Present:
Mr. Justice Md. Salim

CIVIL REVISION NO.4896 OF 2011
WITH
CIVIL REVISION NO.691 OF 2012

Md. Ruhul Amin .....Plaintiff-Petitioner.
: (In C.R. No.4896 of 2011)

Md. Osman Ali .....Defendant-Petitioner.
: (In C.R. No.691 of 2012)

-VERSUS-

Md. Oswman Ali being dead, his heirs:
1(a)- Shahida Begum and others
: .....Defendant-Opposite Parties.
(In C.R. No.4896 of 2011)

Md. Ruhul Amin and others
: .....Plaintiff-Opposite Parties.
(In C.R. No.691 of 2012)

For the Petitioner (In C.R. No.4896 of 2011)	:	Mr. Sherder Abul Hossainm Advocates.
For the Petitioner (In C.R. No.691 of 2011)	:	Mr. Md. Faruque Ahammed, Senior Advocate, with Mr. Abdul Kuddus Miah, Advocate
For the Opposite Party No.1 (In C.R. No.4896 of 2011)	:	Mr. Md. Faruque Ahammed, Senior Advocate, with Mr. Abdul Kuddus Miah, Advocate
For the Opposite Party No.1 (In C.R. No.691 of 2012)	:	Mr. Sherder Abul Hossain, Advocate
Heard on	:	07.01.2025, 12.01.2025, 10.02.2025, 02.03.2025, 03.03.2025 and 04.03.2025.
Judgment on	:	**05.03.2025**

Since the same questions of law and facts involved in both the aforesaid Civil Revision, which arise out of the same

Judgment and decree, have been taken up together for hearing and are now being disposed of by this common Judgment.

By these Rules, these two Civil Revisions, Nos. 4896 of 2011 and 691 of 2012 are directed against the Judgment and decree dated 30.10.2011 passed by the learned Joint District Judge, Additional Court, Cumilla, in Title Appeal No.78 of 2010, allowing the appeal and thereby reversing the Judgment and decree dated 18.03.2010 passed by the learned Assistant Judge, Brahmanpara, Comilla in Title Suit No.32 of 1999 decreeing the suit.

Facts relevant for disposal of the Rules are that the present petitioner in Civil Revision No.4896 of 2011 as plaintiff instituted Title Suit No.32 of 1999 before the Assistant Judge, Brahmanpara, Cumilla, impleading the present petitioner in Civil Revision No.691 of 2012 and other opposite parties as defendants for declaration of title and recovery of Khas possession. The plaintiff's case is that Monir Uddin was the sole owner of .26 acres of land stated in the schedule to the plaint, who died leaving behind sons, namely Humayun Kabir, Sofiqul Islam, Rafiqul Islam, Safi Ullah, Delwar Hossain, Abu Taher, and one daughter, Rahima Khatun. Among the aforesaid heirs of Monir Uddin's sons, Humayun Kabir, Rofiqul Islam, Safqul

Islam, Safi Ullah, and Delwar jointly sold .06 acres of land to Abul Hossain by saf-kabala deed dated 09.02.1978 and .06 acres of land to Haji Abdul Hakim and others. They also sold .0075 acres to the plaintiff, Ruhul Amin, 0075 acres to Nogendra Chandra, .0175 acres to Mowlana Mosleuddin, .0075 acres to the defendant Osman Ali, and .0112 acres of land to Abul Bashar and Khalil. Then Osman sold his .0075 acres to Abdul Malek. After the transfer, the aforesaid heirs of Monir Uddin remained at .0450 acres. Humayun Kabir and Rahima Khatun got the rest of the .0450 acres of land by family arrangement, and they were in possession. That Humayun Kabir sold 0225 acres of land to the plaintiff by saf-kabala deed dated 24.02.1990. That Rahima Khatun gifted her 0225 acres to her son Mizanur Rahman by the deed dated 01.09.1991, then Mizanur Rahman sold that land to the plaintiff by saf-kabala deed dated 07.09.1993. So, the plaintiff owned .0450 acres of land, then sold .0150 acres of land to Abul Hossain and .01 acres of land to Habib Ullha, and the plaintiff has remained only .02 acres of land.

