

Present :

Mr. Justice Md. Lutfur Rahman

Civil Revision No. 1600 of 2025

Md. Abul Bashar Molla and others

Defendant Nos 29(Ka) to 29 (Cha)

... Petitioners

-vs-

Atabur and others

..... Opposite parties

Mr. Ahmed Nowshed Jamil, Senior

Advocate with

Mr. Fatima Nasrin, Advocates

.... For the petitioners

Mr. Md. Shafiuddin Bhuiyan, Advocate

.....for the opposite parties

Heard on 21.10.2025, 23.10.2025

Judgment on 13.11.2025

This Rule has been issued calling upon the opposite party nos. 1-6 to show cause as to why the impugned Order no. 05 dated 29.04.2025 passed by the learned Joint District Judge, 1st Court, Narayangonj in Miscellaneous Appeal No. 15 of 2025 keeping the application for temporary injunction lying with the records should not be set aside and/or such other or further order or orders passed as to this Court may seem fit and proper.

Short facts, for disposal of the Rule, are that the present opposite party nos. 7-21 as plaintiffs instituted Title Suit No. 487 of

2008 in the Court of learned Joint District Judge, Second Court, Narayangonj for declaration that R.S. khatian in respect of the suit land is erroneous and for partition. Subsequently the suit was transferred to the Court of Senior Assistant Judge, Sonargaon, Narayangonj wherein the suit was re-numbered as Title Suit No. 91 of 2021. The specific case of the plaintiffs, in short, is that land measuring 490 decimals appertaining to C.S. khatian no. 135 belonged to Mosto Sheikh. He died leaving behind 3 sons namely Mokter Munshi, Ektar Munshi and Binu Munshi who inherited $163\frac{33}{100}$ decimals of land each. Mukter Munshi died leaving behind 5 sons namely Ibrahim, Idris Ali, Abdul Hakim, Abed Ali and Subed Ali and S.A. khatian was prepared in their names. S.A. recorded tenant Idris Ali died leaving behind defendant nos. 2-8 as his legal heirs. Abdul Hakim died leaving behind 2 sons namely Habi Rahman and Atabur and 3 daughters namely Dilowara, Rahima and Momela. Habi Rahman died leaving behind one son Bachchu Miah and one daughter Baby Akhter. Bachchu Miah died leaving behind defendant nos. 13-14 as his legal heirs. Dilwara died leaving behind defendant nos. 15-17 as her legal heirs. Abed Ali died leaving behind 2 (two) sons namely Tofazzel Hossain and Tobarak Hossain and 1(one) daughter namely Hosneara Begum. Tobarak Hossain died leaving behind defendant Nos. 20-23 as his legal heirs. Subed Ali died leaving

behind defendant nos. 24-28 as his legal heirs. Bishnu Munshi @ Binu Munsu died leaving behind 2 (two) sons Jahur Ali and Sukkur Ali and a daughter namely Alesa Bibi. Jahur Ali died leaving behind 2(two) sons namely Mofizul Islam, Nazrul Islam and 2(two) daughters namely Rehan Bibi and Nilu Begum. Nazrul Islam died leaving behind plaintiff nos. 2-6 as his legal heirs. S.A. recorded tenant Anesa Bibi died leaving behind 2 (two) daughters Shahitun and Mohitun. Mohitun died leaving behind Ali Hossain (plaintiff no. 15) and defendants nos. 30-31 as her legal heirs. Defendants denied to make amicable partition on 14.06.2008 and hence the suit.

Pending hearing of the suit plaintiffs filed an application for temporary injunction under Order 39 Rule 1 and 2 readwith section 151 of the Code of Civil Procedure against the defendant nos. 1(ka), 20, 21, 26 and 27 alleging the plaint case and contending inter alia that those defendants on 08.01.2016 tried to dispossess the plaintiffs from the suit land and as such they are required to be restrained by process of law.

