

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

Present:

Mr. Justice Md. Riaz Uddin Khan

Civil Revision No. 1235 of 2025

IN THE MATTER OF :

An application under section 115(1) of the Code of
Civil Procedure

-And-

In the Matter of:

Syed Zia Uddin Ahmed and others

...Defendant-Petitioners

-Versus-

Amirul Islam and another

...Plaintiff-Opposite Parties

Mr. Mohammad Abdur Rouf Miah, Advocate

... For the petitioners

Mr. Ashique Rubaiat, Advocate

... For the opposite parties

Judgment on: 25.02.2026

Md. Riaz Uddin Khan, J-

At the instance of defendants Rule was issued calling upon the opposite parties to show cause as to why the order dated 02.02.2025 passed by the Joint District Judge, 3rd Court, Dhaka in Civil Suit No. 20 of 2023 allowing the amendment of plaint filed by the plaintiff-opposite parties under Order-VI, Rule-17 read with section 151 of the Code of Civil Procedure should not be reversed and/or such other or further order or orders should not be passed as to this Court may deem fit and appropriate.

At the time of issuance of Rule the operation of the order dated 02.02.2025 was stayed till disposal of the Rule.

The fact in a nutshell is that the opposite parties as plaintiffs filed the instant suit for

declaration of title, partition and recovery of khas possession. When the suit was pending the plaintiffs filed two applications dated 02.10.2024 and 28.11.2024 for amendment of the plaint. The defendant-petitioners filed objection against the said amendment. After hearing both the parties the trial court allowed both the applications for amendment of the plaint by his impugned order dated 02.02.2025.

Being aggrieved by and dissatisfied with the impugned order passed by the learned Joint District Judge, 3rd Court, Dhaka the defendants filed the instant Civil Revision and obtained Rule and order of stay as stated at the very outset.

The plaintiff-opposite parties entered appearance and filed counter affidavit.

Mr. Mohammad Abdur Rouf Miah, the learned advocate appearing for the defendant-petitioners submits that the proposed amendment will change the nature and character of the suit but the Joint District Judge has failed to appreciate the position of law and facts and allowed the applications for amendment which is liable to be set aside. Placing the written objection the learned advocate submits that his client has objection in some portion of the proposed amendment but not the entire amendment.

On the other hand Ashique Rubaiat, the learned advocate appearing for the opposite party No. 1 submits that according to Order-VI, Rule-17 of the Code of Civil Procedure the court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties. In the

instant suit the proposed amendment will not change the nature and character of the suit rather to avoid the multiplicity of the suit and to determine the real questions in controversy between the parties the amendment is necessary. In support of his contention the learned advocate for the opposite parties cited the decision in the case of Managing Committee N.M.C. Model High School and others Vs. Obaidur Rahman Chowdhury and others reported in 31 DLR (AD) 133 and in the case of Shafiqul Islam Chowdhury (Md) and others Vs. Mustafizur Rahman and others reported in 60 DLR (AD) 42.

I have heard the learned advocates for both the parties, perused the application and counter affidavit along with the annexure. I have also gone through the impugned order passed by the Joint District Judge, 3rd Court, Dhaka.

The learned Joint District Judge allowed both the applications dated 02.10.2024 and 18.11.2024 respectively for amendment of the plaint for the interest of justice with cost of Tk-1000/ and Tk-500/ respectively.

I have examined the plaint and both the applications for amendment of the plaint. It appears from the two applications proposing for the amendment of the plaint stating some facts which are not contradictory to earlier facts stated in the original plaint and some other corrections of original plaint and those will not in any way change the nature and character of the suit rather it appears from proposed amendment that it should be allowed to resolve the dispute and to determine the questions of real controversy to avoid the multiplicity of the suits as it is a suit for declaration of title along with partition and recovery of possession. The objection

raised by the defendant-petitioners are all about merit of the suit which is to be determined by adducing evidence before the trial court. In fact, the plaintiff is to prove his case at trial by adducing evidence. One of the fundamental principles of governing the amendment of the pleadings is that all the controversies between the parties as far as possible should be included and multiplicity of proceedings avoided. However, it could not be allowed, if, it changed the nature and character of the suit, or if the prayer for amendment had become barred by laps of time and a right had accrued to the other side. [Reliance may be placed in the case of Charan Das Vs Amir Khan, AIR 1921 PC 50; Keramat Ali Vs. M Younus Haji, PLD 1963 (SC) 191= 15 DLR (SC) 120 and Golam Hafej Meah Vs Khadem Ali Meah, 29 DLR 311]. Though the learned judge passed the impugned order in a very short manner but ultimately did not commit any error of law warranting interference by this Court. Hence I find no reason to interfere with the order passed by the trial court. The instant Rule has no merits.

In the result the Rule is **discharged** with cost.

The order of stay passed earlier by this Court stands vacated and the trial court is at liberty to proceed with the suit.

Communicate the judgment and order at once.