his submissions, learned Advocate relied upon the decisions reported in **24 BLC (AD) 36** and **56 DLR (AD) 53**.

Consideration:

I have carefully considered the submissions advanced by the learned Counsel for the respective parties and have perused the revisional application, the judgments and decrees of the Subordinate Courts, the oral and documentary evidence available on record and the decisions cited at the Bar.

It appears from the record that the plaintiff produced the original registered deed dated 27.05.1959 before the trial Court, which was admitted into evidence as Exhibit-8. It further appears that, on the strength of the said registered deed, S.A. Khatian 84 was duly prepared and finally published in the plaintiff's name, which confirmed the existence of the said deed, and the subsequent R.S. Khatian, marked as Exhibit-'Ka', shows that the classification of the suit land is "ফসলী" (cultivable land). The report submitted by the Advocate Commissioner also supports the same description regarding the class of the land.

Moreover, the learned trial Court squarely made observations which are as verbatim quoted below:

“বাদীপক্ষ তাদের আরজির মাধ্যমে দাবী করে সি,এস রেকর্ডীয় মালিক কৃষ্ণ চন্দ্র ঘোষ এর নিকট থেকে ১২/৫/৫৯ ইং তারিখে নালিশা তুমি ক্রয় বরে। বাদীপক্ষ নালিশা তুমি বর্গা দিয়ে দখলে আছে। বাদীপক্ষ নালিশা জমি ক্রয় করে নিজ নামে নামজারী ও জমা পৃথক কেস নং-১২৪২/৯-১/৯০-৯১, তারিখ ইং ৫/৫/৯১, ডি,সি, আর বই নং-৯৩৮৬৪, পাতা নং-২২, তারিখ ৯/৫/৯১ মাধ্যমে নিজ নাম জারী পূর্বক খাজনা প্রদানে দখলে আছে। বাদীপক্ষে ডি,সি, আর এবং খাজনার দাখিরা প্রদর্শনী-৫, ৬ ও ৭ হিসেবে আদালতে দাখির ফরেছে। বাদীপক্ষ ২৭/৫/৫৯ ইং তারিখের ৩২০৮ নং রেজিস্ট্রিকৃত মূল দলিল প্রদর্শনী-৮ হিসেবে দাখিল করেছে। এভাবে বাদীপক্ষ নালিশী জমিতে তার স্বত্ত্ব দখল থাকার বিষয়টি প্রমাণ করেছে। বাদীর স্বত্ত্ব দখলের বিষয়ে পি, ডাব্লিউ-১ সাক্ষ্য দিয়ে সমর্থন করে বলে যে, নালিশী জমি বর্গা দিয়ে চাষ করে। বাদী পি, ডাব্লিউ-১কে সমর্থন করে বাদীপক্ষের অন্যান্য সাক্ষীগণ জবানবন্দি প্রদান করেছে। বাদীপক্ষের এই সাক্ষীগণকে জেরা করেও পরস্পর বিরোধীয় বক্তব্য পাওয়া যায়নি। ফলে নালিশী ভূমি বিষয়ে আর,এস রেকর্ড ভুল হয়েছে মর্মে সিদ্ধান্ত গৃহীত হল। এছাড়া বাদীপক্ষ নালিশা ভূমি তাদের স্বত্ত্ব ও দখল প্রমাণ করতে সমর্থ হয়েছে।

বিবাদীপক্ষের দাখিলী আর,এস ১নং খাস খতিয়ানের পর্চা প্রদর্শনী-  
ক হিসেবে চিহ্নিত হয়। উক্ত খাস খতিয়ানের পর্চায় নালিশী ভূমির  
শ্রেণী ফসলী উল্লেখ করা হয়েছে।”

So, it is also obvious that the learned trial Court, upon elaborate discussion of the oral and documentary evidence, found that the plaintiff had established her title through the registered deed, mutation records, D.C.R., rent receipts and the evidence of the witnesses. The trial Court further found that the plaintiff had been in possession of the suit land through cultivation by bargadars, and that nothing substantial could be elicited during cross-examination to discredit the plaintiff's case. Consequently, the learned trial Court held that the R.S. record had been wrongly prepared in the name of the Government.

The learned appellate Court independently reassessed the entire evidence and affirmed the findings of the trial Court. It observed that the mutation records, rent receipts and D.C.R. constituted strong evidence of

possession. Reliance was rightly placed upon the principle laid down in **45 DLR 217** that rent receipts are evidence of possession and may also be used as collateral evidence of title.

The appellate Court further observed that although D.W.1 claimed the land remained under water for most of the year, he admitted during cross-examination that there was no adjoining "খাস" land or "বিল" and that the suit land had never been acquired by the Government. Thus, the Government failed to assign any convincing reason for how the suit land came to be recorded in Khas Khatian No. 1.

The principle laid down by the Appellate Division in **24 BLC (AD) 36** is directly applicable to the present case. Their Lordships held in paragraph 18 that where the defendant fails to specifically deny the plaintiff's pleaded chain of title, such omission amounts to an admission under Order VIII Rule 5 of the Code of Civil Procedure, 1908. Their Lordships further held that registered deeds

more than thirty years old carry a statutory presumption of genuineness under section 90 of the Evidence Act, 1872.

Likewise, in **56 DLR (AD) 53**, the Appellate Division authoritatively held that,

*“The presumption as regards the entries in the RS Khatian so attached under Section 144A of the Act is rebuttable by leading evidence from the side of the person so questioning correctness of the entry made therein. ---(12)”*

In this particular case, reasonableness falls within the established principle of law; therefore, I am of the view that **every claim of title or entitlement to immovable property must rest upon a valid legal foundation. An erroneous entry in the record of rights neither creates nor extinguishes title. Where the true owner's title is subsequently denied on the basis of such erroneous entry, a suit for a declaration of title is maintainable, unless barred by law. In such an event, the true owner is**

**entitled to have the record of rights corrected through mutation or a subsequent survey operation.**

Applying the aforesaid principles to the facts of the present case, it appears that the plaintiff successfully established her title through the registered deed of 1959, the S.A. record, mutation records, D.C.R., rent receipts and consistent oral evidence. The Government, on the other hand, failed to produce any satisfactory evidence demonstrating that the suit property had lawfully vested in the Government, that the plaintiff's title had ever been extinguished, or that the Government possessed the suit property through itself or any lessee.

Both the Subordinate Courts, upon proper appreciation of the evidence, have concurrently recorded findings of fact in favour of the plaintiff, and the principles enunciated in the decisions cited at the Bar are indistinguishable or identical on facts. There are sufficient reasons in the submissions of the learned Counsel for the opposite parties to discard the grounds advanced by the

petitioner in the instant application. I do not find that the Subordinate Court's findings suffer from any misreading of evidence, non-consideration of material evidence, illegality or jurisdictional error warranting interference under section 115(1) of the Code of Civil Procedure, 1908.

Result:

In view of the facts, observations, and discussions made hereinabove, I find no substance in this Rule.

Accordingly, the Rule is discharged.

There shall, however, be no order as to costs.

The Office is directed to transmit the Subordinate Courts Record (SCR) along with a copy of this judgment at once.

*(Abdur Rahman, J)*