

Bench:

Mr. Justice Md. Ali Reza

Civil Revision No. 2313 of 2026

Md. Rowshan Khan Sagor

.....petitioner

-Versus-

Most. Gul Nahar Begum and another

.....opposite parties

Mr. Golam Ahmed, Advocate

.....for the petitioner

Mr. Mohammad Shishir Manir, Senior Advocate
with

Ms. Sultana Nasrin,

Mr. Md. Mizanul Hoque and

Mr. Md. Farid Ahmed, Advocates

.....for opposite parties

**Heard on: 25.08.2026, 08.09.2026,
09.09.2026 and 10.09.2026**

Judgment on: 15.09.2026

In the instant revision Rule was issued calling upon the opposite party 1 to show cause as to why the judgment and order dated 30.06.2026 passed by the learned Additional District Judge, Sunamgonj in Miscellaneous Appeal Number 01 of 2026 dismissing the appeal thereby affirming the judgment and order dated 05.01.2026 passed by the learned Civil Judge, Chattak, Sunamgonj in Title Suit Number 47 of 2025 allowing the application filed by the plaintiff under Order 39 Rules 1 and 2 and under Section 151 of the code of

Civil Procedure should not be set aside and/or such other or further order or orders be passed as to this Court may seem fit and proper.

The opposite party as plaintiff filed Title Suit Number 47 of 2025 in the Court of Assistant Judge, Chhatak, Sunamganj on 24.04.2025 for a decree of permanent injunction in respect of 1.125 decimals of land described in the second schedule.

It is admitted that by registered kabala deed Number 254 dated 10.01.1988 Abdul Jalil the predecessor of the plaintiff and Hiron Khan the predecessor of the defendants jointly purchased 2.25 decimals of land under the same deed. Thereafter Abdul Jalil became the owner in possession of the eastern half measuring 1.125 decimals of land while Hiron Khan became the owner and possessor of the remaining western half measuring 1.125 decimals of land.

The plaintiff claims that Abdul Jalil sold his share to her by registered kabala deed Number 2851 dated 15.07.2012 and delivered possession to her.

It is admitted that Abdul Jalil died leaving his son Abdul Dayas as defendant 2. Hiron Khan also died leaving his only son Rowshan as defendant 1.

The defendants claim that in 2006 Abdul Jalil gifted half of his share of the land to his son defendant 2 Dayas by an unregistered deed and delivered possession to him. Since defendant 2 Dayas resides in London for most of the time he entrusted the responsibility of looking after his share of the land to his close relative defendant 1. The defendants further claim that the deed dated 15.07.2012 relied upon by the plaintiff was never acted upon on the spot.

It thus appears that the defendants claim to have acquired the land covered by the deed executed by Jalil in favour of the plaintiff through the alleged gift made by Jalil in favour of defendant 2.

An important question therefore arises as to whether Jalil gifted the land to his son defendant 2 Dayas in 2006 or transferred the same to the plaintiff by the deed dated 15.07.2012 relied upon by her. This is essentially a matter to be decided on the basis of evidence. However it may be observed that the plaintiff has a prima facie case on the basis of registered kabala deed Number 2851 dated 15.07.2012.

After filing the suit on 24.04.2025 the plaintiff filed an application on the same day under Rules 1 and 2 of Order 39 of the Code of Civil Procedure seeking an order of temporary

injunction as well as an interim injunction so that the defendants might not interfere with her peaceful possession of the suit land or dispossess her therefrom by force.

The Court directed the defendants to show cause by notice within seven days. The plaintiff thereafter filed the notice before the Court on 29.04.2025 for service upon the defendants.

On 08.05.2025 which was not a date fixed for the suit the Court passed an order directing both parties to maintain the status quo. In doing so the Court referred to the order passed in Criminal Revision Number 32 of 2025 on the plaintiff's application under Section 151 of the Code of Civil Procedure whereby it was stated that possession had been delivered to the plaintiff.

It appears that there is no dispute regarding the possession of defendant 1 over the share purchased by Hiron Khan. The dispute relates to the half share of Jalil's land purchased by the plaintiff. The defendants claim possession over that land on the basis of the alleged gift.

The amendment to Section 17 of the Registration Act which came into force on 01.07.2005 provides in Sub-section (1)(aa) that a gift under Muslim law must be registered.

