

Present:

Mr. Justice A.K.M. Asaduzzaman

Civil Revision No. 3547 of 2022

Md. Mostafizur Rahman and others

..... Petitioners.

-Versus-

Salma Begum and another

.....Opposite parties.

Mr. Muntasir Uddin Ahmed, Advocate

.....For the petitioners.

Mr. Md. Ataur Rahman, Advocate

..... For the opposite parties.

Heard and judgment on 29<sup>th</sup> August, 2024.

A.K.M.Asaduzzaman,J.

This rule was issued calling upon the opposite party to show cause as to why the judgment and order No.10 dated 20.07.2022 passed by the Joint District Judge, 3<sup>rd</sup> Court, Dhaka in Succession Case No. 2455 of 2021 for rejecting the application for stay of the succession case should not be set aside.

Petitioner as applicant filed the Succession Case No. 2455 of 2021 before the Court of Joint District Judge, 3<sup>rd</sup> Court, Dhaka under section 372 of the Succession Act, 1925.

During pendency of the suit the applicant petitioner filed an application on 20.07.2022 for staying the suit till disposal but the trial court rejected the said application and refused to grant stay of the suit.

Challenging the said judgment and order, applicant petitioner obtained the instant rule.

Mr. Muntasir Uddin Ahmed, the learned advocate appearing for the petitioner submits that in a suit for succession filed by the applicant petitioner practically he has referred to some decision of the Apex Court, which are essential to consider the succession case, the trial court upon misguided himself having considered that the Civil Petition as shown is pending before the Appellate Division are not relating to the same suit as such rejected the stay application most arbitrarily. Although it was not relating to the same matter of the instant suit, but it has got a relevancy with the present suit and as such the impugned order is not sustainable in law, which is liable to be set aside.

Mr. Md. Ataur Rahman, the learned advocate appearing for the opposite party on the other hand opposes the rule and submits that the succession matter is pending since last 4(four) years on the point that a Civil Petition is pending before the Appellate Division and trial court has rightly rejected the said prayer observing that it was not in connection with the instant case. The impugned judgment is not illegal and it may be discharged.

Heard the learned advocate and perused the documents annexed to the application and the counter affidavit.

The applicant's petitioner of the succession case wants to stay the case not only on the pendency of the civil petition before the Appellate Division but asked the trial court to consider some of the decision of the Apex Court of the same nature. Although the civil petition pending before the Appellate Division is still pending but Mr. Muntasir Uddin Ahmed finally agreed that the suit may continue and disposed of on merits and the petitioner may be given an opportunity to refer some decision of the same matter, which was practically refused to consider by the trial court.

Having considered the submission made by the petitioner, I find substance.

However the order of not staying the proceeding in a succession case appears to be not illegal and incorrect, the trial court committed no illegality in refusing to stay on the pendency of the civil petition before the Appellate Division, which has got no connection in the instant case.

However the trial court is hereby directed to dispose of the case expeditiously as early as possible and the decision as been referred to by the parties relating to the subject matter may be considered and the trial court may disposed of the case in accordance with law and till disposal of the suit the parties are directed to maintain status-quo in respect of withdrawal of the money from the bank.

In the result, the Rule is discharged.

The order of stay granted earlier is hereby recalled and vacated.

Communicate the judgment at once.