The plaintiff also claimed that Safi Ullah created a gift deed in favor of his wife, Roushan Akhter, regarding 0150 acres of land by the deed dated 24.08.1993, though he had no title

and possession of the above land. Then Rowshan Akhter, in collusion with Osman Ali, created an exchange deed No. 3207 dated 23.11.1993. On the same day, Roushan Akhter sold the so-called exchanged property to the wife of Osaman Ali by saf-kabala deed No. 3208. Actually, no property was exchanged or sold by those deeds. Those are the paper transactions. Defendant No. 1, on the night of 09.12.1996, illegally erected a Tong Ghar measuring 4 x 5 cubits. Subsequently, he erected on thatched Ghor measuring 25 x 8 cubits on the night of holly Sob-E-Borat dated 26.12.1996 and dispossessed the plaintiff from his .02 acres of land.

Defendants No.1 and 2 contested the suit by filing separate written statements. The case of the defendant No.1 inter-alia are that Monir Uddin being the owner of .26 acres of land from eastern side of the plot died leaving behind six sons and one daughter, then each son obtained .033 acres and daughter obtained .016 acres in esjmali possession; then Humaun Kabir, Rafiqul Islam, Safiqul Islam, Safi Ulla, Delwar Hossain sold .06 acres of land to Haji Abdul Haqim and other by Kabala dated 09.02.1978, then the said 5 brothers again sold .06 acres of land to Abul Hossain; that Humaun Kabir after his sale remained 61/260 decimal of land as such he had no right

and title to sell .0225 acres of land to the plaintiff on 24.09.1990; that Humaun Kabir and Rahima Khatun did not have .045 acres after their sale as per claim of the plaintiff; Rahima Khatun did not gifted .0225 acres of land to her son Mijanur Rahman on 01.09.1990; and the plaintiff did not accrue any title and get any possession in the suit land; that after exchange the defendant No. 1 was handed over the possession, then he erected tin shade house measuring 43 feet by 12 feet; the statement of plaintiff by disposses by the defendent are untrue.

The case of defendant No.2, in short, is that the property of late Monir Uddin has not been partitioned yet; the exchange deed dated 23.11.1993 is false; the defendant No.2 and her husband are in possession of that land; the brothers of her husbands had no title to transfer; the statement of dispossession of the plaintiff is untrue, and neither the plaintiff nor the defendant owns the suit land instead the defendant No. 2 is in possession. So, the instant suit is liable to be dismissed.

The learned Assistant Judge, Brahmanpara, Cumilla, framed necessary issues to determine the dispute between the parties.

Subsequently, the learned Assistant Judge, Bdrahmanpara, Cumilla, decreed the suit by the Judgment and decree dated 18.03.2010.

Being aggrieved by the above Judgment and decree, defendant No.1- petitioner in Civil Revision No.691 of 2012, as appellant, preferred Title Appeal No.78 of 2010 before the learned District Judge, Cumilla.

Eventually, the learned Joint District Judge, Additional Court, Cumilla, by the Judgment and decree dated 30.10.2011, allowed the appeal and thereby reversed the Judgment and decree passed by the trial Court.

Being aggrieved by the said Judgment and decree dated 30.10.2011, the plaintiff-petitioner preferred Civil Revision No.4896 of 2011, and the defendant, also as petitioner, preferred Civil Revision No.691 of 2012 before this Division under Section 115(1) of the Code of Civil Procedure and obtained these rules.

Mr. Sherder Abul Hossain, the learned Senior Counsel appearing on behalf of the petitioner in Civil Revision No.4896 of 2011 and for the opposite parties in Civil Revision No.691 of 2012, taking me through the judgments of the Courts below and other materials on record, submits that the learned Judge

of the appellate Court below committed an error of law resulted in an error in the decision occasioning failure of justice in allowing the appeal by making a third case that the plaintiff filed the suit enclosing .038 acres of land based on the Advocate Commissioner's report. Moreover, the appellate Court below allowed the appeal without adverting the findings of the trial Court contrary to the provision of Order XLI Rule 31 of the Code of Civil Procedure, and as such, the impugned Judgment and decree is not a proper judgment of reversal, which results in an error in the decision an occasioning failure of justice.

