Bench:
Mr. Justice Md. Ali Reza

Civil Revision No. 1035 of 2025
Md. Rabiul Islam (Sabuj) and others
.....petitioners
-Versus-
Government of Bangladesh and others
.....opposite parties

Mr. Zulfikar Bulbul Chowdhury, Senior Advocate
with
Mr. Ahmed Nowshed Jamil,
Mr. H.M. Borhan and
Ms. Sayeda Shoukat Ara, Advocates
.....for the petitioners

Mr. Md. Yousuf Ali, D.A.G with
Mr. Rakib Hossain,
Mr. Mohammad Salah Uddin Sikder and
Ms. Kamrunnahar Lipi, A.A.G
.....for the opposite parties
Mr. Mohammad Nazrul Islam with
Mr. Md. Tariqul Islam Khan, Advocates
.....for the applicants

Heard on: 03.12.2025, 18.02.2026 and 24.02.2026

Judgment on: 10.03.2026

In the instant revision Rule was issued calling upon the opposite parties to show cause as to why the impugned judgment and decree dated 11.03.2025 passed by the learned Additional District Judge, 2nd Court, Jashore in Title Appeal Number 21 of 2024 allowing the appeal thereby reversing the judgment and decree dated 13.02.2024 passed by the learned

Senior Assistant Judge, Jashore Sadar, Jashore in Title Suit Number 127 of 2023 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 petitioners as plaintiff instituted Title Suit 81 of 2002 on 16.09.2002 in the Court of the Assistant Judge at Keshabpur, Jashore seeking a declaration that the Khas khatian prepared in the name of defendant 1 and the eviction notices dated 03.08.2002 and 07.09.2002 issued by defendants 2 and 3 are illegal, incorrect and not binding upon the plaintiffs. Subsequently the suit was renumbered on 09.03.2023 as Title Suit 127 of 2023.

The concise facts of the plaint are that 35 decimals of land out of former C.S. plot 271 were settled by the heirs of C.S. tenant in favour of Ibrahim Biswas by virtue of patta deed 2034 dated 03.05.1944 and he entered into possession thereof. While possessing 27 decimals being 12 annas share out of the said 35 decimals as owner in possession Ibrahim Biswas died leaving behind three sons namely Gohar Ali, Ahar Ali and Baker Ali as his heirs. Subsequently Gohar Ali died leaving behind one son Rezaul Haque. In 1959 when the then Tahsildar attempted to dispossess the heirs of Ibrahim Biswas

from the said land they filed an objection before the then Joint Collector. Upon hearing the matter the Joint Collector by order dated 11.12.1959 held that the land of the suit plot being vacant non-agricultural land was not liable to acquisition. Consequently the acquisition proceeding in respect of the suit land was dropped and the said land was released during the preparation of the acquisition roll relating to the concerned cattle market. However in 1961 when the local Tahsildar again proposed to auction the suit land the predecessors of the plaintiffs once again filed an objection before the Joint Collector. Upon consideration of the opinion of the Government Pleader and other relevant documents the Joint Collector by order dated 12.04.1961 directed to stop further proceedings observing that the cattle market standing on the suit land had already been released. Neverthless on 05.12.1962 when the local Tahsildar again attempted to dispossess the predecessors of the plaintiffs they instituted Title Suit 473 of 1962 in the 2nd Court of Munsif at Jessore on 08.12.1962 seeking declaration of their title with confirmation of possession and permanent injunction in respect of the suit land. In that suit the Government contested by filing written statement. The suit was dismissed on 19.06.1965. Thereafter

the predecessors of the plaintiffs preferred Title Appeal 180 of 1965 and the appellate Court by judgment and decree dated 05.08.1966 allowed the appeal. Subsequently the predecessors of the plaintiffs constructed residential houses upon the suit land and started residing there with their families. They also erected shop rooms and inducted tenants therein by collecting rent from them while carrying on their own business therefrom. Through two mutation cases during the years 1987-1988 the land was mutated in their names and separate khatians were opened in their favour pursuant to which they paid rent separately.

Later pursuant to the opinion given by the Government of Bangladesh following the order dated 08.01.1996 passed in Miscellaneous Case 5/XIII/1994-95 the suit land was again released in favour of the predecessors of the plaintiffs who continued in possession thereof. While in possession Ahar Ali and Baker Ali sold a portion of the suit land to plaintiff 1 Abdul Aziz by virtue of registered sale deed number 5886 dated 01.12.1991. Subsequently Ahar Ali died leaving behind plaintiffs 23-29 and Baker Ali died leaving behind plaintiffs 30-34 and Rezaul Haque died leaving behind plaintiffs 17-22 as their heirs. Thus plaintiffs 1 and 17-34 by purchase and

inheritance became owners in possession of the suit land and continued residing therein in their dwelling houses and conducting business in the shop rooms and realizing rent from tenants while paying rent to the Government and have been possessing the land for more than 70 years. In such circumstances the defendants representing the Government issued two notices dated 03.08.2002 and 07.09.2002 directing the plaintiffs to remove their possession from the suit land or to vacate the same.

According to the plaintiffs the R.S. record prepared in the name of the Government under Khas khatian 1 in respect of the suit land is erroneous and the said eviction notices are illegal. The defendants have no title and possession in the suit land. Hence the suit.

On the other hand defendant 1 contested the suit by filing written statement denying the plaintiffs' case and contending *inter alia* that in C.S. plot 271 under C.S. khatian 142 there existed 29 decimals of land recorded in the names of Budhai Kha and others as temporary lessees. Subsequently 24 decimals of land under the said plot were recorded in Khas khatian 1 in the name of the Government of Bangladesh as "Gohata" (cattle market). In the R.S. record the suit land has

been recorded in the name of the Government of Bangladesh as plots 645 and 646 under Khas khatian 1 as cattle market land. After the abolition of the zamindari system all rights, interests and possession in such hat-bazar properties vested in the Government of Bangladesh and the same was subsequently published in the form of a gazette notification in 1956. Although the predecessors of the plaintiffs were merely temporary lessees they instituted Title Suit 473 of 1962 against the Deputy Commissioner of Jessore claiming permanent title. That suit was dismissed on 25.02.1965. Thereafter they preferred Title Appeal 180 of 1965 and the appellate Court by its judgment dated 15.08.1966 allowed the appeal only to the extent of directing that the plaintiffs would enjoy twelve-anna subordinate interest until final publication of the C.A. Roll.

The predecessors of the plaintiffs subsequently filed Title Suit 839 of 1978 in respect of the same land and lost the case. Against that judgment Title Appeal 106 of 1979 was also dismissed. Thereafter Civil Revision 806 of 1979 was filed before the High Court Division which was discharged on contest on 06.12.1983 wherein the High Court held that the suit land being hat-bazar property vested in the Government of

Bangladesh. A subsequent review petition against the said judgment was also dismissed. The plaintiff later obtained mutation by misleading the revenue authority through Mutation Cases 121/9-1/1987-88 and 122/9-1/1987-88 but subsequently the revenue authority by Case Number 16/XIII/1999-2000 under Section 150 cancelled the earlier mutation orders and brought the suit land under Khas khatian 1 in the name of the Government. After losing further miscellaneous proceedings the plaintiffs again filed Appeal Case 170 of 1996 before the Divisional Commissioner, Khulna which was dismissed upon consideration of the earlier litigations. The case filed by the plaintiffs before the Land Appeal Board was also dismissed. In accordance with the direction given in Title Appeal 180 of 1965 the Government following all acquisition formalities published a gazette notification dated 21.10.1978 in the C.A. Roll declaring 35 decimals of land of plot 271 under C.S. khatian 142 as Keshabpur cattle market.

The cattle market situated on the suit land was regularly leased out by the Government. However during the subsistence of the lease period the Jashore-Satkhira Road was constructed across the suit plot which created obstruction in

operating the cattle market. Later upon widening of the said road and due to shortage of space the Government shifted the cattle market in 1994 to neighbouring Altapur Mouza. At present a daily market is held on suit plot 271 and a regular hat sits there on Fridays, Sundays, Tuesdays and Thursdays which is leased out by the Government every year. According to the defendants the plaintiffs have no title or interest in the suit land and have instituted the present suit only to misappropriate valuable Government property. The suit being false is liable to be dismissed with costs.

