

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

**Present:**

**Mr. Justice Zafar Ahmed**

**Civil Revision No. 5466 of 2024**

**In the matter of:**

Mohammad Nasiruddin

Petitioner

-Versus-

Mohammed Sayed and others

Opposite parties

Mr. A.S.M. Rahmatullah, Advocate

...For the petitioner

Mr. M. Belayet Hossain, Senior Advocate, with

Mr. M. Mahmud Hasan, Advocate

... For the opposite party No. 1

Heard on 26.08.2025 and 11.01.2026

Judgment on: 13.01.2026

The petitioner has filed this revisional application under Section 115 of the Code of Civil Procedure challenging the judgment and order dated 08.09.2024 passed by the Additional District Judge, 5<sup>th</sup> Court, Chattogram in Waqf Miscellaneous Appeal No. 193 of 2019 rejecting the application for addition of party filed by the petitioner to contest the appeal as respondent.

Paschim Gomdondi Ismat Ali Masjid Waqf Estate (E.C. No. 37/2017), Boalkhali, Chattogram was established on 09.08.1965 by a registered waqf deed. The waqf in question is a Waqf-e-Lillah. Haji Ahmed Nabi (father of the present petitioner) was appointed as mutawalli by the Waqf Administrator on 20.05.2019. Challenging the

same, the present opposite party No. 1 filed miscellaneous appeal before the Court of learned District Judge, Chattogram and the same was registered as Miscellaneous Appeal No. 193 of 2019. Haji Ahmed Nabi was the respondent No. 1 in the said miscellaneous appeal. During pendency of the appeal, Haji Ahmed Nabi died and his son Mohammad Nasiruddin (present petitioner) filed an application before the Court below for addition of party. The application for addition of party was rejected and hence, the revisional application and the Rule.

Mr. A.S.M. Rahmatullah, learned Advocate appearing for the petitioner submits that Mohammad Nasiruddin, son of the deceased respondent No. 1 in the appeal, is a necessary party for determination of the real matter in dispute. Mr. M. Belayet Hossain, learned Senior Counsel appearing for the opposite party No. 1, on the other hand, submits that since the waqf in question is not a Waqf-e-Awlad rather it is a Waqf-e-Lillah and the present petitioner's father Hazi Ahmed Nabi (since deceased) was appointed as mutawalli which has been challenged in the miscellaneous appeal, his son (present petitioner) has no interest, whatsoever, in the matter and he is neither a necessary nor a proper party in the appeal as well as in the matter of appointment of mutawalli by the Waqf Administrator for the reason that the office of mutawalli is not an inheritable office and the right to office does not vest in the heir of the deceased mutawalli.

Heard the learned Advocates of both sides and perused the materials on record.

An important question, which has not been raised by the learned Advocates of both sides, is whether on the death of Haji Ahmed Nabi during pendency of the appeal, whose appointment as mutawalli by the Waqf Administrator was challenged in the miscellaneous appeal, the said appeal has become infructuous. In my view, the appeal has become infructuous for the reason that no question of facts is left for the Court below for adjudication and that the cause of action for filing the appeal is no longer subsists.

When the above-mentioned point was raised before the learned Advocates of both sides, they frankly and candidly conceded that the miscellaneous appeal has become infructuous. Accordingly, the said appeal is dismissed as being infructuous. The Administrator of Waqf (opposite party No. 2) is directed to appoint a mutawalli or to take necessary steps in the matter in accordance with the law within a period of 03(three) months from the date of receipt of the judgment and order.

The instant Rule is disposed of accordingly. Communicate the judgment at once.