Mr. Md. Faruque Ahammed, the learned senior advocate appearing on behalf of the opposite party No.1 in Civil Revision No.4896 of 2011 and the petitioner in Civil Revision No.691 of 2012, submits that since the Advocate Commissioner as C.W.1 in his report and cross-examination stated that east side of the suit land marched with the land of Road, and there is no demarcation between the Road and the suit land, and therefore the suit is bard under Order VII Rule 3 of the Code of Civil Procedure as the plaintiff makes no specification. Moreover, the suit is the defect of parties as the part of the suit land marched with the land of roads, but the Roads and Highway or the Government of Bangladesh was not made a party with the

instant suit, and thus he prays for discharging the Rule in C.R. No.4896 of 2011 and making the Rule absolute in C.R. No.691 of 2012.

I have anxiously considered the submission of the learned Advocates and perused the revisional applications, the Judgment, both the Court below and other materials on record. It manifests that Moniruzzaman was the original owner of .26 acres of land who died leaving behind six sons and one daughter, among them Humayun Kabir, Sofiqul Islam, Rafiqul Islam, Safi Ullah, Delwar Hossain, and Abu Taher jointly sold .06 acres of land to Abul Hossain by kabala dated 09.02.1978 and .06 acres of land to Haji Abdul Hakim and others. They also sold .0075 acres to the plaintiff Ruhul Amin, 0075 acres to Nogendra Chandra, .0175 acres to Mowlana Mosleuddin, .0075 to the defendant Osman Ali, and .0112 acres of land to Abul Bashar and Khalil. Then Osman sold his .0075 acres to Abdul Malek. After the transfer, the aforesaid heirs of Monir Uddin remained at .0450 acres. Humayun Kabir and Rahima Khatun got the rest of the .0450 acres of land by family arrangement, and they were in possession. That Humayun Kabir sold 0225 acres of land to the plaintiff by saf-kabula deed dated 24.02.1990. Rahima Khatun gifted har 0225 acres to her son

Mizanur Rahman. Then, Mizamır Rahman sold that land to the plaintiff. So, the plaintiff owned .0450 acres of land. He sold .0150 acres to Abul Hossain and .01 acres of land to Habib Ullah, and the plaintiff has remained only .02 acres. It was the further case of the plaintiff that the defendant dispossessed the plaintiff on 09.12.1996 and 26.12.1996 by erected Tong Ghar and thatched Ghar respectively.

In order to prove the case, the plaintiff examined as many as four (4) witnesses and produced necessary documents which were marked as Exhibits 1, 2 series, 3, 4 series, 6, 7 series, 8, 8(ka), and 9. On the other hand, defendant No.1, to prove his case, examined as many as six(6) witnesses and produced documents which were marked as Exhibits-Ka, Ka(1), Kha, Ga, Gha, Gha(1). Defendant No.2 examined as many as two(2) witnesses but produced no documents. The Advocate Commissioner was examined as C.W.1.

I have scrutinized each deposition and cross-examination of the witnesses and anxiously considered both parties' exhibited documents. It manifests that P.W.1, the plaintiff, in his deposition and cross-examination, specifically gave details about his title of the suit land and how he was dispossessed from the suit land by the defendant on 09.12.1996 and

26.12.1996. The P.W.2-4 and D.W 1 significantly corroborated the evidence of P.W.1.

It appears that the trial court, considering the above evidence on the record as well as oral evidence while decreeing the suit, says that the suit is maintainable, the suit is not barred by limitation, and the plaintiff has the right, title, and interest in the suit land; instead, the defendant has no right, title, and interest in the suit land. The defendant most illegally dispossessed the plaintiff from the suit land on 09.12.1996 and 26.12.1996.

On the other hand, it manifests from the Judgment of the appellate Court below that the learned Judge of the appellate Court below, though concurred with the findings of the trial court below, dismissed the suit with conclusions that:

> "বাদী ও বিবাদী পক্ষে উপরোক্ত সাক্ষ্য-প্রমাণ পর্যালোচনায় দেখা যায় নালিশী সম্পত্তি বাবদ ১/২নং বিবাদী স্বত্ব প্রমাণে সমর্থ হয় নাই। ১নং বিবাদী ২নং বিবাদী হইতে বিনিময় দলিলে নালিশী সম্পত্তিতে দখলে গিয়াছেন মর্মে যেমন প্রমাণ করিতে পারেন নাই তেমনি ২নং বিবাদী তৎ স্বামী হইতে দলিল মূলে এই সম্পত্তিতে স্বত্ববান ও দখলকার হওয়া প্রমাণ করিতে পারেন নাই।" Rather, dismissed the suit with findings that ""উভয় পক্ষের উপস্থাপিত সাক্ষ্য-প্রমাণের

ভিত্তিতেই যে ক্ষেত্রে মনির উদ্দিনের ২৬ শতক হইতে রাস্তায় সম্পত্তি যাওয়ার স্বীকৃতি রহিয়াছে সেক্ষেত্রে বাদীর দাবীকৃত সম্পত্তির মধ্যে রাস্তা অন্তর্ভুক্ত থাকার প্রমাণ আসার পর বাদীকে উক্ত সম্পত্তি বাবদ প্রতিকার প্রদানের সুযোগ কোন ভাবেই থাকেনা। সড়ক ও জনপথ অত্র মামলায় পক্ষ নাই। বাদীকে নালিশী তফসিল বর্ণিত সম্পত্তি বাবদ প্রতিকার প্রদানের অর্থ রাস্তার অন্তর্ভুক্ত সম্পত্তি বাবদ স্বত্ব ঘোষণা সহ খাস দখল প্রদান করা। এইরুপ অকার্যকর প্রতিকার প্রদানের সুযোগ দেওয়ানী আদালতের নাই। এই ক্ষেত্রে বাদীর উচিত ছিল রাস্তায় প্রকৃত পক্ষে কতটুকু সম্পত্তি অন্তর্ভুক্ত হইয়াছে তাহার প্রমাণ সহ বাদ দেওয়ার মাধ্যমে প্রতিকার প্রার্থণা করা। বর্ণিত অবস্থায় দেখা যায় বর্তমান মামলায় বাদী প্রার্থিত মতে প্রতিকার পাওয়ার আইনতঃ অধিকারী নহে।”

It appears that the appellate Court dismissed the suit in making a third case that the plaintiff filed the instant suit enclosing .08 acres of land of Road on the basis of Advocate Commissioner Report, and further observed that:

“বিজ্ঞ এডভোকেট কমিশনার কর্তৃক দাখিলী প্রতিবেদনে তদন্তের ফলাফলে ৩নং দফায় অত্যন্ত সুস্পষ্ট ভাবে উল্লেখ করা হইয়াছে যে বাদীর দাবীকৃত নালিশী অংশের মধ্যে চিটা ২(খ) দাগের ভূমি চান্দিনা-জগতপুর পাকা সড়কের সহিত একীভূত অবস্থায় আছে। বিজ্ঞ এডভোকেট কমিশনারের

দাখিলী নক্সায় দেখা যায় বাদীর দাবীকৃত সম্পত্তির কতেক অংশ রাস্তায় অন্তর্ভুক্ত আছে।"

The settled proposition of law is that the Advocate Commissioner confined his inquiry to the points asked for and reported only without taking other work at the parties' request. This view gets support in the case of Md. Abial Quasem Vs. Md. Lutfur Rahman reported in (1984-85) 5 Bangladesh Supreme Court Digest, page 74, wherein their Lordship of the Appellate Division held:--

> "Commissioner to confine his inquiry to the points asked for and report on them only without under-taking other work at the request of the parties-Court not at precluded from considering the Commissioner's report afresh again in the light of fresh materials-Brought in the record by the parties mere acceptance of report should not give apprehension in the mind of the litigant."

This view also gets support in the case of Jahanara Begum and others Vs. Azizul Islam (Kanchon) and others reported in 47 DLR (HCD) 587 wherein it was held that:

> "In the instant case the learned trial Court could not find whether any illegality or mistake was committed by the Advocate Commissioner

> while relayment and local investigation was made in respect of the suit land and the trial Court has also not said that the Commissioner went beyond the writ endorsed to him. He has simply said that some irrelevant things have been stated in the report. In this view of the matter I am inclined to find that the Assistant Judge is not correct in rejecting the report of the Advocate Commissioner because the irrelevant things, if any, in the report could be deleted from the report which are not necessary for the purpose of deciding the issues in the suit."

In the instant case it appears from the record that the plaintiff puts the question for investigation are that - "বাদীর আরজির তপছিলে উল্লেখিত নালিশী ০২ শতক ভূমি সরেজমিনে বিদ্যমান আছে কিনা ? ২) বাদীর আরজীতে উল্লেখিত চারিদিকের চৌহদ্দি দ্বারা নালিশী ভূমি আকৃষ্ট করে কিনা? ৩) বাদীর আরজির তপছিলে উল্লেখিত নালিশী ০২ শতক তুমিতে কোন structure বা গৃহ আছে কিনা? থাকিলে কয়টি গৃহ এবং গৃহগুলি কাচা না পাকা এবং পুরাতন না নতুন এবং গৃহের অবস্থান এবং গৃহের দৈর্ঘ প্রস্থ কতফুট, গৃহে কয়টি কোঠা বিদ্যমান আছে এবং কোঠাগুলি কি কাজে ব্যবহৃত হইতেছে ততমর্মে ভুমির ও গৃহের nature & feature

উলেস্নখক্রমে স্কেচ ম্যাপসহ রিপোর্ট দাখিলের প্রার্থনা. In reply to the aforesaid question the Advocate Commissioner reported that (১) বাদীর আরজির তপছিলে বর্ণিত ২ শতক ভূমি সরজমিনে বিদ্যমান আছে। (২) বাদীর আরজীতে উলেস্নখিত নালিশী ভূমি চারিদিকের চৌহদ্দি দ্বারা আকৃষ্ট করে। Advocate Commissioner beyond the question additionally replied that (৩) ------ বাদীর দাবীকৃত নালিশী পাকা অংশের মধ্যে চিটা-২(ক) দাগের ভূমি চান্দিনা জগতপুর পাকা সড়কের সহিত একীভূত অবস্থায় আছে। without mentioning the details and in contrary to the reply No. 1 and 2 where he clearly answered that the suit land is existing within the boundary gives in the plaint. The learned lower appellate Court without considering the report as a whole, considered a part and misread as বাদীর দাবীকৃত সম্পতিত্ব কতেক অংশ রাস্তায় অন্তর্ভুক্ত আছে.

It also appears that the appellate Court below, upon perusing the Advocate Commissioner's report (Exhibit-7), further observed that:--

> "প্রার্থণা করিয়াছে উক্ত সম্পত্তির মধ্যে কেবল বর্তমান বিবাদী পক্ষের দাবী নহে। বাদীর দাবীকৃত এই ০২ শতকের মধ্যে রাস্তার অন্তর্ভুক্ত সম্পত্তিও আছে। কমিশন প্রতিবেদনের সাথে সংযুক্ত চিটা বুক নং-১ এর চিটা দাগ নং ২(খ) রকম পাকা সড়ক মর্মে উল্লেখ রহিয়াছে। বাদীর দাবীকৃত সম্পত্তির মধ্যে রাস্তাও অন্তর্ভুক্ত হইয়াছে মর্মে কমিশন প্রতিবেদনে উল্লেখ থাকা সত্ত্বেও বাদী উক্ত রাস্তার

অংশ বাদ দিয়া বর্তমান মামলায় যেমন প্রতিকার প্রার্থণা করেন নাই তেমনি বাদীর দাবীকৃত ০২ শতকে রাস্তার অন্তর্ভুক্ত কোন সম্পত্তি নাই মর্মে প্রমাণের জন্য সড়ক ও জনপথ বিভাগকে অত্র মামলায় পক্ষ করেন নাই বাদী স্বত্ব ঘোষণা সহ খাস দখল প্রার্থণা করিতেছে বিধায় প্রথমে বাদীকেই প্রমাণ করিতে হইবে যে বাদী clean hand এ প্রতিকার প্রার্থণা করিতেছে। বিবাদীর দুর্বলতা অথবা মামলা প্রমাণের ব্যর্থতা বাদীর দাবী বিবেচনার ক্ষেত্রে ভিত্তি বলিয়া গন্য হইতে পারেনা। বাদীকেই প্রথমে তাহার মামলা সাক্ষ্য-প্রমাণ দ্বারা প্রমাণ করিতে হইবে। বর্তমান মামলাতে বাদীর উপস্থাপিত সাক্ষ্য পর্যালোচনার প্রেক্ষিতেই দেখা যায় রাস্ত্মার অন্ত্মর্ভূক্ত সম্পত্তি বাবদ প্রতিকার প্রার্থণা করা হইয়াছে। উভয় পড়্গের সাড়্গ্য প্রমাণ পর্যালোচনায়ও এই বিষয়টির সমর্থন পাওয়া যায়। ”

Considering the above, it appears that the learned Judge of the appellate Court below has failed to appreciate that the advocate commissioner must significantly confine his inquiry to the point asked for and report only without undertaking other work of the request of the parties of the suit.

Further, it is the admitted facts that Monir Uddin belonged to .26 acres of land from which .04 acres of land went in the Road, and out of the remaining .22 acres of land, his five sons transferred 17 ½ acres and thereby remains 4 7/8, and the plaintiff purchased .0450 acres out of which he sold .0250

acres. He remains .02 acres in plot No. 445. The appellate Court below, though rightly calculated the property instead, made a third case that the plaintiff should have made a party, the Roads and Highway without any reason as the property of the Road is recorded in Khatian No.1 and plot No. 464 and 477 which is mentioned in Advocate Commissioner report which is beyond the pleading of either party. Moreover, the appellate Court below once concurred with the trial court's findings that the plaintiff has the right, title, and interest in the suit land. The defendants, having no lawful title, dispossessed the plaintiff illegally. On the other hand, contrary to earlier findings, it was found that Roads and Hayways properties in the suit land beyond the record. Therefore, these findings are perverse.

It is the settled proposition of law by our Appellate Division that whether the appellate Court is to find out the point for determination and give its Judgment in an appeal in the absence of any defect in the Judgment of the trial court pointed by the appellant when the appellate Court does not differ with the findings and conclusion of the trial court, it should express its concurrence with them- it is not the duty of the appellate Court when it agrees with the views of the trial court to restate the effect of evidence or to reinstate the reasons

given by the trial court- express of general agreement with the reasons given by the trial court, which is under the appeal, would ordinarily suffice. This view gets support in the case of Mahmud Ali and another Vs. Bangladesh and Ors reported in 6 BLD (AD) 56 wherein their Lordships of the Appellate Division held that:-

> "For the appellate Court to find out the points for determination and give its decision on them is proposition which finds no acceptance by any Court of this sub-continent. All that the appellate Court is to do when it does not differ with the findings and conclusions of the trial Court is to express its concurrence with them. Thus, in the case of Girijanandini Devi V. Bijendra Narain Chowdhury." : MANU/SC/0287/1966: AIR 1967 SC 1124, it has been observed as follows:
>
> 'It is not the duty of the appellate Court when it agrees with the view of the trial Court, on the evidence either to restate the effect of the evidence or to reiterate the reasons given by the trial Court. Expression of general

> agreement with, reasons given by the Court decision of which is under appeal would ordinarily suffice."

In the instant case, we have already noticed that the appellate Court dismissed the suit without adverting the trial court's finding, pleading, and materials were traveled on the record in contravention of the provision of Order 41 Rule 31 of the Code of Civil Procedure. Moreover, the appellate Court, having violated the provision of Order 20 of Rule 4(2) of the Code of Civil Procedure, dismissed the suit findings otherwise beyond the case of the parties and committed an error of law, resulting in an error in the decision occasioning failure of justice.

Considering the above facts, circumstances of the case, and discussions made herein above, I am of the firm view that the learned Joint District Judge, Additional Court, Cumilla, did not correctly appreciate and construe the documents and materials on record in accordance with the law in simply allowing the appeal set aside the Judgment of the trial Court. The appellate Court did not adverting the trial court's reasoning, which hit the root of the suit's merit; thus, it is not a proper judgment of reversal and has occasioned a failure of

justice. Consequently, we find merit in the Rule in Civil Revision No.4896 of 2011, and the impugned Judgment and decree should be set aside.

It further appears that the defendant filed Civil Revision No.691 of 2012, only to strike out some findings of the appellate Court. Since we have decided to set aside the Judgment and decree passed by the learned Joint District Judge, Additional Court, Cumilla, it appears that the Rule in Civil Revision No.691 of 2012 lost its efficacy.

As a result, the Rule in Civil Revision No.4896 of 2011 is made absolute, and the Rule in Civil Revision No.691 of 2012 is discharged without any order as to cost.

The impugned Judgment and decree dated 30.10.2011 passed by the learned Joint District Judge, Additional Court, Cumilla in Title Appeal No.78 of 2010 is set aside, and the Judgment and decree dated 18.03.2010 passed by the learned Assistant Judge, Brahmanpara, Comilla in Title Suit No.32 of 1999 is hereby affirmed.

Communicate the Judgment and send down the lower court records at once.

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(Md. Salim, J).

Kabir, B.O.