However the alleged gift relied upon by the defendants is not registered. Therefore the defendants have no prima facie case at this stage.

It is admitted that the defendants filed Miscellaneous Case Number 198 of 2012 before the Court of the Additional District Magistrate, Sunamganj, under Section 145 of the Code of Criminal Procedure against the plaintiff. In that case an order was passed on 09.10.2012 for delivery of possession in favour of the plaintiff without any obstruction or interference.

Subsequently on 28.01.2025 an order was passed in favour of the defendants in the said case and possession was delivered to the defendants on 09.02.2025.

Thereafter on 16.02.2025 the plaintiff filed Criminal Revision Number 32 of 2025. The learned Sessions Judge allowed the revision by judgment dated 16.03.2025 and set aside the judgment dated 28.01.2025. Accordingly possession was delivered to the plaintiff on 21.04.2025.

In the meantime the defendants filed Criminal Miscellaneous Case Number 27239 of 2025 before the High Court Division under Section 561A of the Code of Criminal Procedure on 17.04.2025 bearing Entry Number 30443.

Thereafter the plaintiff filed the present suit on 24.04.2025.

In Criminal Miscellaneous Case Number 27239 of 2025 a Rule was issued on 30.04.2025 and the order dated 16.03.2025 passed in Criminal Revision Case Number 32 of 2025 was stayed.

Thus at this stage it appears from the record that the plaintiff is in possession of the suit land by virtue of the judgment dated 16.03.2025 passed in Criminal Revision Case Number 32 of 2025 and the status quo order dated 08.05.2025 passed in the present title suit. It is also admitted in paragraph 6 of the revisional application that the defendants had full knowledge of the delivery of possession to the plaintiff on 21.04.2025.

It is important to note that the order dated 30.04.2025 passed by the High Court Division shows that the defendants filed a supplementary affidavit. The said supplementary affidavit was dated 22.04.2025 after the plaintiff had obtained possession on 21.04.2025.

The plaintiff thereafter filed Criminal Petition for Leave to Appeal Number 1684 of 2025 against the order dated 30.04.2025 passed by the High Court Division on 12.05.2025.

The plaintiff obtained an order of stay and status quo from the Honourable Judge-in-Chamber of the Honourable Appellate Division on 14.05.2025 against the said order dated 30.04.2025.

It is particularly important to note that on 14.05.2025 the Honourable Judge-in-Chamber directed both parties to maintain status quo in respect of possession of the suit property. The said leave petition was then pending for hearing before the Appellate Division.

On 02.06.2025 the Appellate Division passed its judgment and directed that the stay and status quo order passed by the Honourable Judge-in-Chamber would continue until disposal of the Rule. The High Court Division was also directed to dispose of the Rule.

Despite the aforesaid order dated 14.05.2025 the defendants after obtaining an opinion from the Public Prosecutor and with the assistance of the Assistant Commissioner (Land) took possession of the suit land at about 12:30 p.m. on 14.05.2025.

It is difficult to understand how the Assistant Commissioner (Land) passed such an order and how the

defendants took possession of the suit land when the matter was pending before the Appellate Division.

The defendants claim that the status quo order passed by the Honourable Judge-in-Chamber on 14.05.2025 was made after 2:30 p.m. They further claim that they had already taken possession of the suit land at about 12:30 p.m. on that day before the order was passed. Since they had no knowledge of the said order at that time they claim that they did not flout the order of the Appellate Division.

In accordance with the judgment dated 02.06.2025 passed by the Honourable Appellate Division the High Court Division disposed of Criminal Miscellaneous Case Number 27239 of 2025 by judgment dated 19.12.2025. In the said judgment the High Court Division specifically directed the Assistant Judge of the present suit to decide the matter upon hearing the parties. It further directed that if it is found that the defendants had dispossessed the plaintiff by flouting the status quo order passed by the Honourable Appellate Division the Assistant Judge would restore possession to the plaintiff by an order of *status quo ante*.

In this background the defendants filed a written objection on 17.11.2025 against the plaintiff's application for

temporary injunction. In the said objection the defendants claimed to have acquired the suit property by an unregistered deed. The defendants also filed a written objection on 05.01.2026 against the application under Section 151 of the Code of Civil Procedure filed by the plaintiff on 05.11.2025.

