

**IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(Civil Revisional Jurisdiction)**

Present:

Mr. Justice Md. Bashir Ullah

Civil Revision No. 6787 of 2023

In the matter of:

Mst. Nasima Begum

... Plaintiff-Appellant-petitioner

-Versus-

Akthar Hossain and others

...Defendants-Respondents-Opposite parties

Mr. Md. Kadam Ali Mollick, Senior Advocate
with

Mr. Md. Habibur Rahman, Advocate

...For the petitioner

Ms. Asma Akhter, Advocate

... For the opposite party no. 1

Heard on 28.10.2025, 03.11.2025

Judgment on 04.11.2025

At the instance of the plaintiff in Title Suit No. 514 of 2021, this Rule was issued calling upon opposite party no. 1 to show cause as to why the judgment and order dated 26.10.2023 passed by the learned Additional District Judge, 8th Court, Dhaka in Miscellaneous Appeal No. 178 of 2023 dismissing the appeal and affirming the judgment and order dated 13.06.2023 passed by the learned Senior Assistant Judge, 2nd Court, Dhaka rejecting the application for temporary injunction and vacating the order of *status quo* should not be set aside and or such other

or further order or orders be passed as to this Court may seem fit and proper.

At the time of issuance of the Rule, the parties were directed to maintain *status quo* in respect of the possession of the suit land for a period of 03(three) months. No steps were taken to extend the period of *status quo* granted earlier by this Court.

The salient facts leading to issuance of the Rule, in brief, are that the petitioner as the plaintiff instituted Title Suit No. 514 of 2021 before the Court of the learned Senior Assistant Judge, 2nd Court, Dhaka impleading opposite party No. 1 and others as defendants seeking the following reliefs:

- “ক) নালিশী তপসিল বর্ণিত ঢাকা সিটি জরীপ ৬৫ নং খতিয়ানের ৫২৯৭ নং দাগে .০৪৫০ একর ভূমির কাতে .০০৫২ একর ভূমি বাদীর নামে রেকর্ড না হইয়া ১নং বিবাদীর নামে ষোল আনা অংশ রেকর্ড হওয়া ভ্রমাত্মক ছিল মর্মে এক ঘোষণা মূলক ডিক্রী দিতে;
- খ) নালিশী তপসিল বর্ণিত ঢাকা সিটি জরীপ ৬৫ নং খতিয়ানের ৫২৯৭ নং দাগের .০৪৫০ একর ভূমির কাতে বাদী .০০৫২ একর ভূমির স্বত্ববান মালিক মর্মে ঘোষণা মূলক ডিক্রী দিতে;
- গ) মোকদ্দমার ময় খরচার ডিক্রী দিতে;
- ঘ) ন্যায় পরায়নতা ও ন্যায় বিচারের স্বার্থে বাদী আরও যে যে প্রতিকার পাইতে পারে তাহারও ডিক্রী দিতে মর্জি হয়।”

Subsequently, the plaintiff filed an application for temporary injunction under Order 39 Rules 1 and 2 read with Section 151 of the Code of Civil Procedure contending *inter alia* that the disputed land described in the schedule of the plaint is situated within District-Dhaka,

Police Station- Badda, Mouza- Baro Beraid, C.S khatian No. 767, S.A. Khatian No. 953, R.S Khatian No. 752 and City Survey Khatian No. 65 appertaining to C.S. and S.A. Plot No. 904, R.S. Plot No. 5355 and City Survey Plot No. 5297 total area measuring 0.16 acres of which .0450 acre and within that .0052 acres constitute the disputed land. The disputed land belonged to one Kartik Mondal and his name was recorded in the C.S. Record who died leaving behind his only son Ganesh Chandra Mondal and who died leaving behind his two sons Rajendra Mondal alias Rajendra Nath Mondal and Mohendra Mondal alias Mohendra Nath Mondal and the S.A. Khatain No. 953 and R.S. Khatian No. 752 were prepared in their names. Rajendra Mondal got 0.16 acres and he died leaving behind five sons Rashid Das Mondal, Ruhi Das Mondal, Kanak Das Mondal, Shyam Das Mondal and Ramon Das Mondal as heirs who transferred 0.16 acres of land to one Mohammad Laizuddin Miah by registered Deed No. 27484 dated 24.09.1977. Mohammad Laizuddin Miah died leaving behind wife Anowara Begum, three sons Abul Miah, Babul Miah and Fazilat Miah and five daughters Nazima Khatun, Nasima Khatun, Nazma Khatun, Rabiya Khatun and Mahia Khatun as heirs. Having .038181 acres of land by way of inheritance, Nagima Khatun, Nasima Khatun and Nazma Khatun transferred 0.0375 acre of land to one Md. Maruf Hossain Bachchu alias Bachchu Miah vide Registered Deed No. 1147 dated 27.01.1993. Being the owner of .0160 acre of land by way of inheritance, Nepal Sarkar appointed Md. Maruf Hossain Bachchu alias Bachchu Miah as his Attorney by registered Power of Attorney No. 12275 dated 26.09.2010.

Subsequently, Md. Maruf Hossain Bachchu alias Bachchu Miah transferred 0.0375 acres of land to the plaintiff Mst. Nasima Begum by deed No. 12616 on 05.10.2010. Subsequently, Sree Das Sarkar transferred .0054 acre of land to the plaintiff Mst. Nasima Begum by deed No. 11162 dated 29.11.2012. The plaintiff asserts that she became the owner of .0429 acres of land and her name was recorded in the City Survey Khatian. However, in collusion with the record office, defendant No. 1 allegedly caused his name to be recorded striking out the name of the plaintiff. The plaintiff claims that she on 18.12.2021 went to the local *tohshil* office for mutation of her name when she first came to know that the land recorded in her name was reduced. On 02.03.2021, the plaintiff obtained a certified copy of the City Survey Khatian No. 65 and intended to file a suit seeking correction of the record before the Land Survey Tribunal and found that the limitation period for filing of suit before the Tribunal had elapsed. She therefore filed the suit for declaration of title.

