

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.1255 of 2026

In the matter of:

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

And

The Chittagong Co-Operative Housing Society Limited
... Petitioners

-Versus-

Wahid Malek

... Opposite parties

Mr. Mohammad Eunos, Senior Advocate with
Mr. M. A. Awal, Advocate

... For the petitioner.

Mr. S. M. Kafil Uddin, with

Mr. Golam Rabbani Sharif,

Mr. Md. Ashifur Rahman, Advocates

... For the opposite party.

Heard and Judgment on 25.06.2026.

S M Kuddus Zaman, J:

On an application under Section 115(1) of the Code of Civil Procedure this Rule was issued calling upon the opposite party to show cause as to why the impugned order being No.05 dated 26.02.2026 passed by the learned Joint District Judge, 3rd Court, Chattogram in Other Suit No.49 of 2026 rejecting the application filed under Section 151 of the Code of Civil Procedure by not granting ad-interim

injunction should not be set aside and/or pass such other or further order or as to this Court may seem fit and proper.

Facts in short are that the petitioner as plaintiff instituted above suit for permanent injunction and other reliefs and in above suit the plaintiff filed a petition under Order 39 Rule 1 of the Code of Civil Procedure, 1908 for an order of temporary injunction restraining the defendant from doing any act outside of the law and Rule of the Chittagong Co-operative Housing Society Limited above society and not to convene any meeting without compliance of relevant Rule and issuance of new notice for reconvene the meeting dated 24.12.2005 and 21.01.2026 and transfer the documents of above society from its head office.

The learned Joint District Judge on consideration of submission of the learned Advocate for the plaintiff and other materials on record directed the defendant to show cause within seven days as to why an order of temporary injunction shall not be passed against him.

The plaintiff submitted a petition on 24.02.2026 under Section 151 of the Code of Civil Procedure, 1908 for passing an ad-interim order of injunction restraining the defendant from reconvening the meeting dated 25.02.2026 or convene any other meeting outside of the Rule of above society and the learned Joint District Judge rejected above petition vide impugned order dated 26.02.2026.

Being aggrieved by and dissatisfied with above judgment and order of the learned Joint District Judge above plaintiff as petitioner moved to this Court and obtained this Rule.

Respondent entered appearance and submitted a Counter Affidavit stating that he is the elected President of above society and petitioner is the Secretary and Rule 16(3) of the Constitution of above Society empowers the President to exercise all powers of the Managing Committee of above Society and in exercise of above powers the President convened above meeting of the Managing Committee and withdrew Taka 4,80,00000/- from United Commercial Bank Limited which has been classified as a troubled Bank and kept above money in fixed deposit to Eastern Bank Limited on urgent basis to protect the interest of the society.

Mr. Mohammad Eunos, learned Senior Advocate for the petitioner submits that Rule 16(7) of the Constitution of above Society empowers the Secretary to convene the general meeting and meeting of the Management Committee. The President does not have any authority to convene meeting of any committee of above society. The President has withdrawn money of the Society from its account with United Commercial Bank Limited without convening any meeting of the Management Committee and without adoption of any resolution for above withdrawal. The learned Advocate further submits that the President is obstructing the Secretary from performing his assigned role

under the Constitution of the society. The learned Advocate further submits that the Secretary filed above suit as well as the petition for injunction in order to restrain the President from convening unlawful meetings of above society and doing acts without adopting resolution or approval of the Management Committee. But the learned Joint District Judge utterly failed to appreciate above facts and circumstances of the case and materials on record and most illegally rejected above petition of the plaintiff under Section 151 of the Code of Civil Procedure, 1908 which is not tenable in law. The learned Advocate lastly submits that for the welfare of the members of above society and smooth running of the society this Court may direct both parties to ensure that all meetings of above society is convened by the Secretary on the advice of the President and the society is run on the basis of the resolution adopted in the respective committee.

