

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

**Present:**

**Mr Justice Abdur Rahman**

**Civil Revision No. 1803 of 2025**

**In the matter of:**

Most. Sanowara Begum

*.....Plaintiff-Respondent*

*Petitioner*

**-Versus-**

Sirajul Karim @ Bablu died leaving behind his  
heirs Md. Abdul Halim Sarkar (Roney) and  
others

*... Defendants-Appellants*

*Opposite parties*

Ms Snigdha Sarkar, Advocate,

*.....For the Petitioner.*

Mr Md. Saidul Islam Khan, Advocate

*...for the opposite parties*

**Date of Hearing: 28.6.2026 and**

01.07.2026 A.D.

**Date of Judgment: 08.07.2026 A.D.**

Wednesday; 24 Ashar, 1433 B.S.

**JUDGMENT:**

**Abdur Rahman, J:**

This revisional application, at the instance of the petitioner, has been filed under section 115(1) of the Code of Civil Procedure, 1908. At the time of issuance of the Rule, the following order was passed:

*"Let a Rule be issued calling upon the opposite party to show cause as to why the judgment and order dated 17.03.2025 passed by the Court of learned Senior District Judge, Rajshahi in Miscellaneous Appeal No. 18 of 2025 dismissing the appeal and thereby affirming order dated 30.08.2023 passed by the learned Senior Assistant Judge, Poba, Rajshahi in Other Class Suit No. 85 of 2023 allowing the application under Order 39 Rule 1 and 2 read with Section 151 of the Code of Civil Procedure, now pending in the Court of learned Senior Assistant Judge, Poba, Rajshahi. should not be s aside and/or pass such other further order or orders as to this Court may seem fit and proper."*

Concomitantly, this Court was also pleased to stay the operation of the said judgment and order till disposal of the Rule.

**Facts:**

The relevant facts, shorn of unnecessary details, are that the present petitioner, as plaintiff, instituted Other Class Suit No.85 of 2023 in the Court of the learned Senior Assistant Judge, Paba, Rajshahi seeking cancellation of registered Deed No.1973 dated 17.01.1979, on the assertion that she had never executed the said deed in favour of the predecessor-in-interest of defendant Nos.1-4 and that the deed was forged, fabricated and fraudulent.

The defendants entered appearance and contested the suit by filing a written statement denying all material allegations made in the plaint and praying for dismissal of the suit.

During the pendency of the suit, the plaintiff filed an application under Order XI Rule 14 of the Code of Civil Procedure, praying for a direction to the defendant Nos. 1-4

to produce the original deed in question. In response thereto, the defendants submitted that the original deed was not in their custody and produced a certified copy thereof. Upon hearing the parties, the learned trial Court disposed of the said application.

Subsequently, the plaintiff filed another application praying for issuance of summons upon the concerned authority for production of the L.T.I. Register maintained in the office of the Sub-Registrar with a view to verifying the alleged thumb impressions appearing in the impugned deed.

While the said application remained pending, defendant Nos. 1-4 filed an application under Order XXXIX, Rules 1 and 2, read with section 151 of the Code of Civil Procedure, seeking an order of temporary injunction restraining the plaintiff from disturbing their possession of the suit property.

The plaintiff filed a written objection contesting the said application. Upon hearing both parties and considering the materials on record, the learned Senior Assistant Judge, by

order dated 30.08.2023, allowed the application for temporary injunction.

Being aggrieved thereby, the plaintiff preferred Miscellaneous Appeal No.18 of 2025 before the learned Senior District Judge, Rajshahi along with an application under section 5 of the Limitation Act, 1908 seeking condonation of delay of 562 days in filing the appeal.

Upon hearing the parties, the learned appellate Court found that no sufficient cause had been shown for condonation of such inordinate delay, rejected the application under section 5 of the Limitation Act, and consequently dismissed the appeal as barred by limitation by judgment and order dated 17.03.2025.

Being dissatisfied, the plaintiff has preferred the instant revisional application.

**Submissions:**

Ms Snigdha Sarker, the learned Advocate appearing for the petitioner, submits that both the Subordinate Courts committed serious errors of law in granting and affirming the

order of temporary injunction without properly considering the settled principles governing grant of temporary injunction, namely, existence of a prima facie case, balance of convenience and inconvenience, and likelihood of irreparable loss and injury.

She further submits that the very foundation of the defendants' claim rests upon the disputed deed, the genuineness whereof is under direct challenge in the suit. According to the learned Advocate, the defendants failed to produce the original deed despite an application under Order XI Rule 14 of the Code of Civil Procedure, and subsequently the trial Court itself deemed it necessary to call for the L.T.I. Register from the office of the Sub-Registrar. These circumstances, according to her, clearly indicate that the authenticity of the disputed deed remains a matter to be adjudicated after evidence is recorded.

She next contends that the learned appellate Court illegally dismissed the appeal solely on the ground of limitation without properly appreciating the explanation offered by the appellant in the application under section 5 of

the Limitation Act. It is argued that the appellate Court adopted a highly technical approach instead of advancing substantial justice.

The learned Advocate further submits that the appellate Court, being the final Court of facts, failed to comply with the mandatory requirements of Order XLI Rule 31 of the Code of Civil Procedure while disposing of the appeal.

In support of her submissions, she has referred to the decision reported in **2001 SCMR 1254**.

