

**District-Dhaka.**

**In the Supreme Court of Bangladesh  
High Court Division,  
(Civil Revisional Jurisdiction)**

**Present:**

**Mr. Justice Md. Toufiq Inam**

**Civil Revision No. 3080 of 2024.**

Lutfa Begum and others.

----- Plaintiff-Appellant-Petitioners.

-Versus-

Most. Fozila Khatun Nesa and others.

----- Defendant-Respondent-Opposite-Parties.

Ms. Salina Akter Chowdhury, Advocate with  
Ms. Mahboba Sultana Deepa, Advocate

----- For the Plaintiff-Appellant-Petitioners.

None Appears

----- For the Defendant-Respondent-Opposite-Parties.

**Heard and Judgment Delivered On: 24.02.2026.**

**Md. Toufiq Inam, J.**

This Rule was issued calling upon the opposite parties to show cause as to why the impugned Order No. 02 dated 11.06.2024 passed by the learned District Judge, Dhaka in Miscellaneous Appeal No. 116 of 2024, affirming Order No. 27 dated 28.02.2024 in Civil Case No. 1032 of 2019 passed by the learned Joint District Judge, 1st Court, Dhaka under Order XXXIX Rules 1 and 2 read with section 151 of the Code of Civil Procedure, 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.

The petitioner, as plaintiff, instituted Title Suit No. 1032 of 2019 seeking partition of the land described in the schedules to the plaint. During pendency of the suit, the plaintiff filed an application under Order XXXIX Rules 1 and 2 read with section 151 of the Code of Civil Procedure praying for temporary injunction restraining the defendant-opposite parties from transferring the scheduled-1 property and from dispossessing plaintiff No. 1 from her shop situated thereon. The learned trial court, upon hearing the parties, by Order No. 27 dated 28.02.2024 rejected the application for temporary injunction.

Being aggrieved, the plaintiff preferred Miscellaneous Appeal No. 116 of 2024 before the learned District Judge, Dhaka, who by the impugned judgment and order dated 11.06.2024 dismissed the appeal and affirmed the order of the trial court.

Ms. Salina Akter Chowdhury, learned Advocate for the plaintiff-petitioner, submits that the plaintiff is a co-sharer in the suit property and that unless the defendants are restrained from transferring the property and interfering with possession of the shop, the very purpose of the partition suit would be frustrated. She contends that both the courts below committed an error of law in rejecting the prayer for

temporary injunction, resulting in failure of justice, and that this Court, in revisional jurisdiction, ought to interfere and make the Rule absolute.

At the hearing, one learned Advocate appeared claiming to represent opposite party Nos. 2, 3(B) and 4 and advanced submissions on their behalf. Subsequently, Dr. Naim Ahmed, learned Senior Advocate, appearing for opposite party Nos. 1–3(C) and 4, submitted that his clients had engaged another lawyer without obtaining a no-objection certificate from him and accordingly sought leave to withdraw from the case. In view of the procedural irregularity and non-compliance with requisite formalities by the newly engaged advocate, this Court declines to record submissions made on behalf of the concerned opposite parties.

Having heard the learned Advocate for the petitioner and upon perusal of the revisional application along with the impugned judgments and orders, it appears that both the courts below, upon proper consideration of the facts and law, concurrently rejected the application for temporary injunction. Such concurrent findings of fact cannot ordinarily be interfered with in revisional jurisdiction in the absence of any patent illegality, perversity or miscarriage of justice.

It is well settled that a suit for partition is essentially equitable in nature. Until final allotment of saham is effected, each co-sharer is deemed to be in possession of every inch of the joint property. Granting an injunction restraining one co-sharer from enjoyment may, in effect, amount to a premature determination of possession and shares before trial. Unless a party establishes a clear, prima facie and superior right along with balance of convenience and likelihood of irreparable loss, the prudent course is to preserve the property in its existing condition and ensure expeditious disposal of the suit.

It further appears that at the time of issuance of the Rule, this Court directed the parties to maintain *status quo* regarding possession and position of the property and restrained transfer of the suit land until disposal of the Rule. The application for temporary injunction was confined to Schedule No. 1 property only.

In the facts and circumstances of the case, this Court is of the view that the ends of justice would be best served by directing the learned trial court to dispose of the partition suit on merit within the shortest possible time.

Accordingly, **the Rule is disposed of.**

The learned Joint District Judge, 1st Court, Dhaka is directed to dispose of Title Suit No. 1032 of 2019 as expeditiously as possible, preferably within 1 (one) year from receipt of this judgment.

The parties are directed to maintain *status quo* in respect of Schedule No. 1 property until disposal of the suit.

There shall be no order as to costs.

Let the judgment and order be communicated at once.

**(Justice Md. Toufiq Inam)**

Ashraf/ABO.