In the suit the trial Court framed as many as twelve issues for determination. The plaintiffs examined four witnesses while the defendants examined the Union Land Assistant Officer as DW 1. Both parties produced documentary evidence in support of their respective cases. The trial Court also took judicial notice of the Compensation Assessment Roll Gazette dated 21.10.1978 and the order dated 27.02.2000. Subsequently the plaintiffs amended the plaint and claimed 18 decimals of land with specific boundaries instead of 24 decimals on the ground that 6 decimals had gone into the road. Upon hearing the parties and considering the

evidence on record the trial Court by its judgment and decree dated 13.02.2024 decreed the suit.

Being aggrieved by the said judgment and decree defendant 1 the Government of Bangladesh preferred Title Appeal 21 of 2024 before the District Judge's Court at Jessore which was subsequently transferred to the Court of the Additional District Judge, 2nd Court, Jessore. The appellate Court by judgment and decree dated 11.03.2025 allowed the appeal.

Being aggrieved thereby the plaintiffs filed the present civil revision before this Court and obtained Rule on 16.04.2025.

The learned Senior Advocate Mr. Zulfikar Bulbul Chowdhury along with learned Advocates Mr. Ahmed Nowshed Jamil, Mr. H.M. Borhan and Ms. Sayeda Shoukat Ara appearing on behalf of the plaintiff-petitioners submits that the appellate Court committed error of law resulting in an error in such decree occasioning failure of justice in allowing the appeal upon misreading and non-consideration of material evidence and also upon misconstruction of the relevant documents. He further submits that the findings of the trial Court having not been reversed upon assigning proper, cogent

and lawful reasons the judgment passed by the appellate Court cannot be regarded as a proper judgment of reversal within the meaning of Order 41 Rule 31 of the Code of Civil Procedure and as such the same being perverse and misconceived is liable to be set aside. He further submits that the appellate Court failed to consider that the defendants having accepted rent from the plaintiffs are estopped from denying the title of the plaintiffs and upon misconception of law the appellate Court erroneously dismissed the suit thereby occasioning miscarriage of justice. He next submits that Exhibit-3 series showing mutation in favour of the plaintiffs followed by rent receipts marked as Exhibit-4 series are documents evidencing possession issued by the competent authority which cannot be brushed aside merely upon the assertions of the defendants. According to him the trial Court upon proper appreciation of the evidence on record rightly decreed the suit but the appellate Court without reversing those material findings arrived at by the trial Court erroneously dismissed the suit which cannot be sustained in accordance with law.

Referring to Exhibit-8 he very candidly and emphatically submits by drawing attention to the operative portion thereof that the same clearly indicates that any acquisition by the

defendants must be made in accordance with law. However the allegation advanced by the plaintiffs that the acquisition had not been legally effected because the plaintiffs were neither served with notice nor awarded compensation in accordance with law was not at all considered by the appellate Court and as such the appellate Court committed error of law occasioning failure of justice in dismissing the suit thereby depriving the plaintiffs of their lawful right, title and possession in the suit land. He also submits that the defendants at one stage contend that the suit land was never released and at another stage claim that it had been released and because of such contradictory stand taken by the defendants and also due to their failure to produce the original volume relating thereto before the Court the plaintiffs have been seriously prejudiced. The appellate Court without considering these important aspects of the matter passed the impugned judgment which has resulted in failure of justice. He further submits that it is an admitted position that no cattle market presently sits on the suit land rather a general market is held there. Moreover residential houses and shop rooms belonging to the plaintiffs exist on the suit land. He points out that defendants have contended that the mutation obtained by the plaintiffs had

been cancelled through a review case after about twelve years and the trial Court found that the said review case was clearly barred by limitation. Since the appellate Court did not reverse that finding of the trial Court in accordance with law the judgment of the appellate Court does not reflect proper administration of justice and is liable to be set aside. He finally submits that since the Rule involves substantial merit the same may be made absolute.

On the other hand the learned Deputy Attorney General Mr. Md. Yousuf Ali along with Mr. Rakib Hossain, Mr. Mohammad Salah Uddin Sikder and Ms. Kamrunnahar Lipi, learned Assistant Attorneys General appearing on behalf of the defendant-Government submits that the appellate Court having independently assessed the evidence and reversed the judgment passed by the trial Court upon assigning lawful reasons committed no error of law resulting in an error in such decree occasioning failure of justice and the impugned judgment being a proper judgment of reversal in accordance with the provisions laid down in Order 41 Rule 31 of the Code of Civil Procedure is immune from interference by this Court in revision. He strongly submits that since the Compensation Assessment Roll has been finally published the suit is barred

