

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.355 of 2019*

Khairunnesa @ Khainur Nesa and others  
... Appellants

-Versus-

Government of Bangladesh and others  
...Respondents

Mr. Md. Shager Hossen, Advocate  
... For the appellants

Mr. Shaif Uddin Raton, DAG with  
Mr. Junaed Hossen Khan, AAG  
.....For the respondents

**Heard on:22.04.2026.**

**Judgment on: 26.04.2026.**

**S M Kuddus Zaman, J**

This appeal is directed against the judgment and decree dated 31.10.2018 passed by the learned Joint District Judge, 4<sup>th</sup> Court, Dhaka in Civil Suit No.944 of 2014 dismissing the suit.

Facts in short are that the appellants as plaintiffs instituted above suit for declaration of title for 13.24 decimal land and for further declaration that R.S. khatian No.3 prepared for above land in the name of Dhaka Unnayan Sangstha is erroneous and not binding upon the plaintiff alleging above property belonged to Hori Narayan Paul and others and C.S. khatian No.69 was rightly prepared. Above Hori Narayan Paul and other transferred above land to Rabeya Khanam and Anwara Khanam by registered kobla deed dated 13.02.1953 and S.A. khatian

was correctly recorded in their names who transferred above land to the plaintiffs by four separate registered kobla deeds dated 25.03.1982 and they got their names mutated and paid rent to the government. But above land was erroneously recorded in R.S. khatian No.3 in the name of Dhaka Unnayan Sangstha but subsequently above land was rightly recorded in the name of the plaintiffs in City Survey khatian No.492. But above erroneous R.S. khatian has clouded plaintiff's title in above land.

Despite service of process no defendant entered appearance and the learned Joint District Judge fixed above suit for ex-parte hearing. Plaintiff examined three witnesses and documents of the plaintiffs were marked as Exhibit Nos.1-7.

On consideration of facts and circumstances of the case and materials on record the learned Joint District Judge dismissed above suit holding that the plaintiff did not implead Rajdhani Unnayan Kortipakka (RAJUK) as a defendant in above suit who was a necessary party.

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

Mr. Md. Shager Hossen learned Advocate for the appellants submits that the latest record of right being City Survey khatian has been rightly prepared in the names of the plaintiffs but the previous R.S. khatian No.3 was erroneously recorded in the name of Government of Bangladesh for Dhaka Unnayan Sangstha and on the basis of above erroneous khatian defendant denied plaintiff's title in above land. As such the plaintiffs were constrained to file above suit for removal of above defect in their title. But erroneously Rajdhani Unnayan Kortipakka (RAJUK) who is the present authority of above defendant has not been impleaded as a defendant nor the plaintiffs produced a certified copy of R.S. khatian No.3 at

trial. The learned Advocate submits that the ends of justice will be met if impugned judgment and decree is set aside and above suit is remanded to the trial court for retrial so that the plaintiffs may submit a petition under Order 6 Rule 17 of the Code of Civil Procedure for amendment of the plaint and also adduce further evidence.

Mr. Shaif Uddin Raton learned Deputy Attorney General submits that the government did not enter appearance in the trial court and contest above claim of the plaintiffs. Since the learned Advocate for the appellant seeks retrial of the suit the defendant may be given an opportunity to contest above suit by filing a written statement.

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

As mentioned above plaintiffs have filed above suit for declaration of title and for further declaration that R.S. khatian No.3 was erroneous and not binding upon the plaintiffs. It has been alleged that the latest Survey khatina being City Survey khatian No.492 stands in the names of the plaintiffs and R.S. khatian was a previous survey khatian before the City Survey khatian. Since the latest Survey khatian was prepared in the names of the plaintiffs they were not required to file a suit for correction of the previous record of right which has lost all legal significance after final publication of the City Survey khatian. It has been stated by the learned Advocate for the appellants that the necessary party of above suit Rajdhani Unnayan Kortipakka (RAJUK) was not impleaded as a defendant. Nor R.S. khatian No.3 which has been erroneously prepared and which prompted the plaintiffs to file this suit was not produced at trial. It is not understandable as to how the learned Judge of the trial court could make findings in the impugned

judgment as to disputed R.S. khatian No.3 without perusing above khatian or a certified copy of the same.

On consideration of above facts and circumstances of the case and materials on record and the submissions made by the learned Advocates for the respective parties we are of the view that the ends of justice will be met if the impugned judgment and decree is set aside and above suit is remanded to the trial court for retrial after giving plaintiffs an opportunity to amend the plaint and the defendants an opportunity to contest above suit by filing a written statement.

In above view of the materials on record we find substance in this first appeal which deserves to be allowed.

In the result, the appeal is allowed.

The judgment and decree dated 31.10.2018 passed by the learned Joint District Judge, 4<sup>th</sup> Court, Dhaka in Civil Suit No.944 of 2014 is set aside and above suit is remanded to the trial court for retrial after giving the plaintiffs an opportunity to amend the plaint and adduce further evidence and the defendants to contest above suit by filing a written statement.

Let the lower Court's record be transmitted down to the Court concerned at once.

**Tamanna Rahman Khalidi, J**

I agree.