

**In the Supreme Court of Bangladesh  
High Court Division  
(Civil Revisional Jurisdiction)**

Present:

**Mr. Justice Md. Riaz Uddin Khan**

**Civil Revision No. 212 of 2025**

**IN THE MATTER OF :**

An application under section 115(4) of the Code of Civil Procedure

-And-

In the Matter of:

Abul Kashem Razu and others

.....Defendant-Petitioners

Versus

A.S.M Mesbah Uddin and others

...Plaintiff-Opposite Parties

Mr. Md. Maynul Ahsan, Advocate

...For the petitioners

Mr. Muhammad Zainul Abedin, Advocate

...For the Opposite Party Nos. 1-4

**Judgment on: 08.01.2026**

**Md. Riaz Uddin Khan, J-**

Rule was issued calling upon the opposite parties to show cause on the following term: কেন বিজ্ঞ জেলা জজ আদালত, কিশোরগঞ্জ কর্তৃক বিগত ২৮.১০.২০২৪ খ্রিঃ তারিখে সিভিল রিভিশন নং-০১/২০২৪ এর প্রদত্ত রায় দ্বারা বিজ্ঞ যুগ্ম জেলা জজ, ১ম আদালত, কিশোরগঞ্জ কর্তৃক বিগত ০৬/১১/২০২৩ ও ১৬/১১/২০২৩ খ্রিঃ তারিখে ৪২/২০২৩ নং অন্য মোকদমায় বাদী কর্তৃক দাখিলীয় স্থানীয় তদন্ত রিপোর্ট গ্রহন এবং বিবাদীপক্ষে দাখিলীয় স্থানীয় পরিদর্শনের দরখাস্ত নামঞ্জুর আদেশকে বহাল রাখার আদেশ রদ-রহিত হবে না এবং অত্র আদালত এর বিবেচনায় দরখাস্তকারী আরও যে সকল প্রতিকার পাইতে হকদার তাহারও আদেশ কেন দেওয়া হইবে না।

At the time of issuance Rule the operation of the order dated 16.11.2023 passed by the Joint District

Judge, 1<sup>st</sup> Court, Kishoregonj was stayed for a period of 3 months which was extended time to time.

Brief facts for disposal of this Rule are that the opposite party No. 1-4 filed title suit No. 42 of 2023 before the Joint District Judge, 1<sup>st</sup> Court, Kishoregonj for declaration of Title and recovery of Khas possession. At one stage of the trial the plaintiff-opposite parties filed an application for local investigation which was allowed and advocate commissioner submitted his report against which the defendant-petitioners raised objection and the advocate commissioner was examined by the court and thereafter the trial court by order dated 06.11.2023 primarily accepted the report. In the mean time the present petitioners, defendants 1-2, filed an application for local inspection to ascertain whether there is any boundary wall on the north of the suit land. The trial court heard the matter and rejected the application by order dated 16.11.23 on the finding that already on the application of the plaintiffs local investigation has been done and upon examination of the advocate commissioner the report of the local investigation has been primarily accepted by the court.

Against the said orders dated 06.11.2023 and 16.11.2023 the defendant-petitioners filed Civil Revision No.1 of 2024 before the District Judge, Kishoregonj, who upon hearing both the parties by his impugned judgment and order dated 28.10.2024 was also pleased to dismissed the same on the concurrent findings.

Being aggrieved by and dissatisfied with the aforesaid judgment and order passed by the District

Judge, the instant Civil Revision was filed and this Court was pleased to issue Rule after granting leave and passed order of stay as stated at the very outset.

Mr. Md. Maynul Ahsan, the learned advocate appearing for the petitioners submits that the court below committed error of law in not considering the application filed for local inspection as the main contention of the defendants was that a boundary wall has been erected beside the 5-storied building of the defendants. In the local investigation report the Advocate Commission submitted a report in favour of the plaintiffs against the fact that the disputed land is demarcated by boundary wall. This fact can only be revealed by local inspection but both the courts below failed to consider that aspect of the case. The learned advocate then submits that the trial court will be influenced by the said Advocate Commissioner's report at the time of passing the judgment since he has already accepted that report.

Mr. Mohammad Zainul Abedin, the learned advocate appearing for the opposite party Nos.1-4 submits that the trial court rightly found that the facts raised by the defendants in their application for local inspection has already been examined and report has been filed by the Advocate Commissioner in earlier report of local investigation and that report has been accepted primarily and it is to be considered at the time of final hearing of the suit. The learned advocate then submits that when a local investigation has been held regarding the entire subject matter including the noth boundary of the suit land, an application for local inspection on the same subject of noth boundary

cannot be allowed and rightly rejected by the courts below as it will just prolong the suit and nothing else.

I have heard the learned advocates for both the parties, perused the application along with the annexures. I have carefully examined the impugned judgment and orders passed by the courts below.

The trial court by his order dated 16.11.2023 rejected the application for local inspection on the finding that already on the application of the plaintiffs local investigation has been done and upon examination of the advocate commissioner, the report of the local investigation has been primarily accepted by the court by order dated 06.11.2023, hence at the stage there is no scope to allow the application filed by the defendants for local inspection on the same subject which will only prolong the suit.

It appears from impugned judgment and order passed by the learned District Judge, that he examined the earlier submitted report of the local investigation and found that in that report the location, amount and structures on the suit land and the topographic feature/map of the land has been stated in details and there is also description regarding the north boundary of the suit land that a wall of plinth level is there. The judge opined that whether that wall is the boundary wall or not is a matter of evidence which can be proved by the parties by adducing evidence.

It is well settled that the Advocate Commissioner's report regarding the local investigation is not an exclusive evidence rather it is a piece of evidence which is to be considered along with other

oral and documentary evidence. The trial court as well as the Appellate Court rightly accepted the report as prima-facie evidence to be considered at the time of final hearing along with other evidence on record and in that view rejected the application for local inspection while local investigation has earlier been held. I find that the Appellate Court considering all aspect giving cogent reason rightly dismissed the appeal of the defendant-petitioners on their application for local inspection. I find no reason to interfere at the concurrent finding of facts of the courts below. The instant Rule has no merits.

In the result the Rule is **discharged** with cost.

The order of stay granted earlier by this Court stands vacated.

The trial court is at liberty to proceed with the suit.

Communicate the judgment and order at once.