

Present:
Mr. Justice Md. Shohrowardi
Civil Revision No. 902 of 2025
Most. Shamsun Nahar....Petitioner
-Versus-
Md. Azizur Rahman Khan and others....Opposite parties
Mr. Kazi Amjad Hossain, Advocate
....For the petitioner
Ms. Nurjahan Khatun, Advocate
....For the opposite party Nos. 1 to 4
Heard on 12.08.2026
Judgment delivered on 12.08.2026

On an application under section 115(4) of the Code of Civil Procedure, 1908 Rule was issued calling upon the opposite parties to show cause as to why the impugned judgment and order dated 30.01.2025 passed by the Additional District Judge, Court No. 1, Kushtia in Civil Revision No. 21 of 2024 affirming the order No. 08 dated 03.04.2024 passed by the Senior Assistant Judge, Sadar, Kushtia in Title Suit No. 243 of 2023 rejecting the application for rejection of plaint filed by the defendant-petitioner and allowing the application for amendment of the plaint filed by the plaintiff-opposite parties should not be set aside and/or passed such other or further order or orders as to this Court may deem fit and proper.

The relevant facts for disposal of the Rule are that the opposite party Nos. 1 to 4 as plaintiffs filed Title Suit No. 243 of 2023 in the Court of Senior Assistant Judge, Kushtia, praying for a decree of partition impleading the petitioner as defendant No. 1 who entered appearance on 28.08.2023 in the suit by filing a written statement. After filing the written statement, the defendant No. 1 filed an application under Section 151 of the Code of Civil Procedure, 1908 for rejection of plaint. After that, the plaintiff filed an application on 14.02.2024 under Order VI Rule 17 for amendment of the plaint. After hearing the parties, the trial Court, by order dated 03.04.2024, rejected the application for rejection of plaint and allowed the application for amendment of the plaint, against which the defendant No. 1 filed Civil Revision No. 21 of 2024 in the Court of the District Judge, Kushtia. The Additional District Judge, Court No. 1, Kushtia heard the civil revision and, by the impugned judgment and order dated 30.01.2025, rejected the revisional application, affirming the order dated 03.04.2024 passed by the trial Court, against which the defendant No. 1 filed this application under section 115(4) of the Code of Civil Procedure, 1908 and obtained a rule.

Learned Advocate Mr. Kazi Amjad Hossain, appearing on behalf of the defendant-petitioner, submits that the predecessor of the defendant No. 1 obtained judgment and decree in Title Suit No. 20 of 2009 against the predecessor of the

plaintiff, which has not been challenged by the defendant before any Court, for which the instant suit is barred by the principle of res judicata under section 11 of the Code of Civil Procedure, 1908. Therefore, both the Courts below committed an error of law resulting in an error in the decision, occasioning failure of justice. He prayed for making the Rule absolute by setting aside the impugned judgments and orders passed by the Courts below.

Learned Advocate Ms. Nurjahan Khatun, appearing on behalf of the plaintiff-opposite party Nos. 1 to 4, submits that all the heirs of Ramjan Ali Sheikh, the predecessor of the plaintiffs, were not impleaded as defendants in the Title Suit No. 20 of 2009 and by practicing fraud upon the Court and by false personation of Anwar Ali, the predecessor of the defendant obtained the exparte judgment and decree in Title Suit No. 20 of 2009 for which, the plaintiffs amended the plaint praying for a declaration that the exparte judgment and decree passed in Title Suit No. 20 of 2009 without impleading all the heirs of Ramjan Ali Sheikh is fraudulent and not binding upon the plaintiffs and also prayed for amendment of the plaint stating that the deed No. 9044 dated 25.07.1970 is liable to be cancelled. She further submits that no case under Section 151 of the Code of Civil Procedure, 1908 is made out in the application for rejection of plaint and no written objection has been filed against the application for amendment of the plaint. Therefore, the Courts below legally passed the impugned judgments and orders following the law. She prayed for discharging the Rule.

I have considered the submissions of the learned Advocates of both the parties, perused the revisional application, impugned judgments and orders passed by the Courts below, and the records.

On perusal of the application filed by the defendant No. 1 under Section 151 of the Code of Civil Procedure, 1908, it reveals that the defendant stated new facts in the application for rejection of the plaint which can only be adjudicated after recording evidence during trial of the case. In the application for amendment of plaint, it has been asserted that all the heirs of Ramjan Ali Sheikh were not impleaded as defendants in Title Suit No. 20 of 2009 and by false personation of Anwar Ali, the deed No. 9044 dated 25.07.1970 was registered.

On perusal of the application filed by the plaintiffs for amendment of the plaint, it further reveals that the nature and character of the suit land will not be changed due to amendment of the plaint and the proposed amendment is required for proper adjudication of the dispute between the parties. No written objection has been filed by the defendant against the application under Order VI Rule 17 of the Code of Civil Procedure, 1908. I am of the view that both the

Courts below, on consideration of the applications filed by both the parties, legally passed the impugned judgments and orders.

It further reveals that at the time of filing the revisional application under section 115(4) of the Code of Civil Procedure, 1908 against the order passed by the revisional Court, no leave was prayed for and the Rule was issued without granting leave. Therefore, the instant Rule is not maintainable in law.

I find no merit in the Rule.

With the above findings and observations, the Rule is discharged.

The ad-interim order of stay granted at the time of issuance of the Rule is hereby vacated. However, for ends of justice, the order of status quo in respect of possession and position of the suit land passed at the time of issuance of the Rule shall continue till disposal of the suit.

The trial Court is directed to dispose of the suit expeditiously.

There will be no order as to costs.

Send down the lower Court's records at once.