

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 APPEAL NO.111 OF 2015

Md. Rezuwan Dewan

.... Appellant

-Versus-

Md. Iman Ali and others

.... Respondents

Mr. Sheikh Habib -Ul- Alam, Advocate

.... For the appellant.

None appears

.... For the respondents.

Heard on 25.06.2026.

Judgment on 28.06.2026.

S M Kuddus Zaman, J:

This First Appeal is directed against the impugned judgment and decree dated 23.11.2014 passed by the learned Joint District Judge, 2nd Court, Manikgonj in Title Suit No.12 of 2011 dismissed the suit.

Facts in short are that the appellant as plaintiff filed above suit for declaration that registered kabla deed No.11953 dated 14.12.2010 executed by the plaintiff to defendant Nos.1 and 2 was collusive, fraudulent, without consideration and obtained by coercion alleging that the plaintiff as the rightful owner and possessor of disputed 22 decimal land offered to sale the same and defendant Nos.1 and 2 agreed

to purchase the same for consideration of Taka 13,30,000/- on 04.04.2010 plaintiff and defendants executed and registered a bainapatra. In above bainapatra it was stated that the plaintiff received an earnest money of Taka 5,00,000/- but in fact plaintiff received Taka 3,00,000/- and the defendants did not pay remaining Taka 2,00,000/-. Above defendants filed Title Suit No.162 of 2010 for enforcement of above bainapatra and on 14.12.2010 the defendants along with 8-10 unknown miscreants forcibly abducted the plaintiff and obtained his signature on a sale deed and left thumb impression in a book. After obtaining certified copy of above kabla deed on 21.12.2010 the plaintiff went to the Police Station to file a Criminal Case but the police did not receive the case.

Defendant Nos.1 and 2 contested above suit by filling a joint written statement alleging that the plaintiff offered to sale disputed 22 decimal land for Taka 13,30,000/- and on received on Taka 5,00,000/- he executed and registered a bainapatra on 04.04.2010 and delivered possession. The defendants erected a boundary wall and constructed a hut in above land and cultivated the remaining land. The defendants approached the plaintiff within one month of above bainapatra to execute and register a sale deed on receipt of balance consideration money but the plaintiff obtained time on various pretexts and demanded additional money for executing a sale deed. As such the defendants filed Title Suit No.162 of 2010 for enforcement of above

bainapatra. Above dispute was settled by the local guardians and the plaintiff executed and registered a sale deed on receipt of outstanding consideration on 14.12.2010.

At trial plaintiff and defendant No.1 and 2 examined four witnesses each. Documents of the plaintiff were marked as Exhibit No.1 and those of the defendants were marked as Exhibit Nos. "Ka" - "Gha" 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 dissatisfied with above judgment and decree of the trial Court above plaintiff as appellant moved to this Court and preferred this First Appeal.

Mr. Sheikh Habib -Ul- Alam, learned Advocate for the appellant submits that plaintiff is the rightful owner and possessor of above 22 decimal land and he executed and registered bainapatra for sale of above land to defendant Nos.1 and 2 on 04.04.2010 but the defendants did not pay Taka 5,00,000/- as was agreed upon in above bainapatra. Defendants paid Taka 3,00,000/- and promised to pay the remaining Taka 2,00,000/- after returning to home but they did not pay above money. Plaintiff asked the defendants to pay the remaining outstanding consideration money and get a sale deed but they did not respond. On 14.12.2010 defendant Nos.1 and 2 along with unknown 8-10 miscreants

forcibly dragged the plaintiff into a ghar and obtained his signature on a sale deed and left thumb impression on a book. The plaintiff did not deliver possession of above land and the claim of the defendant that he has erected boundary wall or a hut or cultivating the remaining land are all false and the report of the Advocate Commissioner in support of possession of the defendants is also false. The learned Joint District Judge totally 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.

Respondents did not enter appearance in this First Appeal nor anyone was found available for the respondents at the time of hearing of this First Appeal although this First Appeal appeared in the list for hearing on several dates.

We have considered the submissions of the learned Advocate for the appellant and carefully examined the plaint, evidence, impugned judgment and decree and other materials on record.

It is admitted that the appellant was the rightful owner and processor of disputed 22 decimal and he executed and registered a bainapatra on 04.04.2010 for sale of above land to defendant Nos.1-2 for Taka 13,30,000/-.

Above registered bainapatra dated 04.04.2010 was produced at trial by the defendants which was marked as Exhibit No.“Kha” which shows that on receipt of Taka 5,00,000/- plaintiff executed and

registered above bainapatra. The plaintiff has admitted due execution and registration of above deed of bainapatra but it has been alleged that instead of Taka 5,00,000/- defendants paid Taka 3,00,000/- and they did not pay remaining Taka 2,000/-. Plaintiff being a party to above register deed of bainapatra he cannot make any claim against any term of above deed unless there are allegations of fraud or error. The plaintiff did not allege that erroneously or fraudulently defendants deprived him of Taka 2,00,000/- which was outstanding consideration of above bainapatra. No evidence oral or documentary was adduced by the plaintiff to substantiate above claim of non-payment of Taka 2,00,000/-.

It is admitted that the plaintiff executed and registered the impugned deed sale dated 14.12.2010. Above sale deed which was marked as Exhibit No.1. It has been alleged by the plaintiff that he did not voluntarily execute and register above sale deed but the same was obtained by coercive means.

The plaintiff has examined four witnesses but none of them saw above occurrence. PW2 Awlad Hossain stated that plaintiff stated to him on 21.12.2010 that he received only Taka 3,00,000/- and defendant obtained above sale deed forcibly. In cross examination he stated that he was not present at the time of talk of sale or execution of the impugned registered kabla deed. PW3 Jahan Ali stated that he found the plaintiff was lying on the ground and stated that forcibly above kabla deed has been obtained. In cross examination he stated that he

knows nothing about the sale of the disputed land. PW4 Abdur Rahman stated that he heard that forcibly a sale deed was obtained from the plaintiff. In cross examination he stated that plaintiff is his cousin and his house is about one mile away. On the other hand DW2 Md. Tajul Islam a witness to the registered bainapatra dated 04.04.2010 stated that defendant paid Taka 5,00,000/- as advance consideration money to the plaintiff in his presence. DW4 Nurul Islam the scribe of registered kabla deed dated 14.12.2010 (Exhibit No.1) stated that he wrote above kabla deed and in his presence defendants executed above deed on hearing of the contents of the document and he received the balance consideration money. DW2 Md. Tajul Islam and DW4 Nurul Islam were cross examined by the plaintiff but above evidence of DW2 and DW4 remained consistent, free from material contradiction and credence inspiring.

On consideration of above facts and circumstance of the case and evidence on record we hold that the plaintiff utterly failed to prove his claim that the impugned kabla deed was obtained by coercive means or the defendants did not pay the outstanding consideration money of above kabla deed nor bainapatra by legal evidence.

In above view of the facts and circumstances of the case and materials on record we are unable to find any illegality or irregularity in the impugned judgment and decree passed by the learned Joint District

Judge nor we find any substance in this First Appeal which is liable to be dismissed.

In the result the First Appeal is dismissed.

However, there will be no order as to cost.

Send down the lower Court record immediately.

Tamanna Rahman Khalidi, J:

I agree.

**MD. MASUDUR RAHMAN
BENCH OFFICER**