Bench:
Mr. Justice Md. Ali Reza

Civil Revision No. 4218 of 2025
Mazedul Haque Shikder
.....petitioner
-Versus-
Monowara Akter and others
.....opposite parties

Mr. M. Atikur Rahman, Advocate
.....for the petitioner

Mr. S.M. Salim with
Mr. Tapan Kumar Das, Advocates
.....for opposite parties

Heard on: 18.06.2026 and 04.08.2026

Judgment on: 03.09.2026

In the instant revision Rule was issued calling upon the opposite party to show cause as to why the judgment and order dated 01.06.2025 passed by the learned Additional District Judge, 1st Court, Kishoreganj in Miscellaneous Appeal Number 73 of 2022 dismissing the appeal thereby affirming the judgment and order number 27 dated 20.09.2022 passed by the learned Joint District Judge, 1st Court, Kishoreganj in Other Class Suit Number 26 of 2021 rejecting the application for temporary injunction of the petitioner under Order 39 Rules 1 and 2 read with Section 151 of the Code of Civil Procedure should not be set aside and/or such other or further

order or orders be passed as to this Court may seem fit and proper.

The petitioner as plaintiff filed Other Class Suit Number 26 of 2021 in the Court of Joint District Judge, 1st Court, Kishoreganj seeking declaration that the power of attorney dated 22.06.2017 and the kabala deed dated 27.07.2017 pursuant to that power of attorney executed in favour of sister defendant Monowara Akter are false, forged, collusive, fraudulent, inoperative, illegal and not binding upon the plaintiff. On 28.01.2021 plaintiff filed an application under Order 39 Rules 1 and 2 read with Section 151 of the Code of Civil Procedure praying for temporary injunction against defendant 1 restraining her from dispossessing his brother plaintiff from the suit land and also registering any transfer document to anybody else. The defendants 1 and 2 opposed the application for injunction by filing written objection.

The trial Court after hearing both the parties was pleased to refuse injunction by judgment and order dated 20.09.2022. As against the same brother plaintiff preferred Miscellaneous Appeal Number 73 of 2022 before the District Judge, Kishoregonj which on transfer was heard by the Additional

District Judge, 1st Court, Kishoreganj who was pleased to dismiss the appeal by judgment and order dated 20.09.2022.

Being aggrieved by and dissatisfied with the said judgment passed by the appellate Court brother plaintiff came before this Court with this revision and obtained Rule and order of status quo on 21.10.2025.

The matter was fixed for hearing on 25.01.2026. Thereafter the matter appeared in the list with the names of the learned Advocates. The matter was heard in part on 18.06.2026. The learned Advocate for the petitioner did not appear before the Court in any point of time before the judgment passed earlier on 28.06.2026. After passing of the judgment learned Advocate Mr. M. Atikur Rahman mentioned the matter and prayed that this unsigned judgment might be recalled otherwise the plaintiff would suffer irreparable loss and injury and the plaintiff has a very good case. His prayer for recalling judgment was allowed on 02.07.2026. On subsequent hearing Mr. Atikur Rahman mainly submits that according to Rule 10 of Ain 35 of 2012 the impugned power of attorney is completely invalid and the same does not confer any title to defendant 1 and therefore she has no *prima facie* case and in the event of any transfer of the suit land the

plaintiff shall suffer irreparable loss and injury which cannot be compensated. The provisions of Section 52 of the Transfer of Property Act shall be frustrated and the learned Advocate also submits that he will file supplementary affidavit in this regard. When today the matter was taken up for hearing at around 12.00 P.M. the learned Advocate for the petitioner was absent and the officer of this Court called him through cell phone bearing number 01711127746 and thereafter he appeared before this Court and he then requested to be present before the Court after recess. Now it's 3.40 P.M. But he has not come. Now the Court is going to pass the judgment.

Learned Advocate Mr. S.M. Salim appearing on behalf of the opposite parties submits that both the Courts below upon proper appreciation of pleadings and materials on record rightly refused to grant injunction in favour of brother plaintiff and the Courts below committed no error of law occasioning failure of justice.

It appears from the record that the C.S. recorded owner was Sahajahan Bibi and she died leaving behind her one son Hazi Abdul Hakim. The said Hazi Abdul Hakim transferred the case land to one Fatema Islam on 04.07.1970. Later on Fatema Islam transferred the case land to Dr. Md. Shafiuddin

Shikder on 20.06.1988 by deed of exchange. Subsequently Dr. Md. Shafiuddin Shikder transferred the case land to his son Majedul Haque Shikder by deed of gift on 23.07.2006. Later the said Majedul Haque Shikder when residing in Belgium executed a valid power of attorney to his sister Monowara Akter on 14.06.2007. Then father Shafiuddin Shikder filed Other Suit Number 110 of 2007 for cancellation of the said document and also filed an application to the ADC (Revenue) not to re-stamping power of attorney and accordingly ADC (Revenue) temporarily stayed the re-stamping proceedings. Subsequently the Other Suit Number 110 of 2007 was dismissed on 27.12.2011 and the deed of gift stood good. Thereafter Monowara Akter filed an application for re-stamping and after following all legal procedures Monowara Akter became legal attorney by such power of attorney executed by her brother Majedul Haque. Then Monowara Akter having being empowered transferred the case land to her husband Md. Nuruzzaman on 26.07.2017 by registered deed of sale. Nuruzzaman again transferred the suit land to the applicant Monowara Akter by registered heba deed on 19.04.2018 by which she mutated her name in the recent record of right and have been maintaining title and possession

upon payment of Gas, Wasa and Electricity bills. It is a matter of evidence as to whether the power of attorney alleged to have been executed in favour of sister defendant 1 is correct or not and the same will be decided upon evidence and since this power of attorney stands as a bar against the claim of the plaintiff and defeats his claim of *prima facie* case this application for injunction was rightly rejected by both the Courts below. It appears that the plaintiff has got no *prima facie* arguable case in order to get an order of injunction and also the fact does not suggest that the balance of convenience is in his favour and in favour of granting injunction prayed for and it also appears that he will not suffer any irreparable loss because in the event of any loss if arises might be compensated by money. Learned Advocate for the opposite party submits that the application for injunction was rejected in the year 2022 and the order of status quo as granted by this Court in the year 2025 is operating harshly against the interest of the defendant.

However in the circumstances it is the considered view of this Court that justice will be best served if the defendants 1-2 is allowed to proceed with their construction but restrained

from transferring the suit land to anybody else till disposal of the suit.

Accordingly the injunction is granted in a modified form to the effect that defendants 1-2 are hereby restrained to transfer the suit land to anybody else but the defendants are allowed to proceed with their constructions till disposal of the suit. The trial Court is directed to dispose of the suit as expeditiously as possible preferably within 06(six) months without granting any adjournment to any of the parties except extreme necessity.

Accordingly the Rule is disposed of.

The order of status quo passed by this Court stands vacated.

Let a copy of this judgment be communicated to the Courts below forthwith.

Md. Ali Reza, J:

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