Bench:
Mr. Justice Md. Ali Reza

Civil Revision No. 2698 of 2025
Mohammad Farukul Islam Miah
.....petitioner
-Versus-
Mohammad Abdur Rahman and others
.....opposite parties

Mr. Muhammad Rejaul Hussain (Morshed) Advocate
.....for the petitioner

Mr. Mohammad Noab Ali with
Mrs. Rezowana Ferdose, Advocates
.....for the opposite parties

Heard on: 18.02.2026 and 24.02.2026

Judgment on: 04.03.2026

In the instant revision Rule was issued on 14.07.2025 calling upon the opposite parties to show cause as to why the order dated 03.06.2025 passed by the learned District Judge, Chattogram in Miscellaneous Appeal No. 179 of 2025 not passing an ad interim order of temporary injunction as per prayer of an application for temporary injunction filed by the plaintiff-appellant-petitioner should not be set aside and/or such other of further order or orders passed as to this Court may seem fit and proper.

The petitioner in the instant Civil Revision preferred Other Suit Number 30 of 2021 on 21.01.2021 seeking declaration that deed number 4578 dated 11.06.2020 is false,

forged, fraudulent, illegal, without jurisdiction, collusive, manufactured, inoperative and a mere paper transaction and not binding upon the plaintiff. A further declaration was sought that record of right (R.O.R) number 1665 prepared in the names of defendants 3-5 is erroneous, collusive, incorrect and not binding upon the plaintiff.

After lapse of approximately four years from the institution of the suit the plaintiff filed an application for temporary injunction on 20.11.2024 under order 39 rules 1 and 2 read with section 151 of the Code of Civil Procedure praying for an order of temporary injunction against defendants 1 and 2. Defendants 1 and 2 entered appearance and filed written statement and objection to the application for injunction on 26.01.2025.

The substance of the plaint and the application for injunction is that on the strength of the deed number 4578 dated 11.06.2020 allegedly executed by defendants 3-5 in favour of defendants 1 and 2 the latter mutated their names and are attempting to dispossess the plaintiff illegally from the suit land and to forcibly trespass thereupon to disturb the plaintiff’s peaceful possession and to transfer the same to third

parties thereby causing irreparable loss and injury to the plaintiff.

On the contrary the contesting defendants categorically denied the allegations and contended that they purchased 12 decimals of the suit land on 11.06.2020 from the B.S. recorded owners and opened a holding and disclosed the property before the income tax authority and obtained electricity connection and have been possessing the land by constructing permanent boundary wall on all sides. According to them the statements made in the injunction petition are false and misconceived.

From the pleadings and materials on record it appears that the previous owner of the plaintiff namely Ruhul amin and the previous owner of the defendants namely Abdur Rashid purchased land from the same recorded owner Ambiya on the same date on 23.10.1984. The deed in favour of Abdur Rashid bears number 18413 whereas the deed in favour of Ruhul amin bears number 18414. The deed bearing number 18413 therefore *prima facie* appears to have been executed earlier in point of time.

The trial Court after hearing both sides and upon framing four issues rejected the application for temporary injunction

by order dated 09.04.2025 upon discussion of the pleadings and materials on record. The trial Court observed that the schedule and specification of the suit land as described in the plaintiff's deed are vague and indistinct whereas from the defendants' deed and khatian a *prima facie* case in their favour is discernible.

Being aggrieved the plaintiff preferred Miscellaneous Appeal Number 179 of 2025 under Order XLIII Rule 1(r) of the Code of Civil Procedure with a delay of 56 days. From the impugned order number 1 dated 03.06.2025 it transpires that although the appellate Court did not formally allow the application under Section 5 of the Limitation Act it provisionally accepted the appeal for hearing and issued a show cause notice upon defendants 1 and 2 for 15 days as to why an order of temporary injunction should not be granted. Challenging the said order the present revision has been filed and this Court by order dated 14.07.2025 issued Rule along with an ad interim order of status quo.

Mr. Mohammad Rezaul Hossain (Morshed), learned Advocate for the petitioner submits that the Court of appeal below committed an error of law resulting in failure of justice by passing the impugned order without considering the settled

principles governing grant of temporary injunction namely existence of a *prima facie* case and balance of convenience and likelihood of irreparable loss. He further submits that the impugned order is a non-speaking order passed upon misconception of law and is therefore liable to be set aside in exercise of revisional jurisdiction under Section 115(1) of the Code of Civil Procedure. He lastly prays that the Rule having merit be made absolute.

Conversely Mr. Muhammad Nawab Ali, learned Advocate for the opposite parties opposes the Rule and submits that there was no lawful justification for issuance of the Rule against a mere show cause notice and the revision is devoid of merit and liable to be discharged.

Heard the learned Advocates of both sides and perused the lower Court records.

It appears from the record that the trial Court after detailed hearing rejected the prayer for temporary injunction upon consideration of the relevant legal ingredients as required under Order 39 Rules 1 and 2 of the Code of Civil Procedure. The appellate Court in exercise of its jurisdiction merely issued notice upon the respondents to show cause as to why injunction should not be granted and from the order sheet

it transpires that upon issuance of notice the defendants have already entered appearance.

In such circumstances filing of the present revision before this Court without allowing the appellate Court to dispose of the injunction matter on merit does not appear to serve any legally acceptable purpose. The petitioner does not appear to have approached this Court with clean hands.

It is further noteworthy that in paragraphs 9(a) and (b) of the plaint wherein the impugned deed and khatian have been challenged no description of the said deed or khatian has been incorporated in schedule 1 or schedule 1(a) of the plaint. It is not discernible from the schedule of the plaint whether the land covered by the impugned deed against which relief has been sought in the prayer portion of the plaint has at all been incorporated therein and it is further apparent that the impugned deed has not been referred to in the schedule to the plaint. Moreover from a plain reading of the plaint it appears that the plaintiff is not a party to the deed dated 11.06.2020 yet no specific prayer for declaration of his own title has been sought in clear terms. It is well settled that when a third party challenges a deed or decree he must first establish and seek

declaration of his own right, title and interest. In the instant suit no such comprehensive prayer is discernible.

Additionally if the prayer for injunction had been of such pressing and paramount importance to the plaintiff he would not have allowed a delay of nearly 02(two) months in preferring the Miscellaneous appeal. Such delay reasonably leads to the inference that the order of injunction is being sought not out of genuine urgency but rather for achieving some collateral or ulterior purpose.

In view of the discussions made hereinabove I find no substance in the Rule.

Accordingly the Rule is discharged.

The order of status quo passed by this Court stands vacated.

Communicate this judgment to the concerned Court at once.

The appellate Court is directed to dispose of the application for temporary injunction expeditiously in accordance with law without being influenced by any observation made herein which are confined solely for the purpose of disposal of this Rule.

Md. Ali Reza, J:

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