The trial Court by Order Number 8 dated 05.01.2026 allowed both the plaintiff's application for temporary injunction and the application under Section 151 of the Code of Civil Procedure against defendants 1 and 2. The Court directed the Assistant Commissioner (Land), Chhatak to deliver possession of the suit land to the plaintiff. It further directed the Officer-in-Charge, Chhatak Police Station to maintain law and order for the purpose of delivering possession of the said land.

The trial Court also passed an order of temporary injunction restraining defendants 1 and 2 from causing any interference with the plaintiff's possession of the suit land as claimed by her until disposal of the suit or until further orders.

Being aggrieved by the said order the defendants filed Miscellaneous Appeal Number 1 of 2026. The Additional District Judge, First Court, Sunamganj by judgment dated

30.06.2026 found the judgment of the trial Court to be correct and lawful and accordingly affirmed the same.

Being aggrieved by the said judgment defendant 1 filed the present revisional application before this Court. On 19.07.2026 he obtained the Rule and an order of stay of the judgment and order dated 30.06.2026 passed by the appellate Court.

The plaintiff thereafter filed Civil Petition for Leave to Appeal Number 2570 of 2026 against the said order. The Honourable Judge-in-Chamber of the Honourable Appellate Division sent the matter to this Court for expeditious disposal of the Rule. Accordingly the leave petition was disposed of.

The Rule is now being heard and is being disposed of by this judgment.

Learned Advocate Mr. Golam Ahmed appearing on behalf of the petitioner submits that the Courts below committed error of law occasioning failure of justice in granting the injunction and the order of *status quo ante* in contravention of law.

He further submits that the defendants took possession of the suit land by an order of the Assistant Commissioner (Land) on 14.05.2025 at about 12:30 p.m. However the order

of stay and status quo was passed by the Honourable Judge-in-Chamber of the Honourable Appellate Division on the same day at or after 2:30 p.m. Therefore there was no scope for the petitioner to have notice of the said order before taking possession. The petitioner could not have flouted an order of which he had no knowledge.

He submits that the Courts below failed to consider the order dated 01.09.2025 passed by the High Court Division in Criminal Miscellaneous Case Number 27239 of 2025. By the said order the High Court Division directed that if it is found that the defendants had dispossessed the plaintiff by flouting the status quo order passed by the Honourable Appellate Division the Court below might pass an order of *status quo ante*.

He submits that the Courts below without assigning any reason and without considering the fact that the order of the Honourable Judge-in-Chamber was passed at or after 2:30 p.m. whereas the petitioner had taken possession at 12:30 p.m. wrongly held that restoration of the plaintiff's possession is warranted. Since the moot question as to whether the order was actually violated or not is apparent from the record the impugned judgments passed by the Courts below are

misconceived and liable to be set aside. He therefore prays that the Rule be made absolute.

On the other hand learned Senior Advocate Mr. Mohammad Shishir Manir along with Ms. Sultana Nasrin, Mr. Md. Mizanul Hoque and Mr. Md. Farid Ahmed appearing on behalf of the opposite party submits that the Courts below passed their respective orders upon proper consideration of the materials on record and exercised their discretion upon application of judicial mind. The impugned orders are self-speaking and contain sufficient reasons in support of the conclusions reached. The petitioner has utterly failed to demonstrate any jurisdictional error, material irregularity, perversity, non-reading or misreading of evidence warranting interference by this Court in its revisional jurisdiction.

He further submits that admittedly the defendant has no right, title or interest in the suit land and has no possession in the same. He has not approached the Court with clean hands. He is a stranger and a trespasser. The *prima facie* case and balance of convenience and likelihood of irreparable loss and injury are all in favour of the plaintiff. The plaintiff has established *prima facie* lawful title through the registered deed dated 15.07.2012 executed by the admitted owner Abdul Jalil.

The defendant on the other hand has utterly failed to establish any lawful title.

He lastly submits that the plaintiff has fallen into a web of complications and is being harassed by reliance upon technicalities of law. The Court may exercise its discretionary power in the interest of justice and uphold the cause of justice. He therefore prays that the Rule be discharged in the interest of justice.

I have heard the learned advocates for both sides and perused the materials on record.

