

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

**Present:**

**Mr. Justice Md. Badruzzaman.**

**And**

**Ms. Justice Aynun Nahar Siddiqua**

**First Miscellaneous Appeal No. 75 of 2026.**

**Md. Harisur Rahman (Masum)**

...Appellant.

-Versus-

**Fahima Rahman and another**

....Respondents.

Mr. Tusar Kanti Roy, Advocate

... For the appellant

Ms. Anjuman Ara Begum, Advocate

... For the respondents.

**Heard on: 8.6.2026 and judgment on: 10.06.2026.**

**Md. Badruzzaman, J:**

Initially, Rule was issued calling upon the opposite parties to show cause as to why order dated 17.11.2025 passed by learned Joint District Judge, 4th Court, Dhaka in Title Suit No. 282 of 2025, allowing the plaintiffs' application under Order XL Rule 1 read with Section 151 of the Code of Civil Procedure for appointment of a Receiver over the suit property, should not be set aside. The matter was registered as Civil Revision No. 159 of 2026. Subsequently, upon application by the petitioners, the revisional application was converted into the present First Miscellaneous Appeal No. 75 of 2026, which was duly admitted for hearing.

Respondent Nos. 1 and 2, as plaintiffs, instituted Title Suit No. 282 of 2025 before the learned Joint District Judge, 4th Court, Dhaka, seeking

partition of the suit property, claiming  $5/8^{\text{th}}$  share therein. It is the case of the plaintiffs that total 0.2874 acre suit land originally belonged to Abdur Rahman, who died leaving behind two sons, namely Md. Hasikur Rahman alia Sentu and Md. Harisur Rahman (defendant No.1). Upon his death, the sons inherited the property equally. Thereafter, Md. Hasikur Rahman died on 13.01.2009, leaving behind his widow and daughter, (the present plaintiffs) and one brother, the present appellant. Accordingly, the plaintiffs inherited  $5/8^{\text{th}}$  share i.e 0.0898 acre of land out of .1437 acre land inherited by Hasikur Rahman. It is further alleged that the defendant has inherited a  $3/8^{\text{th}}$  share i.e .0539 acre out of .1437 acre land. The total .2874 acre suit property comprises 16 flats in Schedule "Ka" and "Ka-1" properties, a motor garage in Schedule "Kha" property, and 16 flats in Schedule "Ga" property.

The defendant has been collecting rent from the tenants of the said premises amounting to Total Tk. 8,40,000/-. It is claimed that the plaintiffs are entitled to Tk. 2,62,500/- per month as their share of rent. However, the defendant initially paid Tk. 25,000 per month, later increased to Tk. 40,000 per month up to December 2024, and thereafter, stopped all payments, allegedly misappropriating Tk. 2,22,500 per month.

During the pendency of the suit, the plaintiffs filed an application under Order XL Rule 1 read with Section 151 of the Code of Civil Procedure for appointment of a Receiver, alleging that the defendant was exclusively realizing rent from the suit properties and depriving the plaintiffs of their lawful share. The defendant opposed the said application. Upon hearing both parties, the learned Joint District Judge

allowed the application and appointed a Receiver on certain terms and conditions, which has been challenged in this appeal.

Mr. Tushar Kantit Roy, learned Advocate for the appellant, submits that there is no apprehension of waste, mismanagement, or deterioration of the suit property. He contends that the trial court acted illegally in appointing a Receiver. He relies upon *Umme Shahida Akhtar Reena and others vs. Ayub Ali and others*, 64 DLR (AD) 94.

On the other hand, Ms. Anjuman Ara Begum, learned Advocate for the respondents, submits that the plaintiffs are major co-sharers who have been kept out of possession of the suit property. The defendant, being in exclusive control, has been collecting rents from the tenanted premises and appropriating the entire income, thereby depriving the plaintiffs of their lawful entitlement. She submits that appointment of a Receiver is necessary for protection of the plaintiffs' interest. She relies upon *Nurul Hossain and others vs. Hasan Banu and others*, BCR 1983 (HCD) 52.

Upon hearing the learned Advocates and perusal of the memorandum of appeal, the impugned order, and other materials on record, it is admitted that Plaintiff No. 1 is the widow and Plaintiff No. 2 is the daughter of the deceased Hasibur Rahman alias Sentu, while the defendant is his brother.

Under Mohammedan Law of Inheritance, the plaintiffs are entitled to  $\frac{5}{8}$ <sup>th</sup> share of the .1437 acre suit property and the defendant to  $\frac{3}{8}$ <sup>th</sup> share thereof. It is also admitted that the defendant has been realizing rents from the suit premises. The plaintiffs claim entitlement to Tk. 2,62,500/- per month as their share of rent, but the defendant has failed

to make proper payment after December 2024 and is alleged to have appropriated the entire rent thereafter. The plaintiffs, being female co-sharers, have been kept out of possession, while the defendant is in exclusive control of the tenanted properties and is collecting rents therefrom.

In *Ramji Ram and others vs. Saligram*, 14 CWN 248, it has been held that in a partition suit, where a co-sharer entitled to a substantial share is kept out of possession and deprived of benefits, appointment of a Receiver is justified even without proof of waste. The same view is expressed in *Suprasanna Roy vs. Upendra Narayan Roy*, AIR 1914 Cal 439. In *Nurul Hossain & ors. vs. Hasan Banu & ors*, BCR (1983) 52, it has been held that where male co-sharers exclusively collect rent from ejmali property and deprive female co-sharers of their legitimate share, appointment of a Receiver is justified even in the absence of proof of waste.

In *Umme Shahida Akhtar Reena and others vs. Ayub Ali and others*, 64 DLR (AD) 94, the Hon'ble Appellate Division held that mere existence of dispute cannot be a ground for appointment of a Receiver. It further observed that in partition suits, appointment of Receiver should generally be made with consent of parties, particularly in respect of family landed property, and delay in disposal of suit is not a valid ground. However, the principles in *Nurul Hossain vs. Hasan Banu*, BCR (1983) 52 were considered and endorsed the above view where deprivation of female co-sharers and exclusive appropriation of rent justified such appointment.

It is a settled principle that Order XL of the Code of Civil Procedure confers wide discretionary power upon the Court to appoint a Receiver

where it appears just, proper, and convenient and in a partition suit, where a co-sharer entitled to a substantial share is kept out of possession and deprived of benefits, appointment of a Receiver is justified even without proof of waste.

In view of the facts and circumstances of the case, it appears that the plaintiffs have been kept out of possession and deprived of their lawful share of rental income, while the defendant is in exclusive control and enjoyment of the suit property.

The learned judge of the trial court, it appears that, upon proper appreciation of facts and law, exercised its discretion in appointing a Receiver. We find no illegality or impropriety in the impugned order.

Accordingly, we find no merit in this appeal.

In the result. the appeal is dismissed, however, without any order as to costs.

The trial court is directed to proceed with the suit in accordance with law.

The order of stay earlier granted is hereby vacated.

Let a copy of this judgment be communicated to the court below at once.

(Justice Md. Badruzzaman)

I agree

(Justice Aynun Nahar Siddiqua)