

Present:
Mr. Justice Md. Shohrowardi
Civil Revision No. 5272 of 2024
Abdul Kabir....Petitioner
-Versus-
Abdus Sattar and another....Opposite parties
Mr. Kazi Mynul Hassan, Advocate
....For the petitioner
No one appears.
....For the opposite party No. 1
Heard on 29.04.2026 and 10.05.2026
Judgment delivered on 12.05.2026

On an application filed under section 115(1) of the Code of Civil Procedure, 1908 at the instance of the pre-emptee-respondent-petitioner Rule was issued calling upon the opposite parties to show cause as to why the impugned judgment and order dated 14.08.2024 passed by the District Judge, Chapainawabganj in Miscellaneous Appeal No. 29 of 2024 setting aside the order dated 29.04.2024 passed by the Senior Assistant Judge, Chapainawabganj Sadar in Other Class Suit No. 66 of 2024 rejecting the application for temporary injunction against construction of building in the suit land should 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 fact for disposal of the Rule is that opposite party No. 1 Abdus Sattar as plaintiff filed Other Class Suit No. 66 of 2024 under the Mahomedan Law for pre-emption of .035625 acres of suit land sold by the defendant No. 2 Abdur Rahman to the defendant No. 1 Abdul Kabir. During pendency of the suit, the pre-emptor filed an application under Order 39 Rule 1 read with section 151 of the Code of Civil Procedure, 1908, stating that on 10.03.2024, the defendant No. 1 started construction on the suit land and unless the injunction is granted, the pre-emptor shall suffer irreparable loss and injury. The defendant No. 1 filed written objection against the said application stating that after purchasing the land, he constructed a house in the suit land and is now residing thereon. After purchase, the disputed land was mutated in the record of the Poursava, and he took loan from the Rupali Bank, Namoshankarbaty Branch and mortgaged the suit land for securing the loan received by him for construction of the house.

After hearing the parties, the Senior Assistant Judge, Sadar, Chapainawabganj by order dated 29.04.2024 rejected the application filed under order 39 Rule 1 and section 151 of the Code of Civil Procedure, 1908 holding that in the meantime, the defendant mutated the land in his name and obtained design from the local Poursava for construction of the building and construction of

second floor is going on and if the injunction is granted, the defendant shall suffer irreparable loss and injury.

Against the said order, the plaintiff filed Miscellaneous Appeal No. 29 of 2024 in the Court of the District Judge, Chapainawabganj who by judgment and order dated 29.04.2024 granted injunction restraining the defendant No. 1 from forceful construction of the house in the suit land holding that if the construction is allowed to continue multiplicity of suit will arise and if he get the decree, he will not be able to construct the house following the design prepared by him and the plaintiff shall suffer financial loss.

Learned Advocate Mr. Kazi Mynul Hassan appearing on behalf of the petitioner having placed the revisional application and the supplementary affidavit sworn in on 04.05.2026 submits that after purchasing the land from the defendant No. 2, the defendant No. 1 mutated his name in the record of the Poursova and obtained a design from the Poursova to construct a multistoried building on the suit land and in the meantime, the first floor of the building is completed wherein the defendant No. 1 is now residing along with his family and if the injunction is granted, he will suffer irreparable loss and injury. He prayed for setting aside the order granting injunction passed by the appellate Court.

No one appears on behalf of the plaintiff-opposite party No. 1.

I have considered the submission of the learned Advocate Mr. Kazi Mynul Hassan who appeared on behalf of the defendant-petitioner, perused the impugned judgment and order passed by the Courts below, the revisional application and the records.

On perusal of the Annexures-C1, C2, H and J, reveals that after purchasing the disputed land, the defendant-petitioner constructed a one-storey building wherein he is now residing along with his family. Considering the facts and circumstances of the case and the submission of the learned Advocate for the petitioner, I am of the view that ends of justice should be served if the parties are directed to maintain the status quo in respect of the possession, position and construction in the suit land till disposal of the Other Class Suit No. 66 of 2024.

The impugned judgment and order passed by the appellate Court below dated 14.08.2024 is modified with the above findings and observation.

In the result, the Rule is disposed of.

The trial Court is directed to dispose of the suit expeditiously without allowing any adjournment.

The office is directed to communicate the order at once.