

Present:
Mr. Justice Md. Shohrowardi
Civil Revision No. 2845 of 2025
Md. Shahidul Islam and others....Petitioners
-Versus-
Md Saidul Islam and others....Opposite parties
Mr. Md. Nurul Huda, Advocate
....For the petitioners
Mr. Mohammad Eunus, Advocate
....For the opposite party Nos. 1 to 4
Heard on 23.07.2026
Judgment delivered on 23.07.2026

On an application under section 115(4) of the Code of Civil Procedure, 1908 Rule was issued calling upon the opposite party Nos. 1 to 4 to show cause as to why the impugned judgment and order dated 27.03.2025 passed by the District Judge, Patuakhali in Miscellaneous Appeal No. 74 of 2023 affirming the order dated 24.09.2023 passed the Joint District Judge, Court No. 1, Patuakhali in Title Suit No. 122 of 2023 rejecting the application under Order XXXIX Rule 1 of the Code of Civil Procedure, 1908 for temporary injunction should not be set aside and/or such other or further order or orders passed as to this Court may seem fit and proper.

The relevant fact for disposal of the Rule, is that the petitioners as plaintiffs filed Title Suit No. 122 of 2023 in the Court of Joint District Judge, Court No. 1, Patuakhali, impleading the opposite party Nos. 1 to 5 as defendants, praying for a decree of title and the Ka schedule gift deed executed by the father of the plaintiffs in favour of his step brothers defendant-opposite party Nos. 1 to 4 is null and void and not binding upon the plaintiffs. During pendency of the said suit, the plaintiffs filed an application under Order 39 Rule 1 read with section 151 of the Code of Civil Procedure, 1908, praying for injunction restraining the defendant Nos. 1 to 4 from transferring 2.38 acres of land and not to change the nature and character of the suit land. The defendants filed written objection against the said application. After hearing both the parties, the trial Court by order dated 24.09.2023 rejected the application for injunction holding that the issue whether the father of the plaintiffs executed the disputed Deed No. 12 dated 03.01.2022 is a matter of evidence and there is no specific boundary of the suit land against which, the plaintiffs filed Miscellaneous Appeal No. 74 of 2023 in the Court of District Judge, Patuakhali who by impugned judgment and order dated 27.03.2025 affirmed the said order passed by the trial Court holding that the boundary of the land is unspecified and the balance of convenience and inconvenience is not in favour of the plaintiffs and that they will not suffer irreparable loss and injury, if the injunction is refused.

Learned Advocate Mr. Md. Nurul Huda appearing on behalf of the plaintiff-petitioners submits that the defendants are step brothers of the plaintiffs and the father of the plaintiffs died on 03.05.2023 at the age of 86 years and earlier, the defendants fraudulently obtained gift deed No. 789 dated 23.06.2019 by misleading his father and when it was detected, the defendants by another gift deed No. 867 dated 24.05.2021 returned 1.27 acres of land to the plaintiffs i.e half of 2.54 acres of land allegedly gifted by deed No. 789 dated 23.06.2019 and when the father of the plaintiffs was in dead bed, the defendants fraudulently registered the disputed deed No. 12 dated 03.01.2022 and if the suit land is transferred and the nature and character of the land is changed, the plaintiff-petitioners shall suffer irreparable loss and injury. Therefore, an order of injunction restraining the defendants from transferring the land and restraining the defendants from changing the nature and character of the suit land should be passed for ends of justice. He prayed for making the Rule absolute by setting aside the impugned judgments and orders passed by the Courts below.

Learned Advocate Mr. Mohammad Eunos appearing on behalf of the defendant-opposite party Nos. 1 to 4 submits that both the Courts below arrived at a concurrent finding of fact that there is no specific boundary of the suit land and if the disputed deed is cancelled, the defendants will get 50% of 2.38 acres of suit land. Therefore, order of injunction should not be passed restraining the defendants from transferring the suit land and changing the nature and character of the land. He prayed for discharging the Rule.

I have considered the submission of the learned Advocate Mr. Md. Nurul Huda who appeared on behalf of the plaintiff-petitioners and the learned Advocate Mr. Mohammad Eunos who appeared on behalf of the defendant-opposite party Nos. 1 to 4, perused the application filed under Order 39 Rule 1 read with section 151 of the Code of Civil Procedure, 1908, the impugned judgments and orders passed by the Courts below and the records.

On perusal of the impugned judgments and orders passed by the Courts below, reveals that the Courts below rejected the application for injunction holding that there is no specific boundary of the suit land. On perusal of the application for injunction, it appears that the plaintiffs prayed for injunction restraining the defendants from transferring the suit land. Nothing has been stated in the application as to the injunction restraining the defendants from dispossessing the plaintiffs from the suit land.

On perusal of the plaint and the application for injunction, it reveals that by the impugned deed dated 03.01.2022, 2.38 acres of land of fourteen khatians were allegedly gifted by the father of the plaintiffs in favour of the defendants. It

has been asserted that there is no specific boundary of the disputed land allegedly gifted by the disputed Deed No. 12 dated 03.01.2022. I am of the view that both the Courts below misread the application filed by the plaintiff-petitioners for injunction. If the suit land described in the deed No. 12 dated 03.01.2022 are transferred by the defendants and the nature and character of the suit land is changed, the plaintiff-petitioners shall suffer irreparable loss and injury and the balance of convenience and inconvenience is in favour of the plaintiff-petitioners. Therefore, the defendants should be restrained by an order of injunction from transferring the suit land and changing the nature and character of the suit land.

I find merit in the Rule.

In the result, the Rule is made absolute.

The impugned judgments and orders passed by the Courts below are hereby set aside. The defendant-opposite party Nos. 1 to 4 are hereby restrained from transferring the suit land and changing the nature and character of the suit land till disposal of the Title Suit No. 122 of 2023. The plaintiffs are directed to adduce evidence within 6(six) months after framing the issues.

The order of status quo granted earlier at the time of issuance of the Rule dated 27.07.2025 is hereby vacated.