

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

Present:

Mr. Justice Zafar Ahmed

Civil Revision No. 58 of 1997

Serajul Islam and others

...Defendant-respondent-petitioners

-Versus-

Aminur Rahman and others

...Plaintiff-appellant-opposite parties

None.

...For both sides.

Judgment on: 10.02.2026

In the instant revisional application filed under Section 115 of the Code of Civil Procedure (CPC), this Court on 07.01.1997 issued a Rule calling upon the opposite parties to show cause as to why the judgment and decree dated 24.08.1996 (decree signed on 31.08.1996) passed by the learned Additional District Judge, 4th Court, Cumilla in Title Appeal No. 129 of 1992 allowing the appeal and thereby reversing the judgment and decree dated 25.04.1992 (decree signed on 29.04.1992) passed by the Senior Assistant Judge, Sadar, Cumilla in Title Suit No. 147 of 1989 dismissing the suit should not be set aside.

The plaintiffs filed the suit for declaration of title and for recovery of khas possession. The trial Court dismissed the suit on contest. The appellate Court below allowed the appeal on contest and thereby decreed the suit.

It is admitted by the parties that plaintiffs were the owners of the lands in suit plot Nos. 127 and 131 and the defendants were the owners of the lands in suit plot No. 119. It is also admitted position that the suit plots are adjacent to each other. Specific case of the plaintiffs is that the defendants entered into part of the suit lands owned by the plaintiffs in suit plot Nos. 127 and 131 and dispossessed them from those lands which are described in the 2nd schedule of the plaint. The trial Court considered the Advocate Commissioner's report and found that the same was not sufficient enough to identify the disputed lands and plots as the same suffered from vagueness. The trial Court further observed that the schedule of the plaint was amended but the boundary was not amended and the plaintiffs should have amended the schedule after obtaining the Advocate Commissioner report. The trial Court categorically observed that the lands alleged to have been dispossessed could not be specifically identified.

The appellate Court below, on the other hand, observed, "it is established principle of law that if three sides boundary of a particular land tally, it is sufficient to specify and identify the said land".

Order VII rule 3 of the CPC is relevant which is quoted below:

“R.3 Where the subject-matter of the suit is immovable property- Where the subject-matter of the suit is immovable property, the plaint shall contain a description of the property

sufficient to identify it, and, in case such property can be identified by boundaries or numbers in a record of settlement or survey, the plaint shall specify such boundaries or numbers, and where the area is mentioned, such description shall further state the area according to the notation used in the record of settlement or survey, with or without, at the option of the party, the same area in terms of the local measurement”.

Rule 3 provides that where the subject matter of a suit is immovable property, its description must be sufficient to identify it and must not be vague or unspecified [2007 BLD (AD) 8, 13 MLR 193]. A Court of law cannot pass a decree in respect of unspecified immovable property [(2013) 18 BLC (AD) 144, 2007 BLD (AD) 8]. A plaintiff failing to give specification of the suit land is not entitled to a decree even if he proves his title (10 BLC 767). In a suit for declaration of title together with prayer for recovery of possession or confirmation of possession any vagueness in describing the suit land is very important because the same goes to the root of the matter.

The total area of land in plot Nos. 127 is 35 decimals and in plot No. 131 is 14 decimals which are admittedly owned by the plaintiffs. The defendants’ ownership of the land in plot No. 119 which is adjacent to plot Nos. 127 and 131 is also admitted. The plaintiffs’ specific case is that the defendants dispossessed the plaintiffs from portions of land owned and possessed by them which is described in 2nd schedule of the plaint which is reproduced below:

“২য় তপছিল

জেলা-কুমিল্লা থানা-চৌদ্দগ্রাম, মৌজা নোয়াপাড়াস্থিত ১ম তফছিলোক্ত ভূমি অন্দরে বেদখলিয় ১। ১২৭ দাগে চারাভিটি। ৩৫ শতক অন্দরে পশ্চিমাংশে অনুমান ৯^১/_৩ ডিং চৌহদ্দি উঃ ১৩১ দাগের ভূমি দঃ ১২৬ দাগের ভূমি। পূঃ ১৩১ দাগের বেনালিশী ভূমি পঃ বিবাদীগণের ১১৯ দাগের ভূমি।

২। ১৩১ দাগে পতিত ১৪ শতক অন্দরে পশ্চিমাংশে অনুমান ৯^১/_{১০} ডিং

উঃ ১১৪ দাগের পুনীর পাড়, দঃ ১২৭ দাগের নালিশী ভূমি। পূঃ ১৩১ দাগের বেনালিশী ভূমি পঃ বিবাদীগণের ১১৯ দাগের ভূমি।”

On perusal of the above mentioned schedule and the judgments passed by the Courts below I am of the view that the trial Court rightly held that the plaintiffs had failed to identify and specify the suit lands as per requirement of law laid down in Order VII rule 3 of the CPC. Since the suit is liable to be dismissed on this ground only I do not feel it necessary to consider other issues. The appellate Court below failed to consider this vital aspect of the case and thus committed an error of law resulting in an error in the judgment occasioning failure of justice in allowing the appeal. Accordingly, the Rule succeeds.

In the result, the Rule is made absolute. The judgment and decree passed by the appellate Court below is set aside and those passed by the trial Court is affirmed. The suit is dismissed.

Send down the L.C.R.