

District-Chattogram.

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

Present:

Mr. Justice Md. Toufiq Inam

Civil Revision No. 6055 of 2024.

Gauranga Chandra Shil,

----- Plaintiff-Petitioner.

-Versus-

Md. Ohidul Alam and others.

----- Opposite Parties.

Ms. Ferdousi Begum, Advocate

----- For the Plaintiff-Petitioner.

Mr. Md. Saidul Alam Khan, Advocate

----- For the Opposite Parties.

Heard and Judgment Delivered On: 20.08.2025.

Md. Toufiq Inam, J.

Upon granting leave, this Rule was issued calling upon the opposite parties to show cause as to why the judgment and order of affirmance allowing their application for being impleaded as defendants should not be set aside.

The short facts, relevant for disposal of the Rule, are that the plaintiff instituted a suit for partition of certain ancestral property. During the pendency of the suit, the opposite parties filed an application under Order 1 Rule 10 read with Section 151 of the Code of Civil Procedure, claiming to be co-sharers of the suit property and seeking to be added as defendants. The trial court, after considering the application, allowed it. The order allowing their addition was subsequently affirmed by the lower revisional court. Aggrieved by the concurrent

findings of the courts below, the plaintiff, as petitioner, approached this Court by obtaining the present Rule.

Ms. Ferdousi Begum, learned Advocate appearing for the plaintiff-petitioner, submits that the opposite parties are not co-sharers of the suit property. She contends that both the trial court and the revisional court committed errors of law in allowing their addition without properly examining their title or interest in the property. She further argues that the inclusion of the opposite parties will unnecessarily complicate and delay the pending partition proceedings.

In reply, Mr. Md. Saidul Alam Khan, learned Advocate for the opposite parties, submits that the predecessor of the opposite parties, namely Nanna Mia, had earlier obtained a decree in respect of 4.39 acres of land, and his name has been duly mutated in the record-of-rights. He contends that the portion of land claimed by the opposite parties has been included in the schedule of the present partition suit. Being co-sharers, the opposite parties are necessary parties for the effective adjudication of the suit, and their addition is imperative to ensure that the partition is comprehensive and final.

Mr. Khan further emphasizes that, in a partition suit, even a third person claiming title or interest adverse to the plaintiff and existing defendants is a necessary party. He places reliance on the case reported in 49 DLR (HCD) 60, in which it was held that the inclusion of all persons having a prima facie claim is essential to avoid multiplicity of proceedings and to ensure the finality of the decree.

Having carefully considered the submissions of learned Advocates for both sides and perused the materials on record, this Court finds that the predecessor of the opposite parties, Nanna Mia, obtained a decree and had his name mutated in respect of the suit land. This establishes

that the opposite parties have a prima facie interest in the property claimed in the present partition suit.

It is a settled principle that in a suit for partition, all co-sharers are necessary parties. Inclusion of all co-sharers ensures that the property can be partitioned effectively and finally, preventing future disputes or multiplicity of proceedings. Leaving out any co-sharer could result in an incomplete decree, thereby necessitating further litigation.

While deciding an application under Order 1 Rule 10 CPC, the Court is not required to finally determine the title of the applicant. It is sufficient if the applicant demonstrates a prima facie interest in the subject-matter of the suit. The petitioner has the opportunity to contest the claim of the opposite parties within the main proceedings, and the merits of the claim are to be examined in the substantive suit, not at the stage of party addition.

Allowing the opposite parties to be impleaded at this stage serves the larger interest of judicial discipline and expediency. It prevents fragmentation of proceedings, ensures all parties with a potential interest are before the Court, and avoids unnecessary delays or harassment that may arise if additional co-sharers are brought in later.

In view of the above considerations, it is clear that both the trial court and the revisional court acted correctly in allowing the opposite parties to be added as defendants. There is no error of law or procedural impropriety in their inclusion. The Rule seeking to set aside the orders of the courts below is, therefore, without merit and liable to be discharged.

The Rule is hereby discharged.

There will be no order as to cost.

The interim order of stay granted earlier is hereby recalled and vacated.

The office is directed to communicate this judgment and the Court concerned shall proceed with the partition proceedings accordingly.

(Justice Md. Toufiq Inam)

Ashraf /ABO.