On perusal of the materials on record it appears that the opposite party as plaintiff filed Title Suit Number 47 of 2025 in the Court of the Assistant Judge, Chhatak, Sunamganj for permanent injunction in respect of 1.125 decimals of land described in the second schedule of the plaint.

The plaintiff claims title and possession in the suit land through registered kabala deed Number 2851 dated 15.07.2012 executed by Abdul Jalil. It is not disputed that Abdul Jalil and Hiron Khan jointly purchased 2.25 decimals of land by registered Kabala Number 254 dated 10.01.1988. According to the case of the plaintiff Abdul Jalil was the owner and possessor of the eastern half measuring 1.125

decimals. Hiron Khan was the owner in possession of the western half measuring 1.125 decimals.

The defendants however claim that Abdul Jalil gifted portion of his share to defendant 2 by an unregistered deed in the year 2006 and delivered possession to him. The plaintiff disputes the alleged gift and relies upon her registered Kabala dated 15.07.2012. Thus the claim of the defendants is based upon an alleged unregistered gift whereas the plaintiff has relied upon a registered deed of transfer.

It further appears that the plaintiff had earlier obtained possession of the suit land on 09.10.2012 in connection with Miscellaneous Case Number 198 of 2012 under Section 145 of the Code of Criminal Procedure. Subsequently possession was delivered to the defendants on 09.02.2025 pursuant to the judgment dated 28.01.2025. The plaintiff challenged the said judgment by filing Criminal Revision Number 32 of 2025. The Sessions Judge allowed the revision by judgment dated 16.03.2025. Thereafter possession was again delivered to the plaintiff on 21.04.2025.

The present suit was filed on 24.04.2025. In the meantime the defendants filed Criminal Miscellaneous Case Number 27239 of 2025 before this Court challenging the

judgment dated 16.03.2025 passed in Criminal Revision Number 32 of 2025. A Rule was issued in the said criminal miscellaneous case on 30.04.2025.

The said Criminal Miscellaneous Case Number 27239 of 2025 was ultimately disposed of by judgment dated 01.09.2025. In that judgment this Court observed in substance that if it is found after hearing that the defendants had dispossessed the plaintiff by flouting the status quo order passed by the Honourable Appellate Division the Court below might pass an order of *status quo ante*. Therefore the question whether the defendants had taken possession in violation of the order of the Honourable Appellate Division was left to be considered in the appropriate proceeding upon hearing the parties.

In the present suit the trial Court passed an order of status quo on the application filed by the plaintiff under Section 151 of the Code of Civil Procedure. Thereafter by Order Number 8 dated 05.01.2026 the trial Court allowed the application for temporary injunction and also directed restoration of possession in favour of the plaintiff. The trial Court further directed the Assistant Commissioner (Land), Chhatak to deliver possession to the plaintiff and directed the

Officer-in-Charge of the concerned police station to maintain law and order.

Being aggrieved by the said order the defendants preferred Miscellaneous Appeal Number 1 of 2026. The Additional District Judge, First Court, Sunamganj by judgment dated 30.06.2026 affirmed the order passed by the trial Court. Thereafter defendant 1 obtained the present Rule.

The principal submission of the learned Advocate for the petitioner is that the defendants took possession of the suit land on 14.05.2025 at about 12:30 p.m. pursuant to an order of the Assistant Commissioner (Land) whereas the order of stay and status quo was passed by the Honourable Judge-in-Chamber of the Honourable Appellate Division on the same day at or after 2:30 p.m. It is therefore submitted that the petitioner had no knowledge of the said order when possession was taken and the order of the Appellate Division could not have been violated by him.

Now the question is whether the Courts below committed any jurisdictional error or material irregularity in granting interim protection to the plaintiff and in directing restoration of the position which existed before the disputed change of possession.

