

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

Present:

Mr. Justice Md. Riaz Uddin Khan

Civil Revision No. 3611 of 2005

IN THE MATTER OF :

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

-And-

In the Matter of:

Monmotha Bairagi and others

.....Plaintiff-Appellant-Petitioners

Versus

Government of Bangladesh and others

.....Defendant-Respondent-Opposite Parties

None

.... For the parties

Judgment on 11.02.2024

Md. Riaz Uddin Khan, J:

Rule was issued calling upon the opposite parties to show cause as to why the judgment and order dated 22.06.2005 passed in Miscellaneous Appeal No. 04 of 2005 by District Judge, Gopalganj, affirming the order No.8 dated 24.03.2005 passed in Title Suit No. 13 of 2005 by Senior Assistant Judge, Muksudpur, Gopalganj rejecting the petitioners' application under Order 39, Rule 1 of the Code of Civil Procedure should not be set aside and/or pass such other or further order or orders as to this court may deem fit and appropriate.

At the time of issuance of Rule a single bench of this Court passed an order of ad-interim injunction asking the opposite parties not to lease out the disputed Machhghat (fish market) and also not to take any step on the scheduled land for a period of 06(six) months. The interim order was lastly extended for a period of 06(six) months on 28.08.2007 which was expired on 27.02.2008. However, upon an application filed by the petitioners another single bench of this

Court by its order dated 03.06.2014 was pleased to direct the parties to maintain status-quo in respect of possession and position of the disputed fish market and further directed the present petitioners to take steps for hearing the instant Rule within 6 (six) months from date.

The present petitioners being the plaintiffs instituted Title Suit No. 13 of 2005 on 13.01.2005 against the present opposite parties challenging Memo No. 33 dated 08.01.2005 purportedly issued under the signature of opposite party No. 5 to lease out and collect revenue from the Muksudpur Koligram Jalipur Hat (fish market).

Facts as described in this revisional application are that the plaintiffs had been spending their life by catching fish from local canal and open low land from more than decades and used to sale the fish in wholesale and retail to maintain their family and the 'Kha' schedule land was locally known as Koligram Paraghat which is a 'Fish Ghat' of that locality and there is no other fish market except the Koligram paraghat in this locality. The Government on 04.09.1995 vide Memo No. ভূমি/৭-বিবিধ-১১/৯৫/৫৭৬ (Ministry of Land) decided not to lease out Machhghat, Bhashanmahal and Jalmahal directing the Deputy Commissioners not to collect any sorts of revenue or subscription from the fishermen in any manner and after publication of the aforesaid Memo, Government did not collect any revenue from the fishermen. On 08.01.2005 opposite party No. 5 by Memo No. 33 dated 08.01.2005 asked the plaintiffs to pay revenue for the 'Kha' schedule land and threatened that on their failure they would be evicted from the same land, hence the suit for permanent injunction.

That during pendency of the suit plaintiffs filed an application for temporary injunction under order 39, Rule 1 of the Code of Civil Procedure for restraining the opposite parties not to lease out the

suit land to anybody and also not to evict the petitioners from the peaceful possession from the scheduled land as described in schedule of the suit stating that the opposite party No. 3 invited a Tender vide Memo No. 207(103) dated 06.03.2005 for leasing out the schedule land for a period of one year.

The defendant-opposite parties contested against the prayer for temporary injunction by filing written objection denying all material allegations against them stating inter alia that the 'Kha' schedule land is the government land of Khas Khatian No.1 where 15/16 shops were erected illegally. It is not an open canal but the fishermen used to sale fishes thereon. The scheduled land was leased out to one Mohananda Majhi up to 1400 B.S. The suit land was not leased out for the next period at the request of the World Bank for the time being. However, now the Government decided to lease out the suit property for collecting revenue and the petitioners have no right, title and interest over the suit land.

The trial court after hearing both the parties by his order dated 24.03.2005 rejected the application for temporary injunction holding that there was no prima facie and arguable case and defendants would be affected if the temporary injunction is allowed. As against the order of the learned trial court petitioners preferred Miscellaneous Appeal No. 04 of 2005 before the learned District Judge, Gopalganj who by his order dated 22.06.2005 was pleased to disallowed the appeal affirming the order of the trial court.

Being aggrieved thereby the plaintiff-petitioners moved this court and obtained the Rule and ad-interim injunction as stated at the very outset.

The plaintiff-petitioners obtained this Rule on 31.08.2005. The order of interim injection passed earlier by this Court at the time of issuance of Rule was expired on 27.02.2008. Thereafter, upon an

application filed by the present petitioners another bench of this Court by its order dated 03.06.2014 directed the parties to maintain status-quo in respect of the possession and position of the disputed land with a further direction upon the petitioners to take steps for hearing the Rule within 06(six) months. But it appears from record that the petitioners did not take any step for hearing this Rule as directed by this Court on 03.06.2014 till today. In the meantime, about 10 years have been elapsed and the original suit is pending before the trial court for more than 19 years.

In such facts and circumstances of the case, I am of the view that, ends of justice would be best served if the trial court is directed to dispose of the Title Suit No. 13 of 2005 as early as possible keeping in mind that the case is of in the year of 2005. In the meantime, the parties are directed to maintain status-quo in respect of the scheduled property in relation to its possession and position till conclusion of the trial.

With this observation this Rule is disposed of.

Communicate the judgment and order at once.