

Bench:

Mr. Justice Md. Ali Reza

Civil Revision No. 294 of 2025

Mohammad Selim and others

.....petitioners

-Versus-

Rokeya Begum and others

.....opposite parties

Mr. Mokarramus Shaklan with

Mr. Jahir Uddin, Advocates

.....for the petitioners

Mr. Ruhul Amin with

Mr. Md. Habibur Rahman, Advocates

.....for the opposite parties

Heard on: 09.12.2025 and 14.12.2025

Judgment on: 17.12.2025

In the instant revision Rule was issued on 30.01.2025 calling upon the opposite parties 1-2 to show cause as to why the impugned judgment and order dated 10.11.2024 passed by the Additional District Judge, 9th Court, Chattogram in Miscellaneous Appeal Number 09 of 2024 affirming the judgment and order dated 29.11.2023 passed by the Senior Assistant Judge, 5th Court, Chattogram in Other Suit Number 405 of 2023 passing an order of injunction should not be set

aside and/or such other of further order or orders passed as to this Court may seem fit and proper.

Opposite parties as plaintiff filed Other Suit Number 405 of 2023 in the court of Senior Assistant Judge, 3rd Court, Chattogram on 19.10.2023 for permanent injunction and in the suit filed an application for temporary injunction on the same day on the assertion that plaintiffs are the successive heirs of R.S. recorded tenant and they have been maintaining title and possession in the suit land measuring 6 decimals of land within specific boundary as mentioned in the schedule to the plaint. Defendants have no title and possession in the suit land and they have no right to evict the plaintiffs from the suit land illegally by force. Defendants threatened the plaintiffs on 11.10.2023 with dispossession from the suit homestead and shop and to disconnect and remove all the meters of water, gas and electricity and also with changing the nature and feature of the suit property for which plaintiffs lodged a general diary number 840 on 12.10.2023 with the Bayezid Bostami Police Station. Plaintiffs have got *prima facie* arguable case and shall suffer irreparable loss and injury in the event of refusal temporary injunction.

Petitioners as defendants 1-3 filed written objection on 08.11.2023 contending that the predecessor of defendants acquired the suit land along with other lands by judgment and decree passed in Other Suit Number 84 of 1991 filed for partition. The instant suit and application for temporary injunction have got no merit because plaintiffs have no title and possession over the entire suit land except in some minor portion. The balance of convenience and inconvenience is in favour of the defendants and the application for temporary injunction is liable to be rejected.

The Assistant Judge allowed the application for temporary injunction by judgment and order dated 29.11.2023. As against the same defendants preferred Miscellaneous Appeal Number 09 of 2024 before the District Judge, Chattogram which on transfer was heard by the Additional District Judge (in charge), 9th Court, Chattogram who was pleased to dismiss the appeal by judgment and order dated 10.11.2024.

Being aggrieved by and dissatisfied with the order passed by the appellate court defendants preferred this revision in this Court and obtained rule on 30.01.2025.

Mr. Mokarramus Shaklan along with Mr. Jahir Uddin, learned Advocates appearing on behalf of the petitioners submits that the petitioners' father got saham in Other Suit Number 84 of 1991 in respect of the suit land along with other lands but the courts below did not consider this material aspect of the case thus committed error of law resulting in an error in such order occasioning failure of justice in allowing temporary injunction in favour of the opposite parties upon wrongful consideration and the impugned judgment and order passed by both the courts below being perverse and misconceived is liable to be set aside.

On the other hand Mr. Ruhul Amin along with Mr. Md. Habibur Rahman, learned Advocates appearing on behalf of the opposite parties submits that the courts below upon perusal of the record rightly found the *prima facie* case in favour of the plaintiffs and correctly granted the order of temporary injunction in favour of the opposite parties which calls for no interference by this court and the courts below committed no error of law in granting the injunction and the impugned judgment and order passed by both the courts below being got along in accordance with law stands good. In support of his submission he refers to the case of Kalur Hat KC Bilateral

School Vs. Sabbir Hossain Chowdhury and others reported in 52 DLR(DB) 102.

Heard the learned Advocates for both sides and gone through the order of the courts below and perused the materials on record as well as the revisional application with the documents appended thereto.

Plaintiffs claim that the suit land belonged to Kabir Ahmed and Gonu Mia and R.S. record numbers 3360 and 1774 were prepared in their names and subsequently B.S. khatian 1669 was also prepared in their names. Kabir Ahmad transferred 3 decimals of land to Mohammad Idris by kabala dated 07.01.1985. Gonu Mia also sold 3 decimals of land to Mohammad Idris on the same date. Idris then mutated his name in Mutation Case Number 2267/1991-92 and took all utility connections. Subsequently he made an oral gift in favour of his wife named Parveen Ara Begum on 19.11.1994 and in respect thereof the declaration executed by Idris before notary public on 29.12.1994 was lost. Subsequently Parveen transferred the suit land to her two daughters who are the plaintiffs in this suit by gift deed bearing number 12365 dated 14.08.2023.

On the other hand defendants claim that Atorjan acquired the property by mortgage and died leaving behind three sons named Moktal, Moklesur, Mohammad Miah Hossain and daughter Masuda. Moktal and Masuda died issueless. Moklesur died leaving behind wife Mehernigar who sold the suit land to Mir Ahmad on 22.07.1969 and predecessor of defendants named Tofazzal purchased the same from Mir Ahmad on 23.04.1978. Tofazzal who is the son of Mohammad Miah also filed a partition suit and obtained exparte decree for which miscellaneous appeal is pending.

From reading of written objection it appears that defendants admit the fact that the first wife of Dula Miah named Lutfunnessa died leaving behind son Bashirullah who died leaving behind his heirs named Kabir Ahmad and Gonu Mia in whose names R.S. khatian numbers 3360 and 1774 were prepared but on the other hand it is also the case of the defendants that the second wife of Dula Miah named Atorjan acquired the suit property through mortgage. Thus the claim of the defendants appears to be contradictory and it also appears that the predecessor of plaintiffs named Idris who has claimed the title through purchase from Gonu Mia on 07.01.1985 is admitted by the defendants. Plaintiffs also mutated their names

in B.S. khatian and took gas, water, electricity connections. Plaintiffs were threatened with dispossession for which they were compelled to lodge a general diary number 840 on 12.10.2023 with the Bayezid Bostami Police Station. Thus it is clear that plaintiffs have got *prima facie* title and possession in the suit land with specific boundary and the balance of convenience and inconvenience is in favour of the plaintiffs and in favour of granting injunction prayed for and the plaintiffs shall suffer irreparable loss and injury in the event of any forcible dispossession at the hands of the defendants otherwise than in due course of law and for such reason order of temporary injunction is required to be passed under order 39 rules 1 and 2 of the Code of Civil Procedure and also for the ends of justice and equity.

Considering the facts and circumstances of the case it appears that the courts below correctly granted the order of temporary injunction as prayed for by the plaintiffs restraining the defendants from causing mischief.

I therefore find no merit in this rule. In the result the rule is discharged.

The judgment and order passed by both the courts below is maintained.

The order of *status quo* passed by this Court stands vacated.

Communicate this judgment to the concerned at once.

Md. Ali Reza, J:

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