The plaintiff has relied upon a registered Kabala dated 15.07.2012 executed by Abdul Jalil. The defendants on the other hand have relied upon an alleged gift said to have been made in the year 2006 by an unregistered deed. The alleged gift is seriously disputed by the plaintiff. In such circumstances the defendants have not been able to show any clear and undisputed *prima facie* title in the suit land on the basis of the alleged gift. The registered deed relied upon by the plaintiff cannot be brushed aside at the interlocutory stage without a proper trial. The alleged gift relied upon by the defendants is not supported by any registered deed. In view of the provision of Section 17(1)(aa) of the Registration Act as amended with effect from 01.07.2005 the requirement of registration of gift under Muslim Law is a relevant consideration in determining the *prima facie* strength of the defendants' claim. No decision has yet been made by the superior Courts as to whether an unregistered Muslim gift would prevail over the provisions of the existing Registration Act and the Transfer of Property Act. At this stage the defendants have not been able to show any *prima facie* lawful title to the disputed share.

It is true that the exact time of taking possession and the exact time when the order of stay or status quo was passed may be relevant for determining whether the order of the superior Court was knowingly violated. However even assuming that the petitioner had no prior knowledge of the order passed by the Honourable Judge-in-Chamber that fact alone does not establish his entitlement to retain possession in the face of the orders passed in the criminal proceeding and the findings reached by the Courts below. The issue of knowledge and the circumstances in which possession was taken may be examined in the appropriate proceeding. Those questions do not by themselves displace the *prima facie* case of the plaintiff for interim protection. The summary taking over possession by the defendant at 12.30 p.m. on 14.05.2025 while the dispute was actively *sub-judice* before the Honourable Appellate Division and before the trial Court in Title Suit Number 47 of 2025 and on the strength of an executive action by Assistant Commissioner (Land) who lacked jurisdiction to adjudicate civil possession was patently illegal and high-handed and an attempt to defeat the processes of Court. Injunction is an equitable relief and equity deems that done which ought to be done. The law will not allow a

party to retain the fruits of an illegal dispossession committed *pendente lite*.

It is also necessary to bear in mind that an order of *status quo ante* passed at the interlocutory stage does not finally determine the title of either party. Such an order is intended to restore and preserve the position which existed before the disputed change and to prevent further disturbance of the subject matter of the suit. In the present case the plaintiff was found to have obtained possession on 21.04.2025. The suit was filed shortly thereafter on 24.04.2025. The Courts below found it necessary to protect that position during the pendency of the suit.

The trial Court considered the registered deed relied upon by the plaintiff and the previous proceedings between the parties and the subsequent change of possession. The appellate Court also considered the materials on record and affirmed the order of the trial Court. The reasons assigned by the Courts below may not be elaborate in every respect. Nevertheless upon independent consideration of the materials on record I find that the Courts below exercised their discretion for the purpose of preserving the subject matter of the suit and preventing further disturbance of possession.

In view of the above discussion I find no reason to interfere with the judgment dated 30.06.2026 passed by the Additional District Judge, First Court, Sunamganj in Miscellaneous Appeal Number 1 of 2026 affirming Order Number 8 dated 05.01.2026 passed by the Assistant Judge, Chhatak, Sunamganj in Title Suit Number 47 of 2025.

Accordingly, the Rule is discharged.

The judgment dated 30.06.2026 passed by the Additional District Judge, First Court, Sunamganj in Miscellaneous Appeal Number 1 of 2026 and Order Number 8 dated 05.01.2026 passed by the Assistant Judge, Chhatak, Sunamganj in Title Suit Number 47 of 2025 are hereby affirmed.

The order of temporary injunction and the order directing restoration of the position which existed before the disputed change of possession shall remain in force until disposal of the suit or until further order of the trial Court. For effective implementation of this order and in exercise of the powers conferred by Section 94A of the Code of Civil Procedure all concerned Executive Authorities including the law-enforcing agencies are hereby directed to render every lawful Assistance necessary for due implementation of this

order and to ensure that the possession is restored to the plaintiff peacefully and effectively and without obstruction. The Deputy Commissioner and the Superintendent of Police and the Officer-in-Charge of the police station concerned together with all other competent civil and law enforcement authorities shall extend full cooperation to the executing authority for faithful implementation of this order strictly in accordance with law. The authorities concerned shall submit a compliance report regarding implementation of this order before this Court within 20 (twenty) working days from the date hereof.

The trial Court is directed to dispose of the suit as expeditiously as possible in accordance with law without granting unnecessary adjournments to either party.

There shall be no order as to costs.

The order of stay passed by this Court stands vacated.

Let a copy of this judgment be communicated to the Courts below forthwith.

Md. Ali Reza, J: