

Present:  
Mr. Justice Md. Iqbal Kabir

Civil Revision No. 275 of 2007

IN THE MATTER OF:

An application under Section 115(1) of the Code of Civil Procedure.

AND

IN THE MATTER OF:

Manager, Fair Trade Fabrics Ltd., Village-Purba Chandora, P.O.-Ansar Academy, P.S.-Kaliakair, District-Gazipur

....Petitioner

Versus

People's Republic of Bangladesh, represented by the Divisional Forest Officer, Dhaka Forest Division, Ban Bhaban, Gulshan Sarak, Mohakhali-1212 and others

....Opposite Parties

No one appears

....For the Petitioner

Mr. Md. Abdul Mannan, DAG with  
Mr. Md. Towhidul Islam, AAG and  
Mr. Nooray Alam Siddique, AAG

....For the Opposite parties

Judgment on 10.12.2025

On an application under Section 115(1) of the Code of Civil Procedure, the instant Rule was issued in the following terms:

“Let a Rule be issued calling upon the opposite parties to show cause as to why non-consideration of an admitted urgent application for an order of ad-interim injunction, filed in Miscellaneous Appeal No. 6 of 2007 in the Order dated 07.02.2007 passed by the District Judge, Gazipur in respect of rejection of an application under order XXXIX rules 1 and 2 of the Code of Civil Procedure, passed by the Assistant Judge, Fourth Court, Gazipur, by an order dated 06.02.2007, in Title Suit No. 66 of 2006, should not be set aside and/or pass such other or further order or orders as to this Court may seem fit and proper.”

Short facts stated in this application are that the opposite parties being the plaintiffs filed Title Suit No. 66 of 2006 praying to restrain the present petitioner in entering into the suit land as described in the Schedule of the plaint and also not to make any disturbance in the peaceful possession of the suit

land or to dispossess the plaintiffs from the suit land (R.S. Plot No. 110) in any way stating, inter-alia, that originally the suit land was under Baliadi Waqf Al-Awlad Estate and thereafter, through Gazette Notification No. 11397 dated 14.11.1951, the suit land was declared as vested forest land and in the year 1950 the entire land of this Jamidar of Gazipur District was acquired by the Government through the East Bengal Estate Acquisition & Tenancy Act, 1950 and then through Gazette Notification No. 4836 and 4849 L.R. dated 02.04.1956 all the acquired and vested forest land was transferred to the Government and furthermore the suit land has been declared protected forest land through Gazette Notification No. XII/for-13-19/85/219 dated 31.03.1985 corresponding to Section 4 of the Forest Act, 1927 and the suit land has been possessing by the Government of Bangladesh and the suit land has also been recorded in the name of the Forest Department and in the plaint it has been stated that the present petitioner has been trying to dispossess the plaintiffs from 0.50 acres of land which is the suit land and hence the present suit has been filed by present opposite parties praying for permanent injunction in Schedule land of the Plaint.

However, the present petitioner-defendant entered appearance by filing written statement in Title Suit No. 66 of 2006 and on 05.02.2007 filed an application under Order 39 Rule 1 and 2 of the Code of Civil Procedure for temporary injunction restraining the present opposite parties and prayed not to demolish the boundary wall standing on the border line between R.S. Plot No. 110 of the opposite parties and plot Nos. 111, 115, and 116 of the petitioner and other constructions situated on R.S. Plot No. 111, 115, and 116, and also not to dispossess the petitioner from the aforesaid plots, which are not in the Schedule of the Plaint as suit land. It has claimed that the alleged application was filed in view of the fact that the plaintiffs have been threatening to demolish the said wall of surrounding plots with the help of the Joint Forces.

However, upon hearing the parties, the learned Assistant Judge, 4<sup>th</sup> Court, Gazipur, by its order dated 06.02.2007, rejected the prayer for temporary injunction.

Being aggrieved by the aforesaid order dated 06.02.2007, passed in Title Suit No. 66 of 2006, the present petition was preferred Misc. Appeal No. 6 of 2007.

Thereafter appellant filed an Application under Order 39, Rules 1 and 2 of the Code of Civil Procedure, praying for temporary injunction with a further prayer for an ad-interim injunction till disposal of the Misc. Appeal No. 6 of 2007.

However, the record shows that on 07.02.2007, the learned District Judge, Gazipur, was pleased to admit the Misc. Appeal, thereby, called the L.C. Record, without issuing any show cause notice for temporary or interim injunction, fixed the date for hearing of the appeal on 14.03.2007.

