

Bench:

Mr. Justice Bhishmadev Chakrabortty

Civil Revision No. 1062 of 2005

Md. Joydhar Ali and others ..... petitioners

-Versus-

Mossamat Karam Jan Bibi and others

..... opposite parties

No one appears for either party

Judgment on 15.02.2024

Bhishmadev Chakrabortty, J:

At the instance of the plaintiffs this rule was issued and the opposite parties were called upon to show cause as to why the judgment and order dated 22.02.2005 passed by the Special District Judge, Dhaka in Miscellaneous Appeal No. 102 of 2004 dismissing the appeal and thereby affirming the judgment and order dated 07.04.2004 passed by the Assistant Judge, Dohar, Dhaka in Title Suit No. 37 of 2003 rejecting the application for temporary injunction should not be set aside and and/or such other or further order or orders passed to this Court may seem fit and proper.

At the time of issuing the rule, the parties were directed to maintain *status quo* in respect of the possession of the suit land for a limited period. Subsequently, the aforesaid order has been extended till disposal of the rule.

Facts relevant for disposal of the rule, in brief, are that the plaintiffs brought the suit praying for permanent injunction in respect

of the suit land as described in the schedule to the plaint. In the suit they filed an application under order 39 rule 1 and 2 of the Code of Civil Procedure (the Code) praying for temporary injunction restraining the defendants from dispossessing them from the suit land which they got through a partition suit followed by execution case. The defendants filed objection against the application denying the statements made therein. Learned Assistant Judge after hearing both the parties by the judgment and order dated 07.04.2004 rejected the application for temporary injunction. The plaintiffs then filed miscellaneous appeal before the District Judge. The appeal was heard on transfer by the Special District Judge, Dhaka who dismissed the appeal and affirmed the judgment and order passed by the Assistant Judge. In this juncture, the plaintiffs approached this Court and obtained this rule with an interim order of *status quo* which still subsists.

No one appears for either party. This rule was issued 19 years ago against an order, and as such this is taken up for disposal in the absence of the parties.

It transpires that the plaintiffs brought the original suit praying for permanent injunction. In the suit they filed an application praying for temporary injunction. The application was rejected by the trial Court on merit. The appeal against it was dismissed and the judgment and order passed by the trial Court was affirmed. The plaintiffs then

approached this Court and obtained this rule. At the time of issuing the rule, an order directing the parties to maintain *status quo* in respect of possession of the suit land was passed. The said order of *status quo* has been extended subsequently and still exists. It appears from the record that opposite parties 1, 2, 4-7 and 8 appeared in this rule by failing Vokaltnama but they did not take any steps to challenge the aforesaid order of *status quo* to the highest Court. They did neither take any steps for vacating the aforesaid order of *status quo* by filing an application in this Court nor took any steps for hearing of the rule. The aforesaid order has been in force for last 19 (nineteen) years.

Under the aforesaid facts, I find that justice would best served, if we direct the trial Court to dispose of the suit within a short span of time maintaining the order of *status quo* in respect of possession of the suit land passed by this Court. I, therefore, direct the Assistant Judge, Dohar, Dhaka to dispose of Title Suit No. 37 of 2003 within 06(six) months from the date of receipt of this judgment and order, if the suit is still pending. The order of *status quo* passed by this Court shall operate till disposal of the suit. In dealing with the case, the learned Assistant Judge shall not allow either party any adjournment without dire necessity.

With the aforesaid observation and direction, the rule is disposed of. However, there will be no order as to costs.

Communicate this judgment and order.

*Rajib*