

**Present:**  
**Mr. Justice Sheikh Abdul Awal**  
**and**  
**Mr. S.M. Iftekhhar Uddin Mahamud**

First Miscellaneous Appeal No. 268 of 2000

In the Matter of:

Shamsun Nahar and others  
.....Plaintiff -appellants.

-Versus-

Eastern Housing Ltd. and others  
.....Defendant-respondents.

No one appears

..... For the plaintiff -appellants.

No one appears

.....For the defendant-respondents.

**Judgment on 04.03.2026**

**Sheikh Abdul Awal, J:**

This First Miscellaneous Appeal is directed against the order dated 19.04.2000 passed by the then 2nd subordinate Judge, Dhaka in Title Suit No. 114 of 2000 rejecting an application for ad-interim injunction under Order 39, Rule 1 and 2 read with section 151 of the Code of Civil Procedure restraining the defendant-respondents from interfering with the peaceful possession of the plaintiff-appellants in the schedule property as described in the plaint.

The facts relevant for the purpose of disposal of this appeal are that appellants as plaintiffs instituted Title Suit No. 114 of 2000 impleading the defendant- respondents praying for declaration of title and confirmation of possession.

Thereafter, while the suit was in progress the plaintiffs filed an application for injunction under Order 39, Rule 1 and 2 read with

section 151 of the Code of Civil Procedure for an ad-interim injunction.

The learned subordinate Judge after hearing the parties by his order dated 17.4.2000 issued a show cause notice upon the defendants asking as to why an ad-interim order of injunction should not be passed giving 10 days time and after expiry of that 10 days the plaintiffs filed an application under section 151 of the code of Civil Procedure for ad-interim injunction. The learned Subordinate Judge by the impugned order dated 19.04.2000 rejected the said application holding that- “শুনলাম। নথী পর্যালোচনায় দেখা যায় নিঃ দরখাস্ত আনয়ন করিলে শুনানী আস্তে নিঃ দরখাস্তে বর্ণিত বিবাদী পক্ষকে কারণ দর্শানোর সুযোগ দেওয়া হয় যাহা ইতিমধ্যে উত্তীর্ণ হয় নাই। ফলে প্রার্থনা নাকচ হইল।”

Being aggrieved by the impugned order dated 19.04.2000 the plaintiffs filed this First Miscellaneous Appeal before this Court.

No one appears to press the Appeal on repeated calls.

In view of the fact that this petty old First Miscellaneous Appeal of 2000 arising out of an order, we are inclined to dispose of it on merit perusing the available materials on record.

It appears that the plaintiffs instituted Title Suit No. 114 of 2000 before the learned Subordinate Judge, 2<sup>nd</sup> Court, Dhaka praying for declaration of title and confirmation of possession. Thereafter the plaintiffs filed an application under Order 39, Rule 1 and 2 read with section 151 of the code of Civil Procedure for ad-interim injunction. The learned Subordinate Judge after hearing the parties by his order dated 17.04.2000 issued a show cause notice asking the defendants as to why an ad-interim order of injunction should not be passed allowing 10 days time and soon thereafter on 19.04.2000 the plaintiffs filed another application for ad-interim injunction under section 151 of the Code of Civil Procedure. The learned subordinate Judge by his order dated 19.4.2000 rejected the prayer for ad-interim injunction on

the findings that before expiry of 10 days show cause time the plaintiffs filed their 2nd application for ad-interim injunction.

On a reading of the impugned order together with other materials on record, we are unable to differ with the view taken by the learned the then subordinate Judge. No interfere is, therefore, called for.

In the result, this First Miscellaneous appeal is dismissed without any order as to costs.

Since the appeal is dismissed, the connected Rule being Civil Rule No. 304(FM) of 2000 is discharged.

Communicate this order at once.

**S.M. Iftexhar Uddin Mahamud, J:**

I agree.