It is alleged that due to urgency, the petitioner sought an order for an ad-interim injunction pending disposal of the said appeal. The learned District Judge, Gazipur, failed to appreciate the urgency and refused to even issue any show cause notice, not to speak of granting an ad-interim injunction. According to him, alleged nonconsideration is the outright rejection of the prayer for ad-interim injunction of the petitioner. He claims there was definite information that the opposite parties would demolish the said boundary on 13.02.2007. So, the petitioner does not have any other option but to file this Civil Revisional Application against the said order dated 07.02.2006 refusing to pass an ad-interim injunction pending hearing of the said appeal.

It appears that at the time of issuing the Rule, this Court also passed an interim order in the following terms:

“In the meantime, let the opposite parties be directed not to demolish the boundary wall standing on the borderline between the R.S. Plot No. 110 of the opposite parties and the R.S. Plot Nos. 111, 115 and 116 of the petitioner and other structure constructed on R.S. Plot Nos. 111, 115 and 116, R.S. Khatian Nos. 57, 80 and 105 of Mouza Purba Chandora P.S. Kaliakair,

District-Gazipur, which are not in the Schedule of the plaint of Title Suit No. 66 of 2006, pending in the Court of Assistant Judge, Fourth Court, Gazipur, be stayed for a period of 6(six) weeks from the date.”

However, from the order dated 08.03.2007, it appears that this Court passed an order in the following terms:

“কল্ল শুনানীতক অথবা গাজীপুর জেলা জজ আদালতে আপীল মামলাটি নিষ্পত্তি না হওয়া পর্যন্ত অত্র রিভিশন মোকদ্দমায় প্রদত্ত স্থগিতাদেশ বহাল থাকিবে।”

On the plain reading of the above two orders, it appears that the order dated 08.03.2007 is not the extension order following the order that has passed earlier, i.e., 11.02.2007. However, there is no record under what basis the petitioner obtained the order dated 08.03.2007.

However, it appears that the petitioner in his application submitted that the learned Court below did not consider the balance of convenience and inconvenience of the parties and failed to consider the irreparable loss and injuries would be incurred to the present petitioner if the present opposite parties are not restrained from entering into the said land which is situated at District-Gazipur, P.S. Kaliakair, Mouza-Purba Chandora, R.S. Khatian No. 57, 80 and 105 and R.S. Plots No. 111, 115 and 116 which are not suit property of the present opposite parties but next to the suit Plot No. 110.

From the submission, it appears that the opposite parties have filed the suit for a permanent injunction. Any decree in permanent injunction depends upon the conclusive proof of exclusive possession of the plaintiff in the suit land. If the opposite parties (the plaintiffs in the suit) can somehow demolish the boundary wall on the border line between the Plot No. 110 of the opposite parties and the plot Nos. 111, 115, and 116 of the petitioner, then the petitioner shall be out of possession of his land and at the same time, the opposite party shall be able to extend their possession into the Plots of the petitioner by way of encroachment with the help of the Joint Forces. The plots of the opposite parties and the Plots of the petitioner are adjacent. If the temporary injunction

prayed for by the petitioner is not granted, then the petitioner shall suffer irreparable loss, and the opposite parties shall take undue advantage.

However, Mr. Md. Abdul Mannan, the learned DAG for the opposite parties, submits that the Forest Department claimed the ownership of the land belonged to Dag No. 110. They have no other claim against the land in question, which belonged to Dag Nos. 111, 115, and 116. Thus, they are not trespassing or claiming any portion of land that belonged to Plot Nos. 111, 115, and 116. The question does not arise to give a direction to the opposite parties that have passed by this Court in the ad-interim order.

However, learned DAG submits that respondents-opposite parties are not claiming any land other than Dag No. 110. In the above context, I am of the view that justice would be best served, if this Court directs the concerned Court to dispose of the suit within shortest possible of time.

In view of the above, the Court below is directed to dispose of the suit as soon as possible, preferably within 12 (twelve) months from the date of receipt of this judgment and order. However, the parties are directed to maintain status-quo in respect of possession and position of the land in question till the above mentioned period.

With the above observation and direction, the Rule is disposed of without any order as to cost.

The order of stay dated 11.02.2007 and 08.03.2007 passed by this Court is hereby recalled and vacated.

Send a copy of this judgment and order to the concerned Court.