

District-Mymensingh.**IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(CIVIL REVISIONAL JURISDICTION)****Present:****Mr. Justice Md. Toufiq Inam****Civil Revision No. 1276 of 2025.**

Mst. Amina Khatun and others.

---- 3rd Party Petitioner.

-Versus-

Union Bhumi Shahakari Karmakarta and others.

---- Defendant-Appellant-Opposite Party Nos. 1-5.

Abdur Razzaque.

---- Plaintiff-Respondent-Opposite Party No.6.

Sree Ajit Kumar Banik and others.

---- Defendant-Respondent-Opposite Party Nos.07-32

Mr. Md. Hammad Emdad Hossain, Advocate

---- For the 3rd Party Petitioner.

Mr. Shishir Kanti Mazumder, Advocate

---- For the Plaintiff-Respondent-Opposite Party No.6.

Judgment Delivered On: 25.02.2026.**Md. Toufiq Inam, J:**

This Rule, at the instance of the petitioners, was issued calling upon the opposite party Nos. 1-6 to show cause as to why the order dated 07.01.2025 passed by the learned Additional District Judge, 1st Court, Mymensingh in Other Appeal No. 91 of 2022, rejecting an application under Order I Rule 10(2) read with section 151 of the Code of Civil Procedure for addition of party, should not be set aside.

Opposite party No. 6 as plaintiff instituted Other Suit No. 69 of 2015 against the Government seeking declaration of title and recovery of possession in respect of the suit property. The suit was decreed on contest. Being aggrieved, the original defendants preferred Other Appeal No. 91 of 2022, which is presently pending before the appellate court.

During pendency of the appeal, the present petitioners, claiming themselves to be the legal heirs of the plaintiff's original vendor, late Abdul Mazid Master, filed an application under Order I Rule 10(2) read with section 151 of the Code of Civil Procedure seeking to be added as respondents in the appeal. The appellate court, upon hearing, rejected the application. Challenging the said order, the petitioners have moved this Court in revision.

The learned appellate court held that the deeds executed by Abdul Mazid Master in favour of the plaintiff were produced and proved in the trial court by calling for the relevant volume from the office of the Sub-Registrar. The deeds are more than thirty years old and thus carry presumption of due execution under section 90 of the Evidence Act. In such circumstances, the heirs of the vendor are neither necessary nor proper parties in the appeal arising out of the said suit.

It further appears from the record that the present petitioners have already instituted a separate suit challenging the genuineness of the said deeds, which is still pending. Now, the question before this Court is whether the appellate court committed any illegality or material irregularity in rejecting the prayer for addition of party.

Order I Rule 10(2) of the Code empowers the Court to add a party whose presence is necessary for effective and complete adjudication of the issues involved in the suit or proceeding. A necessary party is one without whom no effective decree can be passed. A proper party is one whose presence enables the Court to completely and effectually adjudicate upon the matters in controversy. In the present case, the controversy in the appeal is confined to the correctness of the decree passed in favour of the plaintiff on the basis of the deeds executed by Abdul Mazid Master. The validity and evidentiary value of those deeds were considered in the trial upon proper proof. The petitioners, being heirs of the vendor, do not claim any independent title in the present appeal; rather, their grievance relates to the genuineness of the deeds themselves, which they have already put in issue in a separate suit.

If the petitioners are aggrieved by the deeds allegedly executed by their predecessor, their remedy lies in the pending suit instituted by them. The appellate court, in an appeal between the original parties to

the suit, is not required to adjudicate upon fresh claims introduced by third parties who were neither parties to the suit nor shown to have any subsisting interest directly affected by the decree under appeal. Mere apprehension that the appellate decree may affect their interest does not *ipso facto* make them necessary parties, particularly when their challenge to the deeds is sub judice in a separate proceeding.

In the circumstances, this Court finds that the learned appellate court exercised its discretion judiciously and committed no illegality or material irregularity in rejecting the application for addition of party.

Accordingly, the Rule is discharged.

The order dated 07.01.2025 passed by the learned Additional District Judge, 1st Court, Mymensingh in Other Appeal No. 91 of 2022 is hereby affirmed.

There shall be no order as to costs.

The interim order of stay stands vacated. Communicate this judgment at once.

(Justice Md. Toufiq Inam)