

IN THE SUPREME COURT OF BANGLADESH

High Court Division
(Civil Revisional Jurisdiction)

Present:

Mr. Justice Md. Khairul Alam

Civil Revision No. 1909 of 2003.

Ahad Ali Biswas.

... - Petitioner.

-Versus-

Samsur Rahman and others.

..... Opposite parties.

Mr. M. Shamsul Haque, Advocate.

..... For the petitioner.

None appears

..... For the Opposite parties.

Heard & Judgment on: 06.01.2026.

This Rule was issued at the instance of the petitioner calling upon the opposite parties to show cause as to why the impugned order dated 27.11.2002 passed by the learned Assistant Judge, Madhukhali, Faridpur, in Title Execution Case No. 05 of 1999, allowing the application for stay of execution proceedings, should not be set aside.

The relevant facts, as transpire from the revisional application, are that the petitioner, as plaintiff, instituted Title Suit No. 145 of 1986 in the Court of Assistant Judge, Madhukhali, Faridpur impleading the present opposite parties as defendants

seeking a decree for permanent injunction. Subsequently, alleging dispossession during the subsistence of an ad interim injunction, the plaintiff further prayed for mandatory injunction directing the defendants to dismantle the pucca structure constructed on the suit land in violation of the said ad interim injunction. The learned Assistant Judge, Madhukhali, Faridpur decreed the suit by judgment and decree dated 31.03.1990. Against the said judgment and decree, the defendants preferred Title Appeal No. 109 of 1990, which was dismissed on 19.11.1998, thereby affirming the judgment and decree of the trial Court. Thereafter, the decree-holder petitioner filed Title Execution Case No. 05 of 1999 for execution of the decree. During pendency of the execution proceedings, the judgment-debtor opposite parties filed an application seeking stay of execution on the ground that the High Court Division had passed an interim order of status quo in Civil Revision No. 3048 of 2002 arising out of a separate partition suit relating to the same property.

Upon hearing the parties, the executing Court allowed the application by the impugned order dated 27.11.2002 and thereby stayed the execution proceedings. In doing so, the executing Court observed that, since the High Court Division had passed an interim order of status quo in Civil Revision No. 3048 of 2002 concerning

the suit property, it was necessary to stay the execution proceedings to avoid further complications.

Being aggrieved, the decree-holder petitioner moved this Court and obtained the present Rule.

At the very outset of the hearing, Mr. M. Shamsul Haque, learned Advocate for the petitioner, informed this Court that the Rule issued in Civil Revision No. 3048 of 2002 had already been discharged and that the interim order of status quo passed therein had been vacated by the judgment and order dated 28.11.2024 and thereby submitted that, since the very basis of the impugned order no longer exists, no cause now survives for its continuance, and accordingly prayed that the Rule be made absolute.

We have heard the learned Advocate for the petitioner and perused the materials on record.

It appears that the order of status quo, which alone constituted the foundation of the impugned order of stay, has ceased to exist. With the disappearance of the foundation, the impugned order is rendered wholly unsustainable in law and cannot be allowed to survive. Any further continuance of such an order would be wholly unjustified.

Accordingly, the Rule is made absolute, without any order as to costs.

The impugned order dated 27.11.2002 passed by the learned Assistant Judge, Madhukhali, Faridpur, in Title Execution Case No. 05 of 1999, allowing the application for stay of execution proceedings, is hereby set aside.

The executing Court is hereby directed to proceed with the execution case in accordance with law and to dispose of the same expeditiously.

Let a copy of this judgment and order be communicated at once.

Kashem, B.O