

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

Present:

Mr. Justice S M Kuddus Zaman

CIVIL REVISION NO.300 OF 1998

In the matter of:

An application under Section 115(1) of the Code of Civil Procedure.

And

The Khepupara Central Co-operative Sale and Supply Society Limited

.... Petitioner

-Versus-

Government of Bangladesh

.... Opposite party

None appears

.... For the petitioner.

Mr. Md. Saifur Rahman, Deputy Attorney General with

Mr. Md. Moshihur Rahman, Assistant Attorney General

Mr. Md. Mizanur Rahman, Assistant Attorney General

Mr. Md. Arifur Rahman, Assistant Attorney General

....For the opposite party.

Heard on 18.08.2025 and Judgment on 20.08.2025.

This Rule was issued calling upon the opposite party No.1 to show cause as to why the impugned judgment and decree dated 09.01.1997 passed by the Sub-ordinate Judge, 1st Court, Patuakhali in Title Appeal No.67 of 1996 affirming the judgment and decree dated 07.04.1996 passed by the learned Assistant Judge, Kalapara, Patuakhali in Title Suit No.21 of 1986 should not be set aside and/or pass such

other or further order or orders as to this Court may seem fit and proper.

Facts in short are that disputed 46 decimal land was recorded in the name of the Government in both R. S. and S. A. Khatians. The petitioner as plaintiff instituted above suit for declaration of title by adverse possession for above 46 decimal land appertaining to S.A. Khatian No.1 alleging that the petitioner is in possession in above land since 1961 and running business by erecting godown and shops for storage and distribution of goods among local people. On the basis of above erroneous record in S. A. Khatian defendant denied plaintiffs title in above land.

Defendant No.1 contested above suit by filing written statement alleging that disputed land comprises Mohipur hat and the plaintiff does not have any right, title, interest and possession in above land. Above land was correctly recorded in the name of the Government in both R. S. and S. A. Khatian.

At trial plaintiff examined 3 witnesses and defendant examined 1. Documents of the plaintiff were marked as Exhibit Nos.1-3 but the defendant did not produce any document.

On consideration of the facts and circumstances of the case and evidence on record the learned Assistant Judge, Kalapara, Patuakhali dismissed above suit.

Being aggrieved by above judgment and decree of the trial Court above plaintiff as appellant preferred Title Appeal No.67 of 1996 to the District Judge, Patuakhali which was heard by the learned Sub-ordinate Judge who dismissed above appeal and affirmed the judgment and decree of the trial Court.

Being aggrieved by and dissatisfied with above judgment and decree of the Court of Appeal below above appellant as petitioner moved to this Court with this Civil Revisional application under Section 115(1) of the Code of Civil Procedure and obtained this Rule.

No one appears on behalf of the petitioner at the time of hearing of this Rule although this matter was sent to this Court by the Hon'ble Chief Justice for hearing and this matter appeared in the list on several dates.

Mr. Md. Moshihur Rahman, learned Assistant Attorney General for the opposite party submits that admittedly disputed property belongs to the Government and the same was correctly recorded in relevant R. S. and S. A. Khatians. On the disputed land Mohipur hat is situated and the plaintiff does not have any right, title, interest and possession in above land. The learned Advocate lastly submits that in the plaint or in the evidence of PW1 there is no date or manner of entry of the plaintiff into possession of above land nor there is any claim that the plaintiff possessed above land on claim of title. On consideration of above materials on record the learned Judges of both

the Courts below correctly and concurrently held that the plaintiffs could not prove by legal evidence their continuous and peaceful possession in above land against the real owners constituting title by adverse possession. Above concurrent findings of the Courts below being based on evidence on record this Court cannot in its revisional jurisdiction interfere with above concurrent findings of facts.

I have considered the submissions of the learned Assistant Attorney General and carefully examined all materials on record.

It turns out from plaint that the Khepupara Central Co-operative sale and Supply Society Limited is the plaintiff of above suit but the suit has been filed by Executive Officer of Supply Society Limited. PW1 Abdur Rashid Miah stated that he was the Upazilla Co-operative Officer of the Government of Bangladesh. The plaintiff claims title in above land adversely against the Government. As such it is not understandable as to how a Government Officer could give evidence against the Government as PW1. PWs examined in this suit did not provide an explanation as to how the Executive Officer of Supply Society Limited could file this suit for the Khepupara Central Co-operative Sale and Supply Society Limited.

As mentioned above plaintiff claimed title by adverse possession but in the plaint there is no mention of the date when and the manner now the plaintiffs entered into possession of above land. If the entry into possession of the was lawful then the plaintiff was required to

mention as to when and how above possession became adverse to the real owner. It has been merely stated that above land was abandoned land and the plaintiff erected structures and started storing goods temporarily for distribution among the local people. There is no claim that the plaintiff above possession was on the basis of claim of title which was adverse to the real owner.

On consideration of above facts and circumstances of the case and evidence on record I am unable to find any illegality or irregularity in the concurrent findings of the learned Judges of the Courts below that the plaintiffs could not prove their claim of title in above 46 decimal land by way of adverse possession by legal evidence nor I find any substance in this Civil Revisional Application under Section 115(1) of the Code of Civil Procedure and the Rule issued in this connection is liable to be discharged.

In the result, this Rule is hereby discharged.

However, there will be no order as to costs.

Send down the lower Courts records immediately.