

In the Supreme Court of Bangladesh
High Court Division
(Civil Revisional Jurisdiction)

Present:

Mr. Justice Md. Mansur Alam

CIVIL REVISION NO. 3602 of 2025

Abdul Wahab
Plaintiff-appellant-petitioner

Versus

1. Md. Ashraful Islam and others
Defendant-respondents-opposite parties

Mr. Akbar Hossain, Advocate
for the petitioner

Mr. M.G. Mahmud Shaheen, Advocate
for the opposite party

Heard on: 14.01.2026 & 25.02.2026

Judgment on: 11.03.2026

1. The Rule was issued calling upon the opposite parties to show cause as to why the impugned judgment and order dated 10.07.2025 passed by the learned Senior District Judge, Manikgonj in Miscellaneous Appeal No.05 of 2025 dismissing the Miscellaneous Appeal and thereby affirming the judgment and order dated 04.05.2025 passed by the learned Senior Assistant Judge, Singair,

Manikganj in Title Suit No.61 of 2025 rejecting the application for injunction should not be set aside and/or pass such other or further order or orders passed as to this Court may seem fit and proper.

2.The Petitioner as plaintiff filed Title Suit No.61 of 2025 praying for permanent injunction stating inter alia, that the plaintiff owned the property vide sale deed no.9286 dated 20.11.2018 and thereafter mutated his name and enjoying the property after paying ground rent by using 8 feet road situated at western side of R. S. plot nos.1154, 1155 and 1156 and the defendants are trying to construct building upon the said road along with other land. The plaintiff purchased 04.50 decimal of lands from Nurul Amin and Momotaz Begum by way of a deed dated 24.10.2018. This deed and some earlier deeds contain the existence of 8 feet road situated at western side of the

suit land. The existence of this 8 feet road is also found in the deed no.9286 dated 20.11.2018 executed by Badol Amin to the plaintiff. The defendants prohibited the plaintiff to move through this 8 feet road on 21.02.2025 and threatened the plaintiff that they would construct pacca building upon the suit land including that 8 feet road. In this stage the plaintiff filed an application for injunction under Order 39 Rule 1 and 2 of the Code of Civil Procedure, 1908.

3.On the other hand defendants-opposite party entered appearance in the suit denying all materials allegations of the plaintiff and contended that the suit land was originally owned by Abdul Hakim @ Abdul Hasim and on his demise his heirs transferred 00.18 decimal of land to Hatni Darul Ulum Quran Madrasa on 05.03.2017. These heirs of Abdul Hakim also transferred 05.00 acres land to the defendant No.1, Nurul Amin and Momotaz transferred 02.50 acres of land to the

plaintiff No.1, Nurul and Momotaz transferred 04.50 acres land to the defendant No.1 Darul Quran Madrasaa. Though the alleged 8 feet road was incorporated in the above three deeds but collusively said Madrasa instituted the suit No.344 of 2022 for inserting the name of Lutfor in place of 8 feet road which was disposed of among them through a Solenama. It is to be mentioned that there is no mention of 8 feet road in the schedule of deed no.9286 dated 20.11.2018. So the plaintiffs are not entitled to get any order of injunction.

4.Learned Trial Court on hearing both the parties was pleased to reject the injunction application and being aggrieved by and dissatisfied with the said order, plaintiff petitioner preferred Miscellaneous Appeal being Misc Appeal No.05 of 2025. Learned District Judge on appeal disallowed the appeal and affirmed the order of trial

Court. Thereafter the plaintiff-appellant moved this revision before this Court.

5. Learned Advocate appearing for the plaintiff-appellant-petitioner argues that Learned District Judge passed the impugned judgment and Order illegally and arbitrarily without considering facts and circumstances of the case. Learned both the Court below failed to understand that the defendants with malafide intention rectified the boundary of the deed by filing Title Suit No.344 of 2022 beyond the knowledge of the plaintiff. The plaintiff-appellant enjoyed the said 8 feet road after purchasing the land in the suit jot. Learned Appellate Court misdirected himself in considering that the plaintiff was party to the Title Suit No.344 of 2022. Though the defendants admit the existence of the aforesaid road but to grab the road illegally and collusively rectified their deeds. Both

the court below without considering this vital aspect passed the impugned order occasioning failure of justice.

