

IN THE SUPREME COURT OF BANGLADESH  
HIGH COURT DIVISION  
(CIVIL REVISIONAL JURISDICTION)

*Present:*

*Mr. Justice S M Kuddus Zaman*

*And*

*Mr. Justice Tamanna Rahman Khalidi*

**CIVIL REVISION NO.162 OF 2026**

In the matter of:

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

And

Ananda Bag Mills Limited and others  
... Petitioners

-Versus-

Secretary, Ministry of Shipping, Government of Bangladesh, Dhaka and others  
... Opposite parties

Mr. Md. Nurul Amin, Senior Advocate with  
Mr. Md. Bodruddoza, Senior Advocate  
Mr. Liton Ranjon Das, Advocate  
Mr. Iftekharul Islam Apu, Advocate  
... For the petitioners.

Mr. Probir Neogi, Senior Advocate with  
Mr. Sumon Ali, Advocate  
Mr. Ali Akbor Khan, Advocate  
Mr. Abul Hossain, Advocate  
... For the opposite party Nos.14-55  
and 57-117.

**Heard on 08.06.2026 and Judgment on 16.06.2026.**

**S M Kuddus Zaman, J:**

On an application under Section 115(1) of the Code of Civil Procedure, 1908 this Rule was issued calling upon the opposite parties to show cause as to why the impugned order No.51 dated 02.02.2026 passed by the learned Joint District Judge, Additional Court, Gazipur in

Title Suit No.83 of 2023 rejecting the application for staying operation of the impugned ex-parte judgment and decree dated 17.09.2018 and final decree dated 12.03.2019 passed in Title Suit No.323 of 2009 and the proceedings of Decree Execution Cases being No.01 of 2019, 02 of 2019 and 05 of 2019 and all further proceedings arising out of the said final decree should not be set aside and/or such other or further order or orders as to this Court may seem fit and proper.

Facts in short are that the petitioners as plaintiffs instituted above suit for partition and declaration that the judgment and decree passed in Title Suit No.323 of 2009 is not binding upon the plaintiffs. Plaintiffs of above Title Suit No.323 of 2009 as defendants are contesting above suit which has been heard in part. The defendants filed Execution Case Nos.1 of 2019, 2 of 2019 and 5 of 2009 on 17.09.2018 for execution of judgment and decree passed ex-parte in Title Suit No.323 of 2009 and final decree dated 12.03.2019. The plaintiffs of above suit filed a petition for staying proceedings of above Execution Cases till disposal of Title Suit No.83 of 2023.

On consideration of submissions of the learned Advocates for the respective parties and materials on record the learned Joint District Judge rejected above petition vide impugned judgment and order dated 02.02.2026.

Being aggrieved by and dissatisfied with above judgment and order of the trial Court above plaintiffs as petitioners moved to this Court and obtained this Rule.

Mr. Md. Nurul Amin, learned Senior Advocate for the petitioners submits that opposite parties as plaintiffs filed Title Suit No.323 of 2009 for partition including the property of the petitioners but the petitioners were not impleaded as defendants and above suit was decreed ex-parte on 17.09.2018. Challenging above judgment and decree the petitioner as third party appellant preferred First Appeal No.111 of 2020 which was withdrawn. The petitioners also filed a Miscellaneous Case under Order 9 Rule 13 of the Code of Civil Procedure, 1908 although they were not a defendants in above suit which was also subsequently withdrawn. The petitioners as plaintiffs filed Title Suit No.170 of 2019 on 19.10.2019 for partition and subsequently by way of amendment of plaint included an additional relief that the judgment and decree of Title Suit No.323 of 2009 is not binding upon the plaintiffs. The opposite parties as defendants contesting above suit which has been heard in part. Since the petitioners were not made defendants in Title Suit No.323 of 2009 which was decreed ex-parte and the Partition Suit filed by the petitioners are being contested by the opposite parties as defendants the proceedings of above Execution Cases should have been stayed till disposal of above Title Suit No.83 of 2023. But the learned Joint District Judge utterly failed to appreciate above facts and circumstances of the

case and materials on record most illegally rejected above petition which is not tenable in law.

On the other hand Mr. Probir Neogi, learned Senior Advocate for the opposite party Nos. 14-55 and 57-117 submits that the opposite parties as plaintiffs instituted Title Suit No.323 of 2009 in 2004 and which was decreed on 17.09.2018. Since the petitioners were not a co-sharer in above property they were not made defendants in above suit for partition. The petitioners made several attempts to delay execution of above judgment and decree by filing a Miscellaneous Case under Order 9 Rule 13 of the Code of Civil Procedure, 1908 and by preferring an appeal but both above attempts ended into failure. The properties of the petitioners are totally different from those of the property of the impugned judgment and decree of Title Suit No.323 of 2009. If above decree is executed and the plaintiffs get a decree in their suit then they can take recourse to Section 144 of the Code of Civil Procedure, 1908. On consideration of above facts and circumstances of the case and evidence on record the learned Joint District Judge rightly rejected above petition which calls for no interference.

We have considered the submissions of the learned Advocates for the respective parties and carefully examined all materials on record.

It is admitted that the opposite parties as plaintiffs filed Title Suit No.323 of 2009 for partition and the petitioners were not impleaded as defendants in above suit which was decreed ex-parte on 17.09.2018. The

petitioners although they were not defendants in above suit filed a Miscellaneous Case under Order 9 Rule 13 of the Code of Civil Procedure, 1908 for setting aside above ex-parte judgment and decree and as a third parties appellants the petitioners filed First Appeal No.111 of 2020 to the High Court Division and subsequently withdrew both above case and appeal. The petitioners as plaintiffs have filed Title Suit No.170 of 2019 in the Court of Joint District Judge, Gazipur for partition and for declaration that the ex-parte judgment and decree of Title Suit No.323 of 2009 is not binding upon them and the opposite parties as defendants are contesting above suit which has been heard in part. The learned Advocate for opposite parties has pointed out that the property of Title Suit No.170 of 2019 of the petitioners and those of Title Suit No.323 of 2009 of the opposite parties is quite distinguishable. Since the opposite parties as defendants are contesting Title Suit No.170 of 2019 of the petitioners above issue may be better determined in above suit. The disputed questions of title and possession raised by the learned Advocate for the opposite parties can also be determined in Title Suit No.170 of 2019.

On consideration of above facts and circumstances of the case and materials on record we hold that the ends of justice will be met if further proceedings of above Execution Cases are stayed for a limited period and the learned Joint District Judge, 2<sup>nd</sup> Court Gazipur is directed to dispose of Title Suit No.170 of 2019 which has been

renumbered as Title Suit No.54 of 2026 within above period in accordance with law.

In above view of the materials on record we find substance in this Civil Revisional application under Section 115(1) of the Code of Civil Procedure, 1908 and the Rule issued in this connection deserves to be made absolute.

In the result, the Rule is hereby made absolute.

The impugned order No.51 dated 02.02.2026 passed by the learned Joint District Judge, Additional Court, Gazipur in Title Suit No.83 of 2023 is set aside and further proceedings of Execution Case Nos.1 of 2019, 2 of 2019 and 5 of 2019 be stayed for a period of six months and the learned Joint District Judge, 2<sup>nd</sup> Court, Gazipur is directed to dispose of Title Suit No.54 of 2026 within a period of six months from the date of receipt of this order in accordance with law.

However, there will be no order as to cost.

**Tamanna Rahman Khalidi, J:**

*I agree.*