On the other hand Mr. S. M. Kafil Uddin, learned Advocate for the opposite party submits that the President and the Secretary contested in the election of above society and won the same from two different panels and there is serious lack of trust, coordination and understanding between above two office bearers which is seriously hampering the functioning of above society and affecting the interest of its members. The Secretary is unnecessarily filing several civil suits in several courts which is deteriorating the relation between the two and further obstructing proper functioning of the society. The learned

Advocate concedes that the best interest of the society will be ensured if this Court passes an interim order directing that the Secretary shall convene meeting of the Managing Committee or general meeting on the basis of the request of the President and the President and Secretary shall run the society on the basis of the resolutions adopted in the meeting of the Managing Committee. Despite repeated requests by the President, the petitioner did not convene any meeting of the Managing Committee which obstructed the President from taking important decisions as to the management of the society. The society had fixed deposit of a huge amount of money with United Commercial Bank Limited which became known as a troubled Bank. As such the President took urgent steps and withdrew above money from above Bank and deposited the same in the Eastern Bank to protect the interest of above society.

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

As mentioned above the plaintiff on 05.02.2026 filed a petition under Order 39 Rule 1 of the Code of Civil Procedure, 1908 for an order of injunction restraining the defendant who is the President of the Chittagong Co-operative Housing Society Limited (hereinafter referred to as society) from convening any meeting in contravention of Rule 16(7)(Ga) of the Constitution of above society and the learned Joint District Judge on hearing the learned Advocate for the plaintiff directed

the defendant to show cause within seven days from the date of receipt of the notice.

A Judge can pass an order of ad-interim injunction immediately after hearing of the petition for temporary injunction but if the learned Judge instead of passing an order of ad-interim injunction directs issuance of notice asking the opposite party to show cause that means that the learned Judge has refused to pass an order of ad-interim injunction and on the same petition for injunction the learned Judge cannot subsequently pass an order of ad-interim injunction. By filing a petition under Section 151 of the Code of Civil Procedure, 1908 the plaintiff sought an ad-interim injunction in the light of above petition for injunction under Order 39 Rule 1 of the Code of Civil Procedure, 1908 which is totally misconceived.

The learned Advocates for both the parties have concurred that the proper functioning of above society is being seriously hampered and the interest of members of above society is being affected due to non convening of the meetings of the management committee. Rule 16(3) of the Constitution of above society empowers the president to exercise all powers of the management committee. The powers of the Management Committee has been provided in Rule 8(3) of the Constitution of Society which does not include the power to conven meeting of the Management Committee or general meeting of above society. As such the power given to the Secretary by Rule 16(7)(Ga) of

the Constitution of above society to convening meetings of the General and Management Committee remains unfettered and unaffected.

In view of above Rule as to convening the meetings the learned Advocate for the petitioner and the opposite party concurred that the welfare of the members of above society will be well protected if an interim direction is passed by this Court upon the Secretary to convene general and Management Committee meetings of above society on the request of the President and the affairs of above society is run on the basis of the resolutions adopted in committee meetings.

On consideration of above facts and circumstances of the case and the submissions of the learned Advocates for the respective parties we hold that the ends of justice will be met if above Rule is disposed of with above directions upon the plaintiff and the defendant.

Accordingly, petitioner is directed to convene the general meeting and Management Committee meeting of above society on the request of the President and the petitioner and opposite party shall run the affairs of above society on the basis of the resolutions and decisions passed in above meetings till disposal of the petition under Order 39 Rule 1 of the Code of Civil Procedure, 1908 by the learned Joint District Judge.

The learned Joint District Judge is directed to dispose of above petition for injunction under Order 39 Rule of the Code of Civil Procedure, 1908 in accordance with law within three months from the date of receipt of this order.

This Rule is accordingly disposed of.

However, there is no order as to cost.

Tamanna Rahman Khalidi, J:

I agree.

MD. MASUDUR RAHMAN
BENCH OFFICER