

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 MMISCELLANEOUS APPEAL NO.130 OF 2026
WITH
CIVIL RULE NO.213(FM) OF 2026

Md. Hanif Ali

.... Appellant

-Versus-

Md. Sirajul Islam and others

.... Respondents

Mr. Md. Latifur Rahman, Advocate

.... For the appellant.

Mr. Syeda Nasrin, Advocate with

Mr. Md. Gaus Mollick, Advocate

.... For the respondent Nos.1-4.

Heard and Judgment on 14.09.2026.

S M Kuddus Zaman, J:

This First Miscellaneous Appeal at the instance of the plaintiff is directed against the judgment and order dated 18.02.2026 passed by the learned Joint District Judge, 4th Court, Dhaka in Title Suit No.431 of 2025 rejecting an application for temporary injunction.

Civil Rule Nos.213(FM) of 2026 having arising out of this First Appeal both the First Miscellaneous Appeal and Civil Rule are heard together and being disposed of by this single judgment.

Facts in short are that the appellant as plaintiff filed above suit for declaration of title for 92 decimal land and for further declaration that the quantity of land of registered kabala deed No.10971 executed by plaintiff and his other two brothers jointly on 14.09.2022 was fraudulently enhanced to 1.44 acres.

In above suit plaintiff submitted a petition under Order 39 Rule 1 of the Code of Civil Procedure, 1908 for temporary injunction so that the defendants may not transfer or change the nature and character of above land. It was stated that on the basis of purchase by above fraudulent kabla deed the defendant forcibly entered into possession of above land and constructing a multi storied building which will change the nature and character of the land.

Defendant No.1 contested above petition by filing written objection alleging that the plaintiff and his two other brothers jointly transferred 1.44 acre land by registered kabla deed No.10971 dated 14.09.2022 and delivered possession. The defendant has mutated his name for above land and paid rent to the Government and constructing a cold storage in above land.

The learned Joint District Judge rejected above petition for injunction vide impugned order dated 18.02.2026.

Being aggrieved by and dissatisfied with above judgment and order of the learned Joint District Judge above plaintiff as appellant moved to this Court and preferred this First Miscellaneous Appeal.

Mr. Md. Latifur Rahman, learned Advocate for the appellant submits that the plaintiff was the lawful owner and possessor of 52 decimal land and he transferred the same to defendant No.1 by registered kabla deed No.10971 dated 14.09.2022 and delivered possession. But the defendant fraudulently by interpolation and over writing increased the quantity of land to 1.44 acres. Since the plaintiff has transferred 52 decimal land he has filed above suit for declaration of title for remaining 92 decimal land. The defendant forcibly entered into possession of above land and constructing a multi storied building which needs to be stopped to protect the nature and character of the suit land. But the learned Joint District Judge totally failed to appreciate above materials on record and most illegally rejected above petition for injunction which is not tenable in law.

Ms. Syeda Nasrin, learned Advocate for the respondent Nos.1-4 submits that the plaintiff has admitted in the plaint that 1.44 acres land was owned, held and possessed by the plaintiff and his two brothers namely Mohammad Ali and Md. Showkat Ali and plaintiff has admitted to have transferred 52 decimal land to the defendant by impugned kabla deed No.10971 dated 14.09.2022. As such the plaintiff did not have any subsisting title and possession in above land. The plaintiff alone has filed above suit claiming title in 92 decimal land although he admitted to have transferred 52 decimal land to defendant No.1. The plaintiff has admitted that the defendant is in possession in the disputed land on the

basis of above purchase. As such the plaintiff does not have any prima facie good and arguable case or winnable case. On consideration of above materials above land the learned Joint District Judge rightly rejected above petition which calls for no interference.

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

It has been admitted by the plaintiff in the plaint that 1.44 acres land belonged to plaintiff and his two brothers, namely Mohammad Ali and Md. Showkat Ali in equal shares. It has been further admitted that the plaintiff has transferred 52 decimal land to defendant No.1 by impugned kabla deed No.10971 dated 14.09.2022. It is not understandable as to how plaintiff being lawful owner of $\frac{1}{3}$ rd share of 1.44 acres land can claim title in 92 decimal land after transferring 52 decimal to defendant No.1. The plaintiff has admitted that by registered kabla deed No.10971 dated 14.09.2022 plaintiff and his other two brothers Mohammad Ali and Md. Showkat Ali jointly transferred land but the plaintiff fraudulently enhanced the quantity of land in above deed. Since the plaintiff has admitted to have transferred 52 decimal land and his brothers Mohammad Ali and Md. Showkat Ali are not plaintiffs of this suit it is not understandable as to how above suit is maintainable at the instance of the plaintiff.

The plaintiff has claimed that defendant No.1 fraudulently altered the quantity of land of registered kabla deed No.10971 dated 14.09.2022

but instead of filing a suit for rectification of instrument he has filed this suit for declaration of title for 92 decimal land. It has been admitted in the petition for injunction that the defendant is in possession in above land and constructing a multi storied building in the same. The learned Advocate for the respondent Nos.1-4 submits that the defendant is building a multi storied cold storage in above land. The construction of any a building or industry in any land enhances the price of the land. The price of construction materials is increases every year and an order of injunction to stop construction work is passed only in exceptionally deserving cases where the petitioner succeeds to prove his good arguable and winnable case.

The plaintiff has totally failed to prove his prima facie good, arguable and winnable case and admittedly that he is out of possession and defendant is in possession in above land on the basis of purchase from plaintiff and his two brothers by a registered kabla deed.

On consideration of above facts and circumstances of the case and materials on record we hold that on correct appreciation of materials on record the learned Joint District Judge rightly rejected the petition for injunction which calls for no interference.

In above view of the materials on record we are unable to find any substance in this First Miscellaneous Appeal which is liable to be dismissed and the connecting Civil Rule issued in this connection is liable to be discharged.

In the result, the First Miscellaneous Appeal is dismissed and the connecting Civil Rule being No.213(FM) of 2026 is discharged.

The order of status-quo granted at the time of issuance of the Rule is hereby vacated.

However, there will be no order as to cost.

Tamanna Rahman Khalidi, J:

I agree.

**MD. MASUDUR RAHMAN
BENCH OFFICER**