

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

Present:
Mr. Justice Md. Moinul Islam Chowdhury

CIVIL REVISION NO. 1337 OF 2022

IN THE MATTER OF:

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

-And-

IN THE MATTER OF:

Md. Sharif Hossain Biplob and others

--- Defendant-Petitioner-Applicants.

-Versus-

Md. Jahurul Haque and others.

--- Opposite Parties.

Mr. Md. Ataur Rahman, Advocate

---For the Defendant-Petitioner-Applicants.

Mr. Md. Abul Mansur, Advocate

---For the Plaintiff-Opposite Party No. 1.

Heard on: 16.03.2023.

Judgment on: 16.03.2023.

At the instance of the present defendant-petitioner-petitioner-applicants, Md. Sharif Hossain Biplob and others, this Rule was issued upon a revisional application filed under section 115(1) of the Code of Civil Procedure calling upon the opposite party No. 1 to show cause as to why the Civil Suit No. 197 of 2021 should not be transferred from the learned Joint District Judge, Court No. 1, Narayanganj to any other competent court by setting aside the order dated 07.02.2022 passed by the learned

District Judge, Narayangonj in the Transfer Misc. Case No. 71 of 2021 arising out of Civil Suit No. 197 of 2021, now pending in the court of the learned Joint District Judge, Court No. 1, Narayangonj.

The relevant facts for disposal of this Rule, *inter-alia*, are that the present opposite party No. 1 as the plaintiff filed the Title Suit No. 1877 of 2016 in the court of the learned Additional Joint District Judge, Narayangonj for seeking a declaration of title upon the suit land described in the schedule of that suit. The suit was contested by the defendant-petitioner-applicants who by filing a written statement. During the pendency of that suit, the plaintiff earlier filed the transfer Miscellaneous Case No. 50 of 2021 before the learned District Judge, Narayangonj who allowed the application and transferred the case from the learned Additional Joint District Judge, Narayangonj to the learned Joint District Judge, Court No. 1, Naryangonj. During the examination of witnesses for depositions in support of the respective cases the present defendant-petitioner, namely, Md. Sharif Hossain Biplob and others filed an application before the court of the learned District Judge, Narayangonj under section 24 of the Code of Civil Procedure in order to transfer the case to any other court of

the same jurisdiction which was rejected by the learned District Judge, Narayangonj vide order dated 07.02.2022. Being aggrieved the defendant- -Petitioner- Applicants filed this revisional application under section 115(1) of the Code of Civil Procedure challenging the said order of the learned District Judge, Narayangonj and this Rule was issued thereupon.

Mr. Md. Ataur Rahman, the learned Advocate, appearing for the defendant- petitioner- applicants submits that they will not get justice in the court of the learned Joint District Judge, Court No. 1, Narayangonj, as such, an application was made by them to the learned District Judge, Narayangonj for transferring the case from the learned Joint District Judge, Court No. 1, Narayangonj to any other competent court of the same jurisdiction for the ends of fair justice. However, the learned District Judge, Narayangon committed an error of law occasioning failure of justice in not transferring the case thereby rejecting the application filed under section 24 of the Code of the Civil Procedure for seeking remedy by way of transferring the case to any other competent court of the same jurisdiction for the interest of justice.

The Rule has been opposed by the present opposite party No. 1.

Mr. Md. Abul Mansur, the learned Advocate, appearing on behalf of the present plaintiff- opposite party No. 1 submits that he has no objection if an order of transfer is passed by this court to hear the case by any other competent court with the same jurisdiction.

Considering the above submissions made by the learned Advocates appearing for the respective parties and also considering the revisional application filed by the defendant-petitioner-applicants under section 115(1) of the Code of Civil Procedure along with the annexures therein, especially, an application filed earlier before the learned District Judge, Narayangonj under section 24 of the code of Civil Procedure for transferring the Title/Civil Suit No. 197 of 2021 from the learned Joint District Judge, Court No. 1, Narayangonj to any other competent court. Both parties conceded that if any order is passed for transferring the case would be accepted by both of them.

In view of the above, I am of the opinion that the impugned judgment and order should be hereby *set aside* and the

remaining part of the hearing to be continued by transferring the suit from the learned Joint District Judge, Court No. 1, Narayangonj to the learned Joint District Judge, Court No. 2, Narayangonj for hearing the remaining part of the depositions and cross-examinations thereof and also to continue with the hearing of the suit.

Accordingly, I am inclined to dispose of the Rule with the following directions:

In the result, the Rule is hereby disposed of.

The impugned order dated 07.02.2022 passed by the learned District Judge, Narayangonj upon the Transfer Miscellaneous Case No. 71 of 2021 arising out of the Civil Suit No. 197 of 2021 which is now pending before the learned Joint District Judge, Court No. 1, Narayangonj is hereby *set aside*.

The learned Joint District Judge, Court No. 1, Narayangonj is hereby directed to transfer the Title/Civil Suit No. 197 of 2021 to the learned Joint District Judge, Court No. 2, Narayangonj after getting this judgment and order.

The learned Joint District Judge, Court No. 2, Narayangonj is hereby directed to hear and conclude the Title/Civil Suit No. 197 of 2021 within 4 (four) months from the

date of the receipt of this judgment and order without allowing any unnecessary adjournment from either of the parties.

The interim order passed by this court at the time of issuance of this Rule staying all further proceedings of the Civil Suit No. 197 of 2021 which is now pending before the learned Joint District Judge, Court No. 1, Narayangonj and subsequently the same was extended for a further period of 1 (one) year is hereby recalled and vacated.

The concerned section of this court is hereby directed to communicate this judgment and order to the concerned learned courts below immediately.