6.Learned Advocate for the defendant-respondent-opposite party submits that the deed No.9286 dated 20.11.2018 reveals that there is no road on the western side of R. S. plot Nos.1154, 1155 and 1156, so no question arises to do any construction on the road as alleged by the plaintiff-petitioner. Also the Advocate Commissioner on inspection did not find any road as alleged by the plaintiff-petitioner and in this regard he submitted his Commission report as well. Plaintiff-petitioner is not entitled to get any injunction order as he has neither title nor exclusive possession over 8 feet road. The nature of the claim of the plaintiffs is nothing but a claim of easement right on the alleged road but the plaintiff petitioner has filed the suit for permanent injunction, thus the

suit is not maintainable. The plaintiff has no prima facie and arguable case in his favor. So he cannot get any order of injunction.

7. Having heard the Learned Advocates for both the sides and having scrutinized very closely the materials on record, it appears that the plaintiff-petitioner claimed the land on the basis of the deed no.9286 dated 26.02.2019 where no road is found to the western side of the suit plot No.1154. The plaintiff-petitioner also claims easement right over the suit land which is quite contradictory to his aforesaid deed. The Commission report submitted by the Advocate Commissioner is very much identical to the averments of the deed no.9286 dated 26.02.2019. The land where the plaintiff-petitioner has no right title and exclusive possession of the plaintiff and where as per the claim of the plaintiff, people at large move through that land, an injunction cannot

be granted in favor of a particular group of people.

8.The plaintiff-petitioner claims that prior to the amendment of the deed nos.2027, 2028 and 8459, in compromise decree in Title Suit No.344 of 2022, there was an assertion of eight feet road to the west of the suit land. The deed no.8455 still reveals that the impugned road exists to the west of the suit land. The petitioner challenged that compromise decree in Title Suit No.130 of 2025. Learned Advocate appearing for the plaintiff-petitioner the case of Binode Bihari Ghose Vs. Assistant Custodian, Vested and Non-Resident Property and others referred the case reported in 50 DLR (1988) at page 134 it is held that "a failure or rectify a sale deed does not extinguish the title to the property which was really sold but not properly described in the sale deed due to mistake." This decision referred by the plaintiff-

petitioner is eligible for consideration in the original suit of the permanent injunction. Now at this stage this decision has no manner of application in of the application revision hearing.

9. It is not worthy that the deed in the name of plaintiff petitioner bearing no.9286 dated 20.11.2018 reveals the contradictory version of his prayer in the present suit. It reveals from the above deed that there is no road to the west of the schedule land; rather it is asserted that there are Lutfar Rahman and others. Plaintiff-petitioner owned 10.20 acres of lands which he described in the schedule. He did not obtain alleged land of impugned road measuring 8 feet but he sought injunction over that land. Once he claimed it by way of his aforesaid deed and again he claimed the same as his easement right. It is proved that he did not purchase the same. Also it appears that he did not seek the land as easement right nor he

complied with the criteria of easement right.

10. More so the plaintiff petitioner will get opportunity to adduce any evidence to substantiate his prima facie title and exclusive possession during trial of the original case. It appears that the plaintiff has no right title and exclusive possession over the suit land. The balance of convenience and inconvenience is in favor of the defendants opposite parties. So there is no any cogent reason to pass any ad-interim order in favor of the plaintiff petitioner.

11. In view of the above this Court led to hold that the impugned order passed by the Learned District Judge, Manikgonj dated 10.07.2025 requires no interference.

12. In the result the Rule is discharged without any order as to costs.

13. The impugned Judgment and Order dated 10.07.2025 passed by the learned Senior

District Judge, Manikgonj in Misc. Appeal No.05 of 2025 dismissing the Misc. Appeal and thereby affirming the judgment and Order dated 04.05.2025 passed by the learned Senior Assistant Judge, Singair, Manikganj in Title Suit No.61 of 2025 rejecting the application for injunction is hereby upheld and confirmed.

14.The order of stay and status-quo granted earlier, at the time of issuance of Rule, is hereby vacated.

15.Let a copy of this Judgment to the concerned Courts' below at once.