

District-Tangail.

**IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(CIVIL REVISIONAL JURISDICTION)**

Present:

Mr. Justice Md. Toufiq Inam

Civil Revision No. 3004 of 2014.

Md. Minhaj Ali @ Md. Menhaj Miah and
another.

----- Defendant- Appellant- Petitioners.

-Versus-

Md. Abdul Miah.

----- Plaintiff- Respondent-Opposite Party.

Mr. Kamal Hossain, Advocate

----- For the Defendant- Appellant- Petitioners.

Ms. Afroza Akter, Advocate

----- For the Plaintiff- Respondent-Opposite Party.

Heard and Judgment delivered on: 18.11.2025.

Md. Toufiq Inam, J.

This Rule was issued calling upon the opposite party to show cause as to why the impugned judgment and decree dated 12.06.2014 passed by the learned Joint District Judge, 1st Court, Tangail in Other Class Appeal No. 55 of 2013, affirming the judgment and decree dated 21.03.2013 passed by the learned Assistant Judge, Delduar, Tangail in Other Class Suit No. 17 of 2012 decreeing the suit, should not be set aside and/or why such other or further order or orders should not be passed as may seem fit and proper to this Court.

The opposite party as plaintiff instituted a suit for permanent injunction before the Court of the learned Assistant Judge, Delduar, Tangail, being Other Class Suit No. 17 of 2012. The case of the plaintiff, in short, is that he has been irrigating 941 decimals of land from several plots by installing a tubewell in Plot No. 1034 of Mouza-Barapakhia after obtaining a valid license from the Upazila Irrigation Committee on 15.05.2011. The defendant Nos. 1 and 2 also installed two tubewells in Plot Nos. 980 and 979 respectively without obtaining the required license, thereby creating serious obstruction to the plaintiff's irrigation activities. The plaintiff obtained an electrical connection from the Rural Electricity Board in 1992 and has since then continued irrigation by supplying water to the surrounding lands. Despite objections raised by the plaintiff and a direction from the chairman of the Irrigation Committee to remove the illegally established tubewells, the defendants failed to comply. Consequently, the plaintiff filed the present suit seeking permanent injunction.

The defendants contested the suit by filing a written statement denying the material allegations. Their case, in essence, is that Plot Nos. 980 and 979 along with other adjacent lands are their ancestral property. Defendant No. 1 installed a non-deep tubewell in Plot No. 980 about seven years ago at the request of the local people, and Defendant No. 2 installed another non-deep tubewell in Plot No. 979 about six years ago

after obtaining the requisite license from the authority. They contended that the plaintiff failed to provide adequate irrigation, for which a *shalish* was held, and the local Union Parishad Chairman allegedly directed the plaintiff to remove his shallow machine- a direction the plaintiff ignored. According to the defendants, the suit was filed with false and baseless allegations and should be dismissed.

The learned trial court, upon considering the evidence adduced by both parties and examining the materials on record, decreed the suit by judgment dated 21.03.2013. Aggrieved, the defendants preferred Other Class Appeal No. 55 of 2013 before the learned District Judge, Tangail, which was ultimately heard by the learned Joint District Judge, 1st Court, Tangail. The appellate Court dismissed the appeal and affirmed the judgment and decree of the trial court. Thereafter, the defendants, as petitioners, moved this revisional jurisdiction and obtained the present Rule.

Mr. Kamal Hossain, learned Advocate for the petitioner, submits that both the trial court and the appellate court committed an error in passing a decree of permanent injunction without properly appreciating the evidence on record. He contends that the defendants installed their shallow machines for the benefit of the local people and that the courts below failed to consider this material fact, resulting in an erroneous

decision leading to failure of justice. He accordingly prays for making the Rule absolute.

Per contra, Ms. Afroza Akter, learned Advocate for the plaintiff–opposite parties, submits that the evidence clearly establishes that the defendants installed two shallow tubewells without obtaining the necessary permission from the irrigation authority, thereby causing serious disturbance to the plaintiff’s lawful irrigation activities. She refers to the testimony of P.W. 1 and argues that both courts below concurrently and correctly decreed the suit. She contends that such concurrent findings should not be interfered with under section 115 of the Code of Civil Procedure and accordingly prays for discharging the Rule.

Having heard the learned Advocates for both sides and upon perusal of the impugned judgments and decrees along with the materials on record, this Court proceeds to render its decision.

It appears that the learned trial court, upon proper assessment of the evidence and materials on record, passed a decree of permanent injunction, which was duly affirmed by the appellate court. It is now well settled that the revisional jurisdiction of this Court under section 115 of the Code of Civil Procedure is limited. This Court is not an

appellate forum to reassess evidence merely because another view is possible. Interference is permissible only where the courts below acted without jurisdiction, failed to exercise jurisdiction, or acted illegally or with material irregularity causing failure of justice.

It is further significant to note that the defendants failed to produce any reliable documentary evidence establishing that they obtained a valid irrigation license for installing the tubewells in Plot Nos. 980 and 979. A mere oral claim of possessing a license, unsupported by the license itself or any official record from the competent authority, cannot displace the plaintiff's evidence, which includes the formal license issued by the Upazila Irrigation Committee. Under the regulatory framework governing irrigation, installation of a tubewell without prior permission is expressly prohibited, and such unauthorized installation constitutes a legal wrong that directly infringes upon the rights of a duly licensed operator. This independent illegality provides a strong and sufficient basis for granting permanent injunction, and both courts below rightly relied on this principle.

In the present case, both the trial court and the appellate court, upon full consideration of the pleadings and evidence, concurrently found in favour of the plaintiff and decreed the suit. When two courts of fact concurrently record findings based on evidence, this Court, in exercising

revisional jurisdiction, does not ordinarily disturb such findings unless they are perverse, based on no evidence, or vitiated by misreading or non-reading of evidence. The record reveals that the learned courts below have evaluated both oral and documentary evidence in its proper perspective, and the findings so recorded are supported by the evidence and do not suffer from illegality or material irregularity warranting interference.

In view of the above, this Court finds no merit in the Rule.

Accordingly, **the Rule is discharged.**

The judgments and decrees of both the appellate court and the trial court are hereby affirmed.

Let the order be communicated and the Lower Court Record be sent down at once.

(Justice Md. Toufiq Inam)