

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

Present:

Mr. Justice Zafar Ahmed

Civil Revision No. 5810 of 2024

In the matter of:

Shah Mamun Rumi and another

Petitioners

-Versus-

Md. Amirul Huda (Kamal) and others

Opposite parties

None

...For the petitioners

Mr. Md. Tarikul Islam Khan, Advocate

... For the opposite party Nos. 1-2

Heard on: 26.06.2025, 09.07.2025 and 13.07.2025

Judgment on: 15.07.2025

In the instant civil revision, this Court issued a Rule on 02.12.2024 calling upon the opposite party Nos.1 and 2 to show cause as to why the judgment and order dated 21.10.2024 passed by the learned Senior District Judge, Dhaka in Civil Revision No. 230 of 2024 summarily rejecting the revision and thereby affirming the order dated 15.07.2024 passed by the learned Senior Assistant Judge, 4th Court, Dhaka in Title Suit No. 39 of 2021 rejecting the application filed by the defendant-petitioner Nos. 1-4 and 6-7 under Order 7 Rule

11 of the Code of Civil Procedure for rejection of the plaint should not be set aside and/or such other or further order or orders passed as to this Court may seem fit and proper.

At the time of issuance of the Rule, this Court passed an interim order staying all further proceeding of Title Suit No. 39 of 2021 pending before the learned Senior Assistant Judge, 4th Court, Dhaka.

Defendant Nos. 1 and 2 are petitioners before this Court. None appeared for the petitioners when the Rule was taken up for hearing. I have heard the learned Advocate appearing for the plaintiff-opposite party Nos. 1-2.

The present opposite party Nos. 1-2 as plaintiffs filed Title Suit No. 235 of 2020 in the Court of Joint District Judge, 5th Court, Dhaka impleading the present petitioners and others as defendants praying for declaration of title in the suit land and for further declaration that the suit land was wrongly recorded in the name of the principal defendant Nos. 1-8 in Dhaka City Jarip Khatian No. 2911 plot No. 3756 and for a direction upon the concerned defendants to prepare the records-of-right in the name of the plaintiffs. The suit was transferred to the Court of Senior Assistant Judge, 4th Court, Dhaka and was renumbered as Title Suit No. 39 of 2021.

Principal defendant Nos. 1-4, 6 and 8 filed an application before the trial Court for rejection of the plaint on the ground that in respect

of the suit land, earlier the plaintiffs on 18.03.2008 filed Land Survey Tribunal Case No. 221 of 2008 before the Land Survey Tribunal, Dhaka which was rejected on 03.11.2022. It was further stated in the said application for rejection of the plaint that the defendants purchased the suit land from the previous owner. The plaintiffs filed written objection against the application for rejection of the plaint.

The trial Court, vide order dated 15.07.2024 rejected the application filed by the defendants holding that the Land Survey Tribunal Case was dismissed not on merit but for default of the plaintiffs. The trial Court further held that the Land Survey Tribunal Case was filed for correction of the records-of-right, not for declaration of title whereas the instant suit has been filed for declaration of title. The trial Court further observed that the Land Survey Tribunal has no jurisdiction to determine the title of the suit land and as such, the instant suit is maintainable.

Challenging the order of the trial Court, the defendants filed Civil Revision No. 230 of 2024 which was heard and disposed of by the learned District Judge, Dhaka, who, vide judgment and order dated 21.10.2024 upheld the judgment and order of the trial Court and rejected the civil revision. Challenging the same, the defendant Nos. 1 and 2 have filed the instant civil revision and obtained the Rule.

The instant suit has been filed for declaration of title. The earlier Land Survey Tribunal case was filed by the present plaintiffs for correction of the records-of-right which was dismissed for default for non-appearance of the plaintiffs, not on merit. The Land Survey Tribunal has no jurisdiction to determine the question of title. A plaint can be rejected on any of the grounds mentioned in Order VII rule 11 of the Code of Civil Procedure (CPC). The Courts below rightly held that the application for rejection of the plaint does not fall within any of the ingredients mentioned in Order VII rule 11 of the CPC. Hence, I find no merit in the Rule.

In the result, the Rule is discharged.