

**In the Supreme Court of Bangladesh  
High Court Division  
(Civil Revisional Jurisdiction)**

**Present:**  
**Mr. Justice Mamnoon Rahman**  
**and**  
**Mr. Justice Ashish Ranjan Das**

**Civil Revision Case No. 825 of 2016.**

In the matter of:  
Abdullah Al- Mamun alias Mamnur Rahman.  
.....Petitioner.

-Versus –  
Abdul Malek alias Suto Miah and others  
..... opposite parties.  
Mr. Md. Monjarul Islam Jaigirdar, Advocate  
.....for the Petitioner.  
Mr. Surojit Bhattacharjee, Adv.  
.....for the opposite parties.

**Heard and Judgment on: 15.10.2019.**

**Ashish Ranjan Das, J.:**

The learned District Judge, Sylhet, vide his judgment and order dated 12.11.2015 in Misc. Case No. 21 of 2015 dismissed the same and rejected the prayer of the petitioner for analogous hearing Title Suit No. 163 of 2015, now pending in the court of Sub-Judge and Title Suit No. 31 of 2007, Title Suit No. 24 of 2010, Title Suit No. 43 of 2010 and Title Suit No. 23 of 2005, now pending in the court of Assistant Judge, Fenchuganj to any court of competent jurisdiction.

Short facts relevant for the purpose that could be gathered from the file are that the opposite party No. 1 as plaintiff filed Title suit No. 24 of 2010 in the court of Assistant Judge, Fenchugonj, Sylhet against

petitioner of the rule impleading him as defendant for eviction of the defendants from suit scheduled homestead land and delivery of khas possession thereof. The defendant of Title Suit No. 24 of 2010 filed Title Suit No. 31 of 2007 in the court of Assistant Judge, Fenchugonj, Sylhet against the applicant of the petition impleading him as defendnat for permanent injunction restraining the defendant from not to evict him from the case property. The petitioner filed Title Suit No. 43 of 2010 against applicant for declaration that the gift deed executed by Lal Miah in favour of the applicant is illegal void and collusive. The petitioner further instituted Title Suit No.163 of 2016 in the court of Joint District Judge, 2<sup>nd</sup> Court, Sylhet against the applicant impleading him as defendant for declaration of Title in respect of the suit land. The opposite parties of T.S. No. 23 of 2005 filed a suit in the court of Assistant Judge, Fenchugonj, Sylhet against the petitioner and others impleading them as defendants praying for partition of the suit land.

Thereafter, the petitioner filed Miscellaneous Case No. 21 of 2015 under section 24 of the Code of Civil Procedure in the Court of District Judge, Sylhet for analogous hearing of Title Suit No. 24 of 2010, Title Suit No. 23 of 2005, Title Suit No. 31 of 2007, Title Suit No. 43 of 2010 pending before the Assistant Judge, Fenchugonj, Sylhet along with Title Suit No. 163 of 2016, pending before the Joint District Judge, 2<sup>nd</sup> Court, Sylhet.

The learned District Judge, Sylhet by the judgment order dated 12.11.2015 was pleased to dispose of the application for analogous hearing of the suits and thereby allowed Title Suit No. 24 of 2010, Title Suit No. 23 of 2005, Title Suit No. 31 of 2007 and Title Suit No. 43 of 2010 pending hearing before the Assistant Judge Fenchugonj, Sylhet to be heard simultaneously or analogous and the Title Suit No. 163 of 2016 would be heard in the court of Joint District Judge, 2<sup>nd</sup> Court, Sylhet.

Being aggrieved by and dissatisfied with the judgment and order dated 12.11.2015 passed by the learned District Judge in Miscellaneous Case No. 21 of 2015, the defendant of Title Suit No. 24 of 2010, plaintiff of Title Suit No. 31 of 2007, Title Suit No. 43 of 2010 and Title Suit No. 163 of 2010 the petitioner of Miscellaneous Case No. 21 of 2015 as petitioner filed an application under section 115(1) of the Code of Civil Procedure before this court and obtained the instant rule.

The opposite party No. 1 of the rule contested the same by filing vokalatnama.

Mr. Md. Monjarul Islam Jaigirdar, the learned counsel appearing on behalf of the petitioner, submitted that the suit properties in all in five different suits are the same pending in different courts. The matters in issue of the suits are also the same the subject matters of the suits are also the same and hence an order is required for analogous hearing. The learned District Judge, Sylhet without

considering the merit rejected the same. The miscellaneous case filed under Section 24 of the Code of Criminal Procedure and committed an error of law resulting in an error occasioning failure of justice.

Mr. Surojit Bhattacharjee, the learned counsel for the opposite party No. 1 submits that the suit properties in all in five different suits are different and therefore an analogous trial will bring about complications those are pending in different courts. According to their respective contentions and as such there will be difficulty in disposing of all the suits analogously by one court. Suit land of Title Suit No. 24 of 2010 and Title Suit No. 163 of the 2016 are not the same of the four suits. Thus the learned District Judge, Sylhet rightly disposed of the Miscellaneous Case with correction finding and observation. Thus the learned District Judge did not commit any error of law resulting in an error occasioning failure of justice. The order passed by the court does not suffer from any error of law contemplated in section 115(1) of the Code of Civil Procedure.

We do not think that it would be advisable for us to comment on the submissions of the learned counsels on the merit of the different suits when the District Judge disposed of the matter only on the aforesaid grounds which we considered. Since all the suits will not be heard analogously it is fit and proper that Title Suit No. 163 of 2015 of Joint District Judge, 2<sup>nd</sup> Court, Sylhet as well as Title suit No. 23 of 2005 pending hearing before the Assistant Judge, Fenchugonj, Sylhet should heard and disposed of by the same court that is the court

of Assistant Judge, Fenchugonj, Sylhet where analogous hearing cannot be justified. It is however desirable that evidence should be taken separately in respect of five different suits also and decision be pronounced separately taking into consideration the evidence advanced in each particular suit.

In the result, the Rule is made absolute without any order as to costs.

The trial court is however, directed to complete the trial of the suits with utmost expeditious preferably within 06 (six) months from the date of the receipt of a copy of this judgment and order.

The order of stay granted at the time of issuance of the Rule is hereby vacated.

Office is directed to communicate the judgment and order to the court below at once.

**Mamnoon Rahman,J**

I agree