Upon receipt of the summons, defendant No. 1 became furious and on 19.06.2021 being accompanied by 5/7 armed persons attempted to dispossess the plaintiff from the suit land and it compelled her to file an application seeking temporary injunction.

Thereafter, the plaintiff filed another application for temporary injunction under section 151 of the Code of Civil Procedure against defendant No. 1 on 24.08.2021 and after hearing the learned Senior Assistant Judge, 2nd Court, Dhaka passed an order of *status quo* in respect of the disputed land against defendant No. 1 till disposal of the main application for temporary injunction. Defendant No. 1 contested

the application by filing a written objection. Subsequently, upon hearing, the learned Senior Assistant Judge, 2nd Court, Dhaka rejected the application for temporary injunction on 13.06.2023 and vacated the earlier order of *status quo* granted earlier.

Challenging the judgment and order dated 13.06.2023 the plaintiff filed Miscellaneous Appeal No. 178 of 2023 before the Court of District Judge, Dhaka. On transfer, the same was heard by the learned Additional District Judge, 8th Court, Dhaka who dismissed the appeal affirming the Judgment and Order dated 13.06.2023 passed by the learned Senior Assistant Judge, 2nd Court, Dhaka by judgment dated 26.10.2023.

Being aggrieved by and dissatisfied with the aforesaid Judgment and Order dated 26.10.2023 passed by the learned Additional District Judge, 8th Court, Dhaka, the plaintiff preferred this revisional application before this Court and obtained Rule and an order of *status quo*.

Mr. Md. Kadam Ali Mollick, the learned senior Advocate along with Mr. Md. Habibur Rahman, the learned Advocate appearing for the petitioner contends that both the courts below committed errors of law resulting in an error in the decision occasioning failure of justice in passing the impugned judgments and orders and as such the same is liable to be set aside.

He next submits that the plaintiff has a *prima facie* arguable case and the balance of convenience and inconvenience lie in her favour. However, without considering those aspects, most arbitrarily, and capriciously and whimsically the learned Senior Assistant Judge, 2nd

Court, Dhaka rejected the application for temporary injunction and the appellate court below too most illegally, without applying its judicial mind, dismissed the appeal which occasioned failure of justice and as such the impugned judgments and orders are liable to be set aside for securing the ends of justice. With those submissions the learned Advocate finally prays for making the Rule absolute.

Per contra, Ms. Asma Akhter, the learned Advocate appearing on behalf of opposite party no. 1 by filing a counter affidavit contends that, the Court below rightly passed the impugned orders based on law and there is no illegality or infirmity in the impugned judgment and order.

She next submits that the present opposite party is claiming title over the suit land through a registered deed executed on 21.10.1991 and he has been in possession of the suit land since more than 34 years. On the other hand, plaintiff-petitioner claims title on the basis of two registered deed executed on 5.10.2010 and 19.11.2012 respectively.

The learned counsel further submits that due to the reduction of land in the latest survey all the owners and possessors received less land than they purchased. The opposite party is entitled to 5 decimals of land but his name was recorded for $4\frac{1}{2}$ decimals in the City Survey. On the other hand plaintiff-petitioner purchased the land after city survey was finalized and therefore her vendors had no title to convey.

She next submits that deed No. 11162 dated 29.11.2012 is fabricated and the plaintiff has no prima facie and arguable case and that

the balance of convenience and inconvenience lie in favour of opposite party no. 1. Finally, learned counsel prays for discharging the Rule.

I have considered the submissions so advanced by the learned counsels at length, perused the impugned order and other materials on record.

It appears from the record that the Senior Assistant Judge, 2nd Court, Dhaka granted an order of status quo on 24.08.2021. Subsequently, this Court while issuing the Rule, also directed the parties to maintain *status quo* in respect of the suit land for a period of 03(three) months on 11.12.2023.

Upon scrutiny of paragraphs 9 and 10 of the plaint, it appears that one Nepal Sarkar executed power of attorney No. 12275 dated 26.09.2010 in favour of Md. Maruf Hossain for 0.0160 acre of the suit land and subsequently Mosharaf Hossain Bachchu transferred the said land to the plaintiff. However, it is not clear how Nepal Sarkar acquired right, title and interest in the suit land. Furthermore paragraph 11 of the plaint states that one Sree Das Sarkar sold .0054 acre of the suit land to the plaintiff by deed no. 11162 dated 29.11.2012 but again no basis has been shown as to how Sree Das Sarkar acquired right, title, interest in the suit land. For this reason, this Court finds no *prima facie* or arguable case in favour of the plaintiff-petitioner.

It further appears that the dispute pertains only to .0052 acre of land.

It depicts from facts and materials that there is an apprehension of act of unlawful dispossession of one party to suit from the suit land.

Therefore, in order to preserve the existing situation and legal rights of parties in dispute it is indubitable to render an order of *status quo* in respect of possession till resolution of the principal dispute relating to suit property which shall secure rights of parties to dispute.

In view of above, I am of the view that justice will be best served if the parties are directed to maintain *status quo* only in respect of the said .0052 acre of land (not the entire land described in the plaint schedule) as described in the application for temporary injunction under Order 39, Rules 1 and 2, till disposal of the suit.

However, the trial Court is directed to dispose of the suit as expeditiously as possible, preferably within 06(six) months from the date of receipt of this order.

Accordingly, the Rule is disposed of However, no order as to costs.

Let a copy of this judgment and order be communicated to the Court concerned forthwith.

(Md. Bashir Ullah, J)