

District-Chuadanga.**IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(CIVIL REVISIONAL JURISDICTION)****Present:****Mr. Justice Md. Toufiq Inam****Civil Revision No. 3317 of 2023.**

Momina Khatun and others.

---- Plaintiff-Respondent-Petitioners.

-Versus-

Kamal Hossen and others.

----Defendant-Appellants-Opposite Parties.

Mr. Md. Hemaith Ullah, Advocate with

Mr. Md. Saiful Bari, Advocate

----For the Plaintiff-Respondent-Petitioners.

Mr. Md. Shahidul Islam, Advocate with

Mr. S.M. Zakir Hossain, Advocate and

Mr. Mohammad Riaz Hossain Sikder, Advocate

----For the Defendant-Appellants-Opposite Parties.

**Heard On: 16.11.2025,20.11.2025, 03.12.2025,
04.12.2025,07.12.2025 and 09.12.2025.**

And

Judgment Delivered On: 10.12.2025.**Md. Toufiq Inam, J.**

This Rule was issued calling upon the opposite party Nos. 1–8 to show cause as to why the judgment and decree dated 10.05.2023 (decree drawn on 16.05.2023) passed by the learned Additional District Judge, Second Court, Chuadanga in Title Appeal No. 105 of 2015, disallowing the appeal and thereby modifying the judgment and decree dated 02.04.2015 (decree drawn on 08.04.2015) passed by the learned Joint District Judge, Second Court, Chuadanga in Title Suit No. 28 of 2008 decreeing the suit, shall not be set aside and/or why such other or further orders should not be passed as to this Court may seem fit and proper.

The present petitioners as plaintiffs instituted Title Suit No. 28 of 2008 in the Court of the Joint District Judge, 2nd Court, Chuadanga seeking partition. Their case, in essence, is that the suit land measuring 1.29 acres of Plot No. 3068 of C.S. Khatian No. 41 of Ruitonpur Mouza originally belonged to Fakir Chand Biswas and Bilat Biswas, who transferred it to Kubir Mondol by registered deed No. 3636 dated 14.11.1927. Kubir Mondol left behind his wife Mohironnessa and his son Polan Mondol. His daughter, Felaninessa, having allegedly died during Kubir's lifetime, inherited nothing. According to the plaintiffs, after the introduction of the Muslim Family Laws Ordinance, 1961, Kasem (the son of the predeceased daughter) derived no share from Kubir through Mohironnessa. The plaintiffs further described various schedules of land acquired by Kubir and Polan, and asserted that the R.S. record was erroneously prepared in the name of the defendant Kasem Mondol. Their request for amicable partition having been refused, they filed the present suit.

The defendant Nos. 1–2/4–7 contested the suit by written statement, denying the material allegations and asserting that the suit was not maintainable, was without cause of action, barred by limitation, and defective for non-inclusion of all lands in the hotchpotch. They set out an alternative genealogy and asserted that Felaninessa survived her father Kubir, that her branch rightfully inherited, and that the plaintiffs had no title or share in the suit land.

The core dispute turns on whether Felaninessa predeceased her father Kubir and therefore inherited nothing, or whether she survived him and her heirs are entitled to a share. The trial Court decreed the suit entirely on the presumption that since the SA record stood in the names of Polan and Mohironnessa only, and not Felaninessa, she must have died earlier. The plaintiffs, however, produced no document or witness specifying the date or year of death of either Kubir or Felaninessa. Their entire claim rested on an inference drawn solely from the absence of her name in the SA record.

In the appeal, the defendants produced certified death certificates of Kubir and Felaninessa showing their dates of death as 19.10.1952 and 05.12.1966 respectively, along with two registered deeds of 1956 and 1965 describing Kubir as “late.” These documents, all predating the litigation, were admitted into evidence without objection from the plaintiffs. The appellate Court, relying on these materials, held that Kubir died in 1952 and Felaninessa died much later in 1966. Consequently, her son Kashem (predecessor of the present opposite parties) was held to be a rightful heir. On these findings, the appellate Court modified and reversed the trial Court’s decree.

Mr. Md. Hemaith Ullah, learned Advocate for the petitioners, submits that the appellate Court erred in admitting additional documents and that the death certificates were forged and procured for the purpose of the

appeal. He argues that the SA record standing in the names of the plaintiff's predecessors is sufficient proof that Felaninessa predeceased Kubir, and that the appellate Court failed to expressly reverse this factual assumption. He also contends that the plaintiff's testimony on succession went unchallenged and that the appellate judgment suffers from non-reading and misreading of evidence.

Per contra, Mr. Shahidul Islam, learned Senior Advocate for the opposite parties, contends that the death certificates are public documents issued by the competent authority, were admitted without objection, and are fully admissible under law. The plea of forgery is argued to be a mere afterthought unsupported by any evidence or even cross-examination. He further submits that the omission of Felaninessa's name in the SA record cannot legally establish her prior death, and that the appellate Court rightly relied on documentary evidence which the trial Court had ignored.

Upon hearing both sides and perusing the record, this Court finds that the documents tendered in appeal- two registered deeds from 1956 and 1965 referring to Kubir as "late," along with two contemporaneous death certificates- were admitted without objection. Once admitted, they formed part of the evidentiary record. At the revisional stage, the petitioner cannot challenge their authenticity without any prior objection, application, or expert examination. The allegation of forgery is wholly unsubstantiated; no effective step was taken before the appellate Court to

question their genuineness. It is trite law that mere oral allegations cannot dislodge public documents and registered deeds.

More significantly, the plaintiffs bore the burden to prove that Felaninessa predeceased her father, a fact essential to their claim. They produced no document, no date, no year, and no corroborating witness. A revenue record (SA record) is not a proof of death; its omission cannot, by itself, establish a prior death. The trial Court's finding is therefore speculative, unsupported by any legal evidence, and contrary to established principles governing succession and burden of proof.

The petitioner's argument that the appellate Court did not expressly reverse the trial Court's inference from the SA record also fails. The appellate Court, upon accepting legally admissible documentary evidence proving the dates of death, logically and necessarily displaced the trial Court's erroneous assumption. Once the actual dates of death were conclusively established, the foundation of the trial Court's inference disappeared and automatically reversed. An appellate Court is not required to rewrite or correct revenue records; it is required to determine the true succession based on lawful evidence, which it has done.

Furthermore, the appellate Court's findings are supported by contemporaneous documents predating the dispute by decades, which carry strong evidentiary value. The trial Court, by ignoring the absence

of proof from the plaintiffs and relying on conjecture, committed a material error. The appellate Court has corrected that error on the basis of reliable evidence. Such findings do not suffer from any perversity, non-reading, or misreading of evidence.

This revisional Court, exercising jurisdiction under Section 115 of the Code of Civil Procedure, cannot interfere merely because another view is theoretically possible. Unless the impugned decision discloses a jurisdictional error, legal infirmity, or perversity in the assessment of evidence, interference is unwarranted. No such infirmity has been shown.

Accordingly, this Court finds no illegality or impropriety in the impugned judgment of the learned Additional District Judge warranting interference under Section 115 CPC.

The Rule is, therefore, discharged.

The judgment and decree passed in Title Appeal No. 105 of 2015 are hereby affirmed.

There will be no order as to costs.

Let the LC Records be sent back together with this judgment at once.

(Justice Md. Toufiq Inam)