

Present:

MR. JUSTICE S.M. EMDADUL HOQUE

CIVIL REVISION NO. 693 OF 2022.

IN THE MATTER OF:

An application under Section 115 (1) of the Code of Civil Procedure.

- AND -

IN THE MATTER OF:

Alhaj Abdur Rahim

..... Plaintiff-Petitioner

- Versus -

Alhaj Shafiq Uddin and others

..... Defendnat-Opposite parties.

Mr. Md. Zahid Hossain Munshi, Advocate

..... For the petitioner.

Mr. Md. Fakhar Uddin, Advocate

.....For the opposite party Nos.1-4.

**Heard on: 31.07.2022 and
judgment on: 21.04.2024.**

On an application of the petitioner Alhaj Abdur Rahim under section 115(1) of the Code of Civil Procedure the Rule was issued calling upon the opposite parties to show cause as to why the impugned judgment and order dated 24.11.2021 passed by the Joint District Judge, 1st Court, Cox's Bazar in Miscellaneous Appeal No.10 of 2021 disallowing the appeal and thereby affirming the judgment and order dated 22.02.2021 passed by the Senior Assistant Judge, Chakaria, Cox's Bazar in Title Suit No.12 of 2021 rejecting the application for temporary injunction should not be set aside

and/or pass such other or further order or orders as to this Court may seem fit and proper.

Facts necessary for disposal of the Rule, in short, is that the petitioner as plaintiff instituted Other Class Suit No.12 of 2021 before the learned Senior Assistant Judge, Chakoria, Cox's Bazar against the opposite parties for permanent injunction of the suit land.

The plaintiff as a lessee of the suit property filed this suit admitting the facts that the defendant No.1 is the owner of the suit property measuring 28 Kani or 11.02 acres under B.S Dag No.212, 213, 224, 225, 226, 227, 228, 229, 230, 218 and 232 situated at Mouja: Rampur, Upazilla: Chakaria District: Cox's Bazar. The defendant opposite party No.1 leased out the schedule property to the plaintiff for a period of 05 Years through an unregistered deed of lease dated 10.04.2016 at a Yearly rent of Tk.5,00,000/- per annum and the said lease is remaining effective till 30.11.2021. In compliance with the terms and conditions of the said lease the plaintiff petitioner paid total lease amount of Tk.2,00,000/- for the Years of 2018, 2019, 2020 and 2021 and the defendant No.1 receiving the same by issuing money receipt in favour of the plaintiff-petitioner. The petitioner investing huge amount of money make development of the said property and suitable for cultivation of shrimp and accordingly the plaintiff-petitioner has been possessing the said property as a lessee of the defendant No.1 and the defendant No.1 never violated the terms and condition of the unregistered agreement.

But on 20.12.2020 the defendant No.2 forcefully entered into the farm house of the workers standing in the scheduled property and insulted and threatened the workers of the plaintiff-petitioner and also made threat them to dispossess from the suit property. Hence the plaintiff-petitioner filed this suit for permanent injunction.

Thereafter, the plaintiff-petitioner filed an application for temporary injunction under Order 39 rule 1 and 2 read with Section 151 of the Code of Civil Procedure on 13.01.2021. After hearing the said application the trial Court initially issue show caused notice and which was duly served upon the defendants. The defendant side filed joint written objection against the temporary injunction on 16.02.2021.

The case of the defendant No.2 is that he also made an agreement with the defendant No.1 and an unregistered agreement was made for lease of the suit property fixing the Yearly rent of Tk.17,500/- per Kani for the Year 2019. The defendant No.2 renewed the said lease agreement for further two years that is for the Year 2020 and 2021 fixing the yearly rent of Tk.1,50,000/- per annum and no question of threaten or dispossession from the property by the defendant No.2.

The trial Court after hearing the parties and considering the facts and circumstance of the case found *prima-facie* case of the plaintiff-petitioner and directing the parties to maintain *status-quo* in the suit land by its order dated 16.02.2021 and the next date was fixed on 22.02.2021 for hearing the temporary injunction in presence of the defendant No.1.

Subsequently, the trial Court recalling the said order and also rejecting the application for temporary injunction by its order dated 22.02.2021.

Against the said order of the trial Court the plaintiff-petitioner filed Miscellaneous Appeal No.10 of 2021 before the learned District Judge, Cox's Bazar.

The said appeal was heard by the Joint District Judge, 1st Court, Cox's Bazar, who after hearing the parties and considering the facts and circumstances of the case dismissed the appeal by its judgment and order dated 24.11.2021 and thereby upholding the judgment and order of the trial Court.

Being aggrieved by and dissatisfied with the impugned judgment and order of the Courts below the plaintiff-petitioner filed this revisional application under Section 115(1) of the Code of Civil Procedure and obtained the Rule.

Mr. Md. Fakhar Uddin, Advocate along with Ms. Jobeda Begum, Advocate enter appeared on behalf of the opposite party Nos.1-4 through vokatnama to oppose the Rule.

Though at the time of hearing of the revisional application the learned Advocate Mr. Mohammad Mohi Uddin was not appeared but at the time of pronouncement of judgment one Mr. Md. Zahid Hossain Munshi, has appeared before this Court. He submits that though the initial lease agreement was expired but the defendant No.1 receipt the lease

money from the plaintiff petitioner and plaintiff petitioner is in possession of the suit land. Thus he prayed for a direction from this Court to maintain status-quo of the suit land.

Mr. Md. Fakhar Uddin, the learned Advocate along with Ms. Jobeda Begum, Advocate appearing on behalf of the opposite party Nos.1-4 submits that the opposite parties are in possession of the suit land paying the lease money and submits that since the lease period has already been expired the Rule thus become infructious.

I have heard the learned Advocates of both the sides, perused the impugned judgment and order of the Courts below and the papers and documents as available on the record.

The case of the plaintiff-petitioner is that he took lease of the schedule property through an unregistered lease deed on 10.04.2016 for a period of 05 years but before expiry of the said lease period the defendant No.2 threatened him and tried to dispossess thus the plaintiff-petitioner filed a suit for permanent injunction along with an application for temporary injunction. Initially the trial Court issued a show cause notice upon the defendant opposite parties and also directed the parties to maintain status-quo and subsequently on the date of hearing the trial Court recalling the said order. The plaintiff-petitioner then filed Miscellaneous Appeal No.10 of 2021 and after hearing of the said appeal the learned Joint District Judge, 1st Court, Cox's Bazar also dismissed the said appeal and upholding the judgment and order of the trial Court.

It appears that as per statement made by the plaintiff-petitioner that an unregistered agreement was made between the plaintiff and the defendant No.1 on 10.04.2016 for a period of 05 Years and it appears that the said period of unregistered agreement has already been expired. Though the learned Advocate of the petitioner submits that the defendant No.1 continuing to receive the lease money but in support of the same no single document has been filed in support of the said case.

However, since the plaintiff-petitioner filed a case for permanent injunction of the suit land and though both the parties claimed that they are in possession of the suit land in such a case without going to merit of the case it is better to direct the trial Court to dispose of the suit expeditiously.

Having considered the aforesaid facts and circumstance of the case and the discussions as made above, I find no merit in the Rule.

In the result, the Rule is discharged without any order as to cost.

The trial Court is directed to dispose of the suit as early as possible preferably within 03 (three) months from the date of receipt of this order in accordance with law.

Communicate the order at once.