

District-Chuadanga .

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

Present:

Mr. Justice Md. Toufiq Inam

Civil Revision No. 5073 of 2024.

Md. Abdur Razzaque and others.

..... Plaintiff-Applicant-Appellants- Petitioners.

-Versus-

Nazim Uddin being dead his heirs Md. Babul Rahman and others.

..... Defendant-Respondent-Opposite Party Nos.1-17.

Laksmi Nesa and others .

..... Proforma-Opposite Party Nos.18-27.

Mr. Mohammad Abdullah Al Masud Advocate

..... For the Plaintiff-Applicant-Appellants- Petitioners.

Ms. Kamrun Nahar Lipi, Advocate

.... For the Defendant- Opposite Party Nos.1-17.

Heard and Judgment Delivered On: 01.07.2025.

Md. Toufiq Inam, J.

This Rule was issued calling upon the opposite party Nos. 1-17 to show cause as to why the judgment and order dated 28.10.2024 passed by the learned District Judge, Chuadanga in Miscellaneous Appeal No. 17 of 2024 disallowing the appeal and thereby affirming the order No.5 dated 21.08.2024 passed by the learned Senior Assistant Judge, Alamdanga, Chuadanga in Title Suit No. 98 of 2024 rejecting the application under Order 39 Rule 1 of the Code of Civil Procedure for temporary injunction filed by the plaintiff-petitioners shall not be set aside and/or such other or further order or orders passed as to this Court may seem fit and proper.

The relevant facts necessary for disposal of the Rule are that the petitioner as plaintiff instituted Title Suit No. 98 of 2024 before the Court of Senior Assistant Judge, Alamdanga, Chuadanga, seeking a declaration of title in respect of the land described in the schedule to the plaint, impleading the opposite parties as defendants. Although the defendant Nos. 1–17 entered appearance, they did not file any written statement.

During the pendency of the suit, the plaintiff-petitioner filed an application under Order XXXIX Rule 1 of the Code of Civil Procedure (CPC) praying for a temporary injunction in respect of the suit property. The trial court rejected the said application. Aggrieved by that order, the plaintiff as appellant preferred Miscellaneous Appeal No. 17 of 2024 before the learned District Judge, Chuadanga, who, by the impugned judgment and order, affirmed the order of the trial court and rejected the prayer for temporary injunction.

Mr. Mohammad Abdullah Al Masud, the learned Advocate appearing for the plaintiff-petitioner, submits that the plaintiff has been in possession of the suit land on the basis of settlement, and the S.A. Khatian No. 229 was correctly prepared and copied in the name of the plaintiff's predecessor. Therefore, according to him, the plaintiff has both title and possession over the suit land.

He contends that both the courts below failed to properly consider the materials on record and misdirected themselves in law by rejecting the prayer for temporary injunction. He further argues that while khatian is evidence of possession, it is not conclusive proof of title; however, documentary title should

prevail, and both courts below failed to appreciate this legal principle, thereby causing an error apparent on the face of the record.

On the other hand, Ms. Kamrun Nahar Lipi, the learned Advocate appearing for the defendant-opposite parties Nos. 1–17, submits that the plaintiff has no title or possession over the suit land. According to her, the suit, if heard on merit, will ultimately be dismissed. She therefore argues that there is no occasion to grant a temporary injunction in favour of the plaintiff, and the courts below rightly rejected the prayer for such relief.

Having heard the learned Advocates for both sides and carefully perused the impugned judgments and orders of the courts below.

It appears that at the time of issuance of the Rule, this Court passed an interim order directing the parties to maintain status quo regarding possession and position of the suit land for a period of four months, which has since been extended and remains in operation.

In view of the interim nature of the order and considering the fact that the question of temporary injunction is closely interlinked with the core issue of title and possession, which are to be decided on evidence during trial. This Court is of the view that the ends of justice would best be served if the trial court is directed to dispose of the suit itself expeditiously, rather than this Court entering into the merits of the temporary injunction application at this stage.

Accordingly, the Rule is disposed of.

The trial court is directed to proceed with the suit in accordance with law and to dispose of the same as expeditiously as possible, and without granting unnecessary adjournments.

The parties are directed to maintain an order of status quo with respect to possession and position of the suit land till disposal of the suit.

Let the judgment be communicated at once.

(Justice Md. Toufiq Inam)

Ashraf /ABO.