

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

Present:

Mr. Justice S M Kuddus Zaman

And

Mr. Justice Sayed Jahed Mansur

FIRST APPEAL NO.150 OF 2014

Nur Islam Mia and others

.... Appellants

-Versus-

Land Acquisition Officer, Narayangonj and others

.... Respondents

Mr. A. S. M. Rahmatullah, Advocate

....For the appellants.

Mr. Md. Saifur Rahman, Deputy Attorney General
with

Mr. Md. Moshihur Rahman, Assistant Attorney
General

Mr. Md. Mizanur Rahman, Assistant Attorney General

Mr. Md. Arifur Rahman, Assistant Attorney General

.... For the respondents.

Heard and Judgment on 01.09.2025.

S M Kuddus Zaman, J:

This appeal is directed against the impugned judgment and decree dated 06.02.2014 passed by the learned Joint District Judge, Artha Rin Adalat, Narayangonj, in Title Suit No.160 of 2011

Facts in short are that the appellants as plaintiffs instituted above suit for declaration that the plaintiffs alone are entitled to get compensation for the acquisition of 365 decimal land and dwelling

huts and tress on above land acquired by the defendant vide L.A Case No.25 of 1993-1994.

It was alleged that above land originally belonged to Sheikh Poran and in his name C. S. Khatian No.34 was correctly recorded. Plaintiffs predecessor Badurddin acquired above land from successive heirs of Sheikh Poran namely Abdul Mazid and others by registered deed of Heba-bil-awaz dated 09.04.1947. Above Badruddin also purchased land from Aimunnessa by registered kabla deed dated 20.02.1979. After demise of Badruddin plaintiffs as his successive heirs were owning and possessing above land by erecting dwelling huts and planting tress. The government acquired above land by L. A. Case No.25 of 1993/1994 but plaintiffs were not made awardees for receipt of compensation. The defendants most illegally paid part of the compensation to some leases who allegedly obtain lease of above land from the Government but in fact above leases did not have any right, title and possession in above land.

Defendant Nos.1-3 contested above suit by filling a joint written statement alleging that 4372.86 acres land appertaining to R. S. Khatian No.1435 was acquired by 14 separate Land Acquisition Cases and possession of above land has been handed over to the requiring body, the Rajdhani Unnayoun Kartipokkha (RAJUK) on 31.12.1996. Two acres land of plot No.1335 was given settlement to several persons by the Government deeds of kobuliyat and they were paid compensation for acquisition of above land. The plaintiffs did not have any lawful

title or possession in above land and they have filed this false case on the basis of forced and concocted documents.

At trial plaintiffs examined 4 witnesses and defendants examined 1. Documents of the plaintiffs were marked Exhibit Nos.1 series to 9 series and those of the defendants were marked Exhibit No.'A' series. On consideration of facts and circumstances of the case and evidence on record the learned Joint District Judge dismissed above suit.

Being aggrieved by and the dissatisfied with above judgment and decree of the trial Court above plaintiffs as appellants moved to this Court and preferred this appeal.

Mr. A. S. M. Rahmatullah, learned Advocate for the appellants submits that plaintiffs filed this suit as the lawful owners and possessors of 365 decimal land appertaining to C. S. Plot No.446 corresponding to R. S. Plot No.1435 for declaration that they are entitled to get compensation for acquisition of above land which was erroneously recorded in the name of the Government in both S. A. Khatian No.1 and R. S. Khatian No.1. Appellants as plaintiffs previously instituted Title Suit Nos.55 of 1989 and 94 of 1990 against the Government for declaration of title and both the suits were decreed on contest and plaintiffs title and possession in above land was declared. The defendants deliberately disregarded the judgment and decree of a competent Civil Court and most illegally refused to include the names of the plaintiffs in compensation awardee list. The

learned Joint District Judge utterly failed to appreciate above facts and circumstances of the case and evidence on record and most illegally dismissed above suit which is not tenable in law.

Mr. Md. Moshihur Rahman, learned Assistant Attorney General for the respondents submits that on consideration of facts and circumstances of the case and evidence on record the learned Joint District Judge rightly dismissed above suit holding that above property belonged to the Government and the same was rightly recorded in relevant S. A. and R. S. Khatians and the Government on the basis of latest record of rights acquired above land and prepared compensation role which calls for no interference.

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

At the very outset in this suit plaintiffs sought only one declaratory decree that the plaintiffs are entitled to get compensation money for the acquisition of 365 decimal land appertaining to R. S. Plot No.1435 and Khatian No.1. The plaintiffs did not seek a decree for declaration of title by placing their above title deeds for the examination of the Court.

It is admitted that S. A. and R. S. Khatians of above land were prepared in the names of the Government and the names of the plaintiff or their predecessors were not recorded in above Khatians. The plaintiffs have relied on the judgment and decree passed in Title

Suit Nos.55 of 1989 and 94 of 1990 in order to establish their title and possession in above land. Plaintiff No.1 while giving evidence as PW1 produced and proved certified copies of judgments Title Suit Nos.55 of 1989 and 94 of 1990 which were marked Exhibit Nos.2 series and 3 series respectively. It turns out above judgments and decrees that the disputed land of above suits was described solely by mentioning C. S. Khatian Nos.34 and C. S. Plot No.446 and out of 500 decimal land of above C. S. Plot partial land was claimed. In this suit in hand the plaintiffs have sought declaration as to their entitlement to get compensation for 365 decimal land appertaining to C. S. Khatian No.34 Plot No.446 corresponding to S. A. Khatian No.1 and R. S. Khatian No.1 Plot No.1435. In Title Suit Nos.55 of 1989 and 94 of 1990 no mention was made of the S. A. and R. S. Khatian and Plot Number of the disputed land. As such we are unable to find any substance in the submissions of the learned Advocate for the appellants that plaintiff's title in 365 decimal land appertaining to Plot No.1435 of R. S. Khatian No.1 and S. A. Khatian No.1 was established by judgment and decree of Title Suit Nos.55 of 1989 and 94 of 1990.

It has been stated by defendant Nos.1-3 that the compensation assessment role of above land was prepared on the basis of the R. S. Khatian and since the names of the plaintiffs do not stand in above Khatian they were not entitled to be awardees for compensation of above land.

The plaintiff of a suit for declaration of title under section 42 of the Specific Relief Act, 1877 is required to provide a full description of the disputed land to make the land easily identifiable by mentioning a latest record of rights and boundaries if necessary. The C. S. Khatian was prepared during the period from 1885 to 1940 and the property of one C. S. Khatian and Plot has been divided in many R. S. and S. A. Khatians and Plots. The plaintiffs did not mention the R. S. and S. A. Khatians and Plot Numbers of the disputed land in Title Suit No.55 of 1989 and 94 of 1990.

In above view of the facts and circumstances of the case and materials on record we are unable to find any substance in this appeal nor we find any illegality or irregularity in the impugned judgment and decree passed by the learned Judge of the trial Court.

In the result, this First Appeal is dismissed on contest against the respondent Nos.1-3 without any cost.

However, there will be no order as to costs.

Send down the lower Court's record immediately.

Sayed Jahed Mansur, J:

I agree.