On the other hand, defendant nos. 29(ka)-29(cha) also filed an application for temporary injunction under Order 39 Rule 1 and 2 readwith section 151 of the Code of Civil Procedure against the defendant nos. 09, 10, 20, 21, 24, 26 and 27 contending inter alia that C S recorded tenant Mosto Sheikh had 3 sons namely Mokter Munshi,

Bishnu Munshi and Ekter Munshi. Those 3 sons owned the land equally left by Mosto Sheikh. Ekter Munshi got 16 anna share measuring 78 decimals of land appertaining to plot no. 68. Ekter Munshi while possessing 110 decimal of land from plot no. 67 the same was recorded in R S plot No. 148, 151, 152, 157 under R S khatian no. 79. Ekter Munshi erected homestead in the suit land and thereby died leaving behind his son namely Kalai. Kalai died leaving behind a son namely Fazlul Haque (defendant No. 29). Defendant No. 29 died leaving behind 3 sons, 3 daughters and 1 wife i.e defendant nos. 29(ka) to 29(cha) as his legal heirs. Defendant nos. 9, 20, 21, 24, 26, 27 are rioters and they are now trying to dispossess these defendants and as such they are required to be restrained by process of law.

Thereafter, the learned Senior Assistant Judge, Sonargaon Adalat, Narayangonj after hearing the parties was pleased to reject both the injunction applications by order no. 91 dated 06.02.2025.

Being aggrieved by and dissatisfied with the said order dated 06.02.2025, defendant nos. 29 (ka) to 29(cha) as appellants preferred Miscellaneous Appeal No. 15 of 2025 before the learned District Judge, Narayangonj on 10.03.2025 praying for temporary injunction. The appeal was transferred to the Court of the Joint District Judge, 1st Court, Narayangonj for hearing. In the meantime, the defendant nos.

29 (Ka) to 29 (Cha) the appellants preferred an application for ad-interim injunction on 29.04.2025 during pendency of the Miscellaneous appeal. The learned Joint District Judge, 1st Court, Narayanganj was pleased to keep the said application for temporary injunction lying with record by the impugned order no. 05 dated 29.04.2025.

Being aggrieved by and dissatisfied with the said Order no. 05 dated 29.04.2025 passed by learned Joint District Judge, 1st Court Narayanganj in Miscellaneous Appeal No. 15 of 2025 keeping the application for ad-interim injunction lying with the records the defendant nos. 29 (kha) to 29 (cha)-appellants being petitioners preferred this revisional application under section 115 of the Code of Civil Procedure before this Court and obtained the instant Rule and status quo.

Mr. Ahmed Nowshed Jamil, learned Advocate with Ms. Fatima Nasrin, the learned Advocate appearing on behalf of the petitioners submits that the plaintiffs filed an application for temporary injunction under Order 39 Rule 1 and 2 read with section 151 of the Code of Civil Procedure against the defendant nos. 1(ka), 20, 21, 26, 27 alleging the plaint case and contending inter alia that those defendants on 08.01.2016 tried to dispossess the plaintiffs from the suit land and as such they are required to be restrained by process of law. The suit

defendant nos. 29(ka) to 29(cha), present petitioners also filed an application for temporary injunction under Order 39 Rule 1 and 2 read with section 151 of the Code of Civil Procedure against the defendant nos. 09, 10, 20, 21, 24, 26 and 27 contending inter alia that C S recorded tenant Mosto Sheikh had 3 sons namely Mokter Munshi, Bishnu Munshi and Ekter Munshi. Those 3 sons owned the land equally left by Mosto Sheikh. Ekter Munshi got 16 anna shares measuring 78 decimals of land appertaining to plot no. 68. Ekter Munshi while possessing 110 decimals of land from plot no. 67 the same was recorded in his name under R.S. plot Nos. 148, 151, 152, 157 under R.S. khatian no. 79. Ekter Munshi erected homestead in the suit land and thereby died leaving behind Kalai. Kalai died leaving behind a son namely Fazlul Haque (defendant No. 29). Defendant no. 29 died leaving behind 3 sons, 3 daughters and 1 wife i.e. defendant no. 29(ka) to 29(cha) as his legal heirs. Defendant nos. 9, 20, 21, 24, 26, 27 are rioters and they are now trying to dispossess these defendants and as such they are required to be restrained by process of law.

The learned Senior Assistant Judge, Sonargaon Adalat, Narayangonj after hearing the parties was pleased to reject both the injunction applications by Order no. 91 dated 06.02.2025.

Being dissatisfied with the said order dated 06.02.2025, defendant nos. 29 (ka) to 29(cha) as appellants preferred Miscellaneous Appeal No. 15 of 2025 on 10.03.2025 before the learned District Judge, Narayangonj praying for temporary injunction and on transfer the appeal came up for hearing before the Joint District Judge, 1st Court, Narayangonj. They also filed an application for ad-interim injunction on 29.04.2025. The learned Joint District Judge, 1st Court, Narayangonj was pleased to keep the said application for ad-interim injunction lying with record by the impugned Order no. 05 dated 29.04.2025 without considering the facts and circumstances and urgency of the application occasioning grave failure of Justice.

However, defendant nos. 9, 20, 21, 24, 26, 27 corresponding to respondent nos. 17, 27, 28, 31, 32 and 33 filed written objection on 29.04.2025 to the application for temporary injunction and they also received the copy the prayer for ad-interim injunction on 29.04.2025 with objection. The essence of the written objection of those defendants are that they denied the material allegations contending inter alia that land measuring 49 decimals appertaining to C.S khatian No. 135 and 299 decimals of land appertaining to C.S khatian No. 40 belonged to Mosto Sheikh. Mosto Sheikh during his lifetime executed a Wasiatnama in favour of Jatroi, Ekabbor and Isabdi covering 299 decimals of land of C.S khatian No. 40 and 490 decimals of land of

C.S khatian No. 135. After the death of Mosto Sheikh 'Ka' scheduled land as described in the "Ka" schedule of the Wasiatnama was owned by Mokhter Munshi and Bishnu Munshi and 299 decimals of land as described in the "Kha" schedule of the plaint was owned by Jatroi, Ekabbor and Isabdi. Mokhter Munshi got 245 decimals and Bishnu Munshi got 245 decimal of land amicably appertaining to C.S plot no. 67 and 68 under Mouza Brammonbaoga. Fazlul Haque (defendant No. 29) is title less in respect of the suit land. Defendant Nos. 1-28 as heirs of Mokhter Munshi have been possessing 245 decimals of land from C.S and S.A plot no. 67 and 68. Injunction application filed by defendant No. 29(ka)-29(cha) is false and liable to be rejected.

Learned counsel for the petitioners further submits that learned appellate court below has committed an error of law resulting in an error in passing the order occasioning failure of justice for keeping the application of ad-interim lying with the record without assigning any reason and submits that the Rule should be made absolute.

Md. Shafiuddin Bhuiyan, learned advocate appearing on behalf of the opposite parties opposes the Rule. Without filing any affidavit in opposition he verbally submits that the impugned order dated 29.04.2025 is not an impugned order in the eye of law as the application for ad-interim injunction was not disposed of, rather it has been kept pending with the record, and thus without disposal, it can

not be said an impugned order and accordingly he prays for discharging the Rule.

Heard the learned advocates appearing for both the parties, perused the application, the impugned order and other materials on record.

It appears that learned Joint District Judge, 1st Court, Narayanganj, after hearing did not consider the urgency of the prayer of the defendant nos 29 (ka) - 29 (Cha) for ad-interim injunction, even did not consider to issue any notice to show cause upon the defendants, rather kept the matter lying with the record by its order dated 29.04.2025 without assigning any reason whatsoever which amounts to rejection of the prayer for injunction.

That learned Joint District Judge, 1st Court, Naryanganj by the impugned order kept the application for ad-interim injunction lying with the record without issuing any show cause notice and passing any order as prayed for. Since the application for ad-interim injunction is an urgent matter, the court is to hear and dispose of the same giving topmost priority. The court is under an obligation in law either to issue notice to show cause to the opposite parties or issuing show cause notice to pass an order of ad-interim injunction as prayed for. In the alternative, if the Court find no prima facie case in favour

of the applicants, it may reject the application summarily without granting any ad-interim injunction or issuing any notice to show cause to the opposite parties. But from the impugned order, this Court finds that the court of appeal below recorded no reason for keeping the matter pending as lying with the record. In not issuing any notice to show cause or granting any order of ad-interim injunction or rejecting the application for ad-interim injunction stating reasons, learned Joint District Judge, 1st Court, Narayanganj has committed serious error of law occasioning failure of Justice.

It appears from the records that the petitioners are the direct descendants of the C.S and R.S recorded tenant. The appellate court below ought to have disposed of the matter on merit urgently either in the affirmative, or in the negative, whatever it may be, on the basis of findings as to whether the applicants have a prima facie, fair and arguable case in their favour or not, as to whether the balance of convenience or inconvenience is in their favour or not and as to whether they have a subsisting interest in the property or not. The court of appeal below committed error of law in not taking into account of the urgent nature of the application for alleged apprehension of imminent danger to property. The court of appeal below erred in law in not disposing of the application for ad-interim

injunction with topmost priority and has kept it lying with the record by a non-speaking order i.e without assigning any reason.

By the impugned order learned Joint District Judge has kept the matter undisposed of and the parties to the proceedings have ample scope to agitate the provision of law in respect of the matter in dispute before the concerned court. It is only for this Court's concern that whether the court below in not passing any order on the application for interim injunction has committed any error of law.

This court finds that when any application filed by any party before any court seeking any ad-interim order in respect of any matter, it is the obligation of the court to hear the matter on an urgent basis giving topmost priority and dispose of the application in accordance with law giving reasons either allowing or rejecting the same. In the case of **PHP Spinning Mills VS Dreyfus commodities reported in 72 DLR (2020) 261**, it was held that when any application filed by any party before the court seeking any ad-interim order in respect of any matter, it is the obligation of the court to hear the matter on an urgent basis giving topmost priority and dispose of the application on merit giving reasons either allowing or rejecting the same. Reference may be made from the case of **Manzoor Hussain VS Wali Mohammad 17 DLR SC 369**.

Learned Joint District Judge 1st Court, Narayanganj having not passed any order on the application for ad-interim injunction filed by the defendant no 29 (Ka) to 29 (Cha)- the present petitioners, this Court, therefore, has decided to dispose of the Rule without entering into the merit of the suit giving a direction to the learned Joint District Judge, 1st Court, Narayanganj to dispose of the application for ad-interim injunction as well as application for temporary injunction on merit, filed by the defendant nos. 29 (Ka) to 29 (Cha)-the petitioners giving adequate opportunity to the other parties in accordance with law within a shortest possible time preferably within 1 (one) month from the date of receipt of this Judgment.

Considering the facts and circumstances of the case and the submissions made by the learned advocates for both the parties, I find substance in the submission of learned advocate for the petitioners and as such, I am of the view that justice would be better served if the application for ad-interim injunction as well as for temporary injunction be heard expeditiously on merit, without causing further delay by giving adequate opportunity to the parties to adduce evidence in support of their respective case.

Accordingly, the Rule is made absolute without any order as to cost and impugned order No. 05 dated 29.04.2025 passed by the

learned Joint District Judge, 1st Court, Narayangonj in Miscellaneous Appeal No. 15 of 2025 is hereby set aside.

The learned Joint District Judge, 1st Court, Narayangonj is directed to dispose of the applications for ad-interim as well as temporary injunction, in accordance with law expeditiously within 1 (one) month from the date of receipt of this order.

In the meantime, the parties are directed to maintain status-quo in respect of possession and position of the suit land till disposal of the Miscellaneous Appeal No. 15 of 2025, now pending before the Joint District Judge, 1st Court, Narayangonj.

However, learned Joint District Judge, 1st Court, Narayangonj, while disposing of the Miscellaneous Appeal no. 15 of 2025, shall not be obsessed by the order of granting status-quo by this court.

Communicate the judgment and order to the court concerned at once.