under Section 72 of the State Acquisition and Tenancy Act and if the plaintiffs have any grievance they may seek their remedy in a suit for compensation. He further submits that the finding of the trial Court that the plaintiffs acquired title by adverse possession is absolutely perverse and misconceived because the plaintiffs never made out such a definite claim in their pleadings. The trial Court also failed to appreciate the settled principle of law that a claim for declaration of title and a claim of title by adverse possession cannot run simultaneously since those two claims are mutually inconsistent and the latter originates in wrongful possession. According to him no evidence has been adduced by the plaintiffs to show that their entry into the suit land was hostile or that they maintained hostile possession for the statutory period. He further submits that since the impugned notices were duly issued by the competent authority the judgment passed by the appellate Court is perfectly justified. He finally submits that the Rule having no merit is liable to be discharged.

Heard the learned Advocates for both sides and perused the materials on record and also gone through the impugned judgments passed by the courts below.

This is a suit for declaration of title whereby the plaintiffs have sought a declaration that the Khas Khatian 1 prepared in the name of defendant 1 and the two eviction notices dated 03.08.2002 and 07.09.2002 issued by defendants 2 and 3 are illegal, unlawful, without lawful authority, erroneous and without any legal basis.

The plaintiffs principally claim that the suit land was originally acquired by their predecessor Ibrahim Biswas by virtue of a patta dated 03.05.1944 which has been marked as Exhibit-6. The plaintiffs have produced a certified copy of the said deed. It appears from the record that the certified copy was obtained on 18.01.1984 which is long before the institution of the present suit. Subsequently when the defendants threatened to dispossess the plaintiffs from the suit land the plaintiffs earlier instituted Title Suit 473 of 1962 on 08.12.1962 seeking declaration of title with confirmation of possession and permanent injunction.

From paragraphs 3 and 4 of the plaint of that suit which has been marked as Exhibit-7 it appears that after the provisions of the State Acquisition and Tenancy Act came into force the defendants on several occasions attempted to take khas possession of the disputed hat (cattle market) property

but due to objections raised by the plaintiffs such attempts failed in accordance with law.

It further appears that in 1959 the local tahsildar once issued a notice for eviction whereupon the plaintiffs filed an objection before the then Joint Collector who by order dated 11.12.1959 decided the matter in favour of the plaintiffs. As a consequence the acquisition proceedings relating to the disputed property were halted and the cattle market concerned was released from the acquisition roll. However as further proceedings were subsequently initiated and those proceedings went against the plaintiffs they instituted Title Suit 473 of 1962. The trial Court dismissed the suit by judgment dated 19.06.1965. As against the same the plaintiffs preferred Title Appeal 180 of 1965 and the judgment of that appeal has been marked as Exhibit-8.

From Exhibit-8 it appears that although the Compensation Assessment Roll of the concerned area had admittedly been published in the Dhaka Gazette on 20.03.1962 the appellate Court observed that such publication by itself did not confer upon defendant 1 the right to take over possession of the cattle market until the compensation assessment roll was finally published in accordance with the

provisions laid down under Sections 42 and 44 of the State Acquisition and Tenancy Act. The Gazette notification marked as Exhibit-Eno reveals that under the provisions of Section 43 of the State Acquisition and Tenancy Act, 1950 the President declared that the Compensation Assessment Roll had been finally published under Section 42 of the said Act in respect of the "Sairat Mahal" known as "Keshabpur Cattle Market." In the schedule appended to the said Gazette the names of the predecessors of the present plaintiffs of village Madhyakul have been mentioned as owners.

It further appears that the final publication of the Compensation Assessment Roll relating to plot 271 appertaining to C.S. Khatian 142 measuring an area of 35 decimals of land took place during the period from 27.01.1962 to 03.03.1962. The said Gazette notification was subsequently published in the Bangladesh Gazette Part-I on 26.10.1978 by the Ministry of Land Administration and Land Reforms.