Conversely, Mr Saidul Alam Khan, the learned Advocate appearing for the opposite parties, supports the judgments and orders of both the Subordinate Courts.

He submits that the defendants derive title through registered Deed No.1973 dated 17.01.1979 executed by the predecessors of the plaintiff and defendant No.5. Thereafter, the property was partitioned amongst the successors by registered Partition Deed No.6032 dated 16.04.2012. The defendants have been in continuous possession of the suit

land, have mutated their names in the relevant revenue records, and have been regularly paying rent.

The learned Advocate submits that the learned trial Court, upon consideration of the registered deed, mutation records, rent receipts and other documentary evidence, rightly found a *prima facie* case in favour of the defendants and granted temporary injunction to preserve the existing state of possession.

He further submits that the appeal before the District Judge suffered from an unexplained delay of 562 days and no sufficient cause, within the meaning of section 5 of the Limitation Act, was disclosed. Consequently, the appellate Court rightly rejected the application for condonation of delay and dismissed the appeal.

Lastly, he submits that both the Subordinate Courts have concurrently exercised their judicial discretion upon a proper appreciation of the materials on record, and such concurrent findings call for no interference by the revisional jurisdiction.

He has relied upon the decision reported in **45 DLR (AD)**  
**178.**

**Consideration:**

I have heard the learned Advocates for the respective parties, perused the judgments of the Subordinate Courts and carefully examined the materials available on record.

The suit out of which the present Rule arises is one for cancellation of a registered deed. The plaintiff alleges that she never appeared before the Sub-Registrar, never executed the disputed deed and that the deed is forged and fraudulent. The defendants, on the contrary, assert that the deed is genuine and that they have acquired valid title and possession thereunder.

It is well settled that at the stage of deciding an application for temporary injunction, the Court is not required to finally adjudicate upon disputed questions relating to title. The Court is merely required to ascertain whether the applicant has established a *prima facie* case, whether the balance of convenience lies in favour of granting the

injunction, and whether refusal of the injunction would occasion irreparable injury.

The learned trial Court considered that the disputed deed is a registered document that remains operative and has not yet been declared void or cancelled by any competent Court. It further noticed that the defendants had produced another registered Partition Deed No. 6032 dated 16.04.2012, wherein the property was partitioned amongst the successors of the vendee of the alleged deed in question, mutation records, and rent receipts indicating their possession over the suit property. On the basis of such materials, the learned trial Court exercised its discretion in favour of maintaining the existing state of possession until final adjudication of the suit.

In my considered opinion, such findings cannot be said to be arbitrary, capricious, or perverse, warranting interference under the revisional jurisdiction.

It further appears that after rejection of the review application, the plaintiff preferred the Miscellaneous Appeal after an unexplained delay of 562 days. The learned appellate

Court examined the explanation furnished in the application under section 5 of the Limitation Act, 1908, and found that no sufficient cause had been shown.

The expression "sufficient cause" occurring in section 5 of the Limitation Act must receive a liberal construction where the facts so justify; nevertheless, a litigant seeking condonation of substantial delay must satisfactorily explain the entire period of delay. Mere assertion of *bona fide* mistake, unsupported by convincing particulars, does not constitute sufficient cause.

In the instant case, the explanation offered by the petitioner is wholly vague and lacks the particulars necessary to justify condonation of such an inordinate delay. I, therefore, find no illegality in the order passed by the learned appellate Court rejecting the application under section 5 of the Limitation Act.

The reliance placed by the petitioner upon **2001 SCMR 1254** is of little assistance, as the facts of the present case are materially different. On the contrary, the principle enunciated

in **45 DLR (AD) 178** that an appeal barred by limitation cannot proceed unless the delay is first satisfactorily explained squarely applies to the facts of the instant case.

It is equally well settled that the revisional jurisdiction under section 115 of the Code of Civil Procedure is supervisory in nature. Unless the subordinate Court has exercised jurisdiction not vested in it by law, failed to exercise jurisdiction so vested, or acted illegally or with material irregularity in exercising such jurisdiction, interference is not warranted. Concurrent discretionary orders relating to temporary injunction ordinarily do not call for interference unless manifest injustice or patent illegality is demonstrated.

Upon an overall consideration of the facts and circumstances of the case, I find that both the Subordinate Courts exercised their equitable discretion judicially and upon proper consideration of the materials available before them. No jurisdictional error, illegality or material irregularity has been shown so as to justify interference under section 115 of the Code of Civil Procedure.

**Disposition:**

Therefore, I do not find any essence to the instance Rule, thus devoid of merit.

In the result, the Rule is discharged without any order as to costs.

The judgment and order dated 17.03.2025 passed by the learned Senior District Judge, Rajshahi in Miscellaneous Appeal No.18 of 2025 affirming the order dated 30.08.2023 passed by the learned Senior Assistant Judge, Paba, Rajshahi in Other Class Suit No.85 of 2023 are hereby maintained.

However, considering the nature of the suit it is evident that the suit involves the genuineness of a registered deed, the learned Senior Assistant Judge, Paba, Rajshahi is directed to proceed with the suit expeditiously and dispose of the same, preferably within **short possible of time** from the date of receipt of this judgment, without granting unnecessary adjournments to either party, if there is no legal impediment.

The order of stay granted earlier by this Court stands recalled and vacated.

Let a copy of this judgment be transmitted to the Court  
concerned forthwith.

*(Abdur Rahman, J.)*