

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

Present:

Mr. Justice S M Kuddus Zaman

And

Ms. Justice Tamanna Rahman Khalidi

FIRST MISCELLANEOUS APPEAL NO.426 of 2025

With

CIVIL RULE NO.704(FM) OF 2024

Md. Emam Uddin @ Eman Ali

.... Appellant

-Versus-

The Chairman, Civil Aviation Authority of Bangladesh,
Headquarters, Kurmitola, Dhaka and another

.... Respondents

Mr. A. M. Mahbub Uddin Khokon, Senior Advocate
with

Mr. Md. Aminul Haq, Advocate

.... For the appellant.

Mr. Md. Shamsul Islam, Advocate

.... For the respondent Nos.1

and 2.

Heard on 07.07.2026 and Judgment on 23.07.2026.

S M Kuddus Zaman, J:

This First Miscellaneous Appeal is directed against the impugned order dated 16.10.2024 passed by the learned Joint District Judge, Court No.1, Dhaka in Civil Suit No.452 of 2024 rejecting the application of the plaintiff-appellant under Order 39 Rule 1 and 2 read with Section 151 of the Code of Civil Procedure for temporary injunction.

Civil Rule Nos.704(FM) of 2024 having arising out of this First Appeal on an application for temporary injunction this First Appeal and Civil Rule are heard together and being disposed of by this single judgment.

Facts in short are that the appellant as plaintiff instituted above suit for declaration of title and recovery of possession and permanent injunction for 772.50 ajutangsa land.

In above suit plaintiff filed a petition under Order 39 Rule 1 of the Code of Civil Procedure for temporary injunction against defendant Nos.1 and 2 so that they may not construct any building in above land alleging that C. S. Plot No. $\frac{221}{523}$ comprises an area of 6.91 acres land and the Government of Bangladesh by L. A. Case Nos.23 of 1966-1967 and 66 of 1957-1958 acquired 5.41 acres land and disputed 0.35 decimal land remained in the ownership and possession of the recorded tenants. Above land was rightly recorded in the name of Sikim Ali in S. A. Khatian No.551 who transferred the same to the plaintiff by two registered kabla deeds dated 16.11.1994 and 30.05.2000. The plaintiff was in peaceful possession in above land by erecting a semi pacca dwelling hut but defendant Nos.1 and 2 have evicted the plaintiff from above land on 08.06.2023.

Defendant Nos.1 and 2 contesting above petition by filing joint written statement alleging that the Government of Bangladesh acquired

5.42 acres land of C. S. Plot No. $\frac{221}{523}$ by two Land Acquisition Case being Nos.66/56-57 and 66/66-67 and the defendants got possession of above land by evicting unauthorized occupants on 08.06.2023. The plaintiff does not have any lawful title or possession in above land.

The learned Joint District Judge rejected above petition for injunction vide impugned judgment and order dated 16.10.2024.

Being aggrieved by and dissatisfied with above judgment and order of the trial Court above plaintiff as appellant moved to this Court and preferred this First Miscellaneous Appeal. On an application filed by above appellant under Order 39 Rule 1 of the Code of Civil Procedure this Court issued Rule and passed an ad-interim order of status-quo giving rise to Civil Rule No.704(FM) of 2024.

Mr. A. M. Mahbub Uddin Khokon, learned Senior Advocate for the appellant submits that admittedly C. S. Plot No. $\frac{221}{523}$ comprises 6.91 acres land and the Government by two Land Acquisition Case being Nos.66/56-57 and 66/65-66 acquired 5.42 acres and 35 decimal land remained in the ownership of the recorded tenants. Plaintiff claims above land on the basis of transfer by a registered deed of Heba-bil-ewaz and a registered deed of sale from the heirs of Sikim Ali who was a tenant of S. A. Khatian No.551 and possessed the same by constructing a semi pacca hut. It is also admitted that defendant Nos.1 and 2 went into possession of above land by evicting the unauthorized

occupants on 08.06.2023. The appellant as plaintiff has filed above suit for declaring of title and recovery of possession. The ends of justice demands that till disposal of above suit on merit the nature and possession of above land be preserved to avoid further complications. The plaintiff apprehends that the defendants may start construction of a building in above land which will create additional hazards if the plaintiff gets a decree. The learned Judge of the trial Court has failed to appreciate above materials on record and most illegally rejected the petition for injunction which is not tenable in law.

On the other hand Mr. Md. Shamsul Islam, learned Advocate for respondent Nos.1 and 2 submits that admittedly 5.42 acres land of C. S. Plot No. $\frac{221}{523}$ was acquired by the Government by two Land Acquisition Cases and defendant No.1 got possession on 08.06.2023. The plaintiff has claimed remaining 35 decimal land of above C. S. Plot but above land is not within the disputed land which is secured by a boundary wall. Admittedly the defendants are in possession of the disputed land. As such the plaintiff cannot get an order of injunction. The learned Advocate lastly submits that at present the defendants do not have any plan for construction of any structure in disputed 35 decimal land. The learned Joint District Judge on correct appreciation of materials on record rightly has rejected the petition for injunction 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 C. S. and S. A. Plot No. $\frac{221}{523}$ comprises 6.91 acres land and by two Land Acquisitions Cases being Nos.66/56-57 and 66/65-66 the Government acquired 5.42 acres land for defendant No.1 and 35 decimal land remained in the ownership and possession of the recorded tenants. In the plaint the plaintiffs did not make specific mention as to the name and number of khatians and the names of the recorded tenants for total 6.91 acres land of Plot No. $\frac{221}{523}$.

Plaintiff claim title by transfer from heirs of Sikim Ali. The photocopy of above S. A. Khatian submitted by the plaintiff show that 2.68 acres land of Plot No. $\frac{221}{523}$ was recorded in the names of 10 tenants including Sikim Ali but no specific share of above tenants was mentioned in above khatian. It is not understandable as to how plaintiff claims total remaining 35 decimal land of Plot No. $\frac{221}{523}$ by way of transfer from heirs of Sikim Ali alone who was one of ten tenants of above S. A. Khatian.

Defendant admits the claim of the plaintiff that he was dispossessed from above land on 08.06.23 and designated the plaintiff as an unauthorized possessor. It is admitted that defendant is in possession in above land and there is nothing on record to show that

the defendant is proceeding for changing the nature, feature or character of above land in any way. The learned Advocates for both the sides have assured that they would not seek any adjournment and proceed for expeditious trial of above suit in the trial court. Since the plaintiff has filed above suit under Section 8 of the Specific Relief Act, 1877 and above suit is at pre-emptory hearing stage in our view the ends of justice will be met if both the parties maintain status-quo as to the possession and position of above land for a specific period of time and the learned Judge of the trial Court is directed to conclude the trial of the suit within above period of time.

In above view of the facts and circumstances of the case and materials on record we find substances in this First Miscellaneous Appeal which deserves to be allowed.

In the result, the First Miscellaneous Appeal is allowed.

The impugned order dated 16.10.2024 passed by the learned Joint District Judge, Court No.1, Dhaka in Civil Suit No.452 of 2024 is set aside and both the parties are directed to maintain status-quo as to possession and position of disputed 35 decimal land for a period of six months from today.

The learned Joint District Judge is directed to dispose of above suit on merit in accordance with law within a period of six months from the date of receipt of this order.

Civil Rule No.704(FM) of 2024 is accordingly disposed of.

However, there will be no order as to cost.

Tamanna Rahman Khalidi, J:

I agree.

**MD. MASUDUR RAHMAN
BENCH OFFICER**