Section 42 of the State Acquisition and Tenancy Act (hereinafter called as the Act) deals with the final publication of the compensation assessment roll. Once such roll is published in the official Gazette it constitutes conclusive evidence that the procedures for determination of

compensation have been duly followed. Section 43 of the Act provides for the declaration of such publications. Once such declaration is made by the Government the acquisition process stands legally concluded. Since the names of the predecessors of the plaintiffs are specifically mentioned in the Gazette notification of 1978 they are deemed in law to have had constructive notice of the acquisition proceedings. Once the compensation assessment roll is finalized and published under Section 42 it becomes a public record. The plaintiffs' assertion that the roll was not legally completed appears to be a mere bald allegation which cannot override the documentary evidence contained in the official Gazette. Moreover Section 114(e) of the Evidence Act provides that the Court may presume that official acts have been regularly performed. Therefore when the Government produces a Gazette notification published under Sections 42 and 43 of the State Acquisition and Tenancy Act the law presumes that every preliminary step such as survey, valuation, hearing of objections and determination of shares was performed in accordance with law.

In such circumstances the burden of proof shifts entirely upon the plaintiffs to establish a specific and fundamental

procedural illegality. A mere allegation that the process was not legal is insufficient to unsettle such an old public record. Plaintiffs did not show any lawful proof that they approached the authority for compensation but were refused.

Section 43 of the Act acts as the final statutory declaration. Once the President or the delegated authority declares the publication of the compensation assessment roll the acquisition process is legally concluded and the land vests in the Government free from all encumbrances and the roll becomes a conclusive document evidencing the State's title.

The contention of the plaintiffs that the compensation assessment roll was not legally completed is therefore clearly hit by the statutory bar contained in Section 72 of the State Acquisition and Tenancy Act. Furthermore under Section 114(e) of the Evidence Act this Court is bound to presume the regularity of the Gazette notification dated 26.10.1978. Thus a suit instituted in 2002 challenging the procedural legality of an administrative act completed in 1978 is clearly barred by limitation and also by the doctrine of finality of administrative actions. The trial Court appears to have proceeded on the assumption that since the Government allegedly claimed at different times that the land was released and again that it was

not released the Government was barred by the doctrine of estoppel. Such reasoning in the opinion of this Court is legally unsustainable. It is a well-settled principle of law that there can be no estoppel against a statute. Once the acquisition proceedings have been completed in accordance with the provisions of the State Acquisition and Tenancy Act and the compensation assessment roll has been finally published the legal consequence flowing from the statute cannot be defeated by invoking the equitable doctrine of estoppel.

Moreover the alleged order of release dated 08.01.1996 said to have been passed by the Additional Deputy Commissioner (Revenue) cannot override or nullify the legal effect of the Gazette notification issued under Sections 42 and 43 of the State Acquisition and Tenancy Act because once the acquisition is concluded and the property vests in the Government no subordinate revenue authority has the jurisdiction to release such land in derogation of the statute.

The trial Court also placed undue emphasis on the alleged possession of the plaintiffs and the absence of payment of compensation. In this regard it is to be noted that once the compensation assessment roll is finally published the statutory scheme under the State Acquisition and Tenancy Act provides

a separate remedy for claiming compensation. Any grievance relating to non-payment or improper assessment of compensation does not invalidate the acquisition itself nor does it confer title upon the claimant. Therefore the finding of the trial Court that the suit land stood released in favour of the plaintiffs and that the Government was barred by the doctrine of estoppel is based upon misappreciation of law and misreading of the documentary evidence on record particularly the Gazette notification marked as Exhibit-Eno. This suit for declaration of title cannot be decreed.

In such circumstances it is apparent that the trial Court erroneously arrived at the conclusion that the suit land had been released in favour of the plaintiffs whereas the materials on record clearly establish that the land had already vested in the Government upon final publication of the compensation assessment roll.

In view of the discussions made above and upon consideration of the facts and circumstances of the case I find no substance in the Rule.

Accordingly the Rule is discharged.

The judgment and decree passed by the trial Court are hereby set aside and those passed by the appellate Court are affirmed.

The application for addition of party bearing Entry Number 6773 dated 19.10.2025 which was earlier ordered to be kept with the record on 24.11.25 is taken up for consideration at this stage.

It appears that the applicants claim their interest under defendants in respect of the suit property. Since the defendants have already contested the matter and their interest has been adequately represented in the proceeding no separate adjudication is necessary for the purpose of the present Rule.

Accordingly the said application is disposed of on the observation that the judgment passed in this Rule shall equally bind the applicants as they claim under the defendants.

The order of stay passed by this Court stands vacated.

Communicate this judgment to the concerned Court and send down the lower Courts' record.

Md. Ali Reza, J: