

Present:

Mr. Justice Sheikh Abdul Awal
and
Mr. Justice Md. Mansur Alam

Civil Revision No. 4071 of 2016

In the Matter of:

Babul Bhuiyan being dead his legal heirs
 Tamanna Begum and others

.....Plaintiff-petitioners.

-Versus-

Md. Didar Mulla and others

...Added opposite parties

Mr. Md. Ariful Islam, Advocate

..... For the Plaintiff petitioner.

Mr. Md. Aminul Islam, Advocate.

.....For the opposite party No.10

Heard and judgment on 12.01.2025

Sheikh Abdul Awal, J:

This Rule was issued calling upon the opposite party Nos. 1-4 to show cause as to why the impugned order No. 63 dated 16.05.2016 passed by the learned Joint District Judge, 2nd Court, Dhaka in Miscellaneous Case No. 02 of 2015 arising out of Title Suit No. 4075 of 2008 allowing the application under Order 1, Rule 10(2) read with section 151 of the Code of Civil Procedure should not be set-aside and/or such other or further order or orders passed as to this Court may seem fit and proper.

The brief fact relevant for disposal of this Rule is that the petitioner Nos. 1&2 as plaintiff filed Title Suit No. 4075 of 2008 in the Court of the learned Joint District Judge, 2nd Court, Dhaka impleading the opposite party Nos. 5-9 as defendant praying for declaration of title and correction of record as described in the schedule of the plaint. Ultimately, the suit was decreed ex-parte by ex-parte judgment and decree dated 17.07.2014 (decree signed on 22.07.2014). Thereafter, defendant Nos. 1-5 filed Miscellaneous Case No. 02 of 2015 in the Court of the learned Joint District Judge, 2nd Court, Dhaka under Order IX, Rule 13 read with section 151 of the Code of Civil Procedure for setting-aside the ex-parte judgment and decree dated 17.07.2014.

During pendency of the said miscellaneous case the opposite party Nos. 1-4 as applicants filed an application under Order 1, Rule 10(2) read with section 151 of the Code of Civil Procedure for addition of party on the ground that during pendency of the suit they purchased the suit land from the defendant opposite party Nos. 5-9 and thereafter mutated their name in the suit land and therefore, the applicants have direct interest in the dispute and their presence are necessary in the suit for proper and affective adjudication of the dispute between the parties.

The learned Joint District Judge, 2nd Court, Dhaka upon hearing the application by his order No. 36 dated 16.05.2016 allowed the application for addition of party.

Aggrieved thereby the plaintiff-petitioners preferred this revision application and obtained the present Rule.

Mr. Md. Ariful Islam, the learned Advocate appearing for the plaintiff-petitioners submits that the learned Joint District Judge has committed an error of law in not considering that admittedly the opposite party Nos. 1-4 have purchased the suit land from opposite party Nos. 5-9 during pendency of miscellaneous case, who have no title and possession in the suit land. He adds that the applicant opposite party Nos. 1-4 are neither necessary or proper parties to the suit in the eye of law and thus, the impugned order is liable to be set-aside for the ends of justice.

Mr. Md. Aminul Islam, the learned Advocate appearing for the opposite party No. 10, on the other hand, supports the impugned order, which was according to him just, correct and proper.

Having heard the learned Advocates for both the sides and having perused the Civil Revision application including the impugned order.

On scrutiny of the record, it appears that during pendency of the miscellaneous case the present applicants filed an application for addition of party stating that during pendency of the suit they purchased a portion of the suit land by 4 registered deeds being Nos. 8439, 8436, 8437 and 8438 dated 06.08.2015 and as such, the applicants have direct interest in the dispute, who at the time of purchase did not aware of the pending suit regarding the suit land. The presence of the applicants are necessary in the suit for proper and affective adjudication of the dispute between the parties.

The learned Advocate for the petitioner raised the points that applicants purchased the land from opposite party No. 5-9 who have no legal right, title and possession in the suit land, which is clear case of evidence.

The proposition of law is by now well settled that a person is entitled to be added as a party in a suit even he be a stranger, if he has direct interest, legal or equitable, in the dispute.

The learned Joint District Judge justly allowed the prayer for addition of party, we find no reason to interfere therewith.

In the result, the Rule is discharged. There will be no order as to costs.

Since the matter is an old of 2008, we feel it necessary to direct the learned Joint District Judge, 2nd Court, Dhaka before whom the case is pending to hear and dispose of the miscellaneous case expeditiously as early as possible preferably within 4 months from the date of receipt of this judgment.

Let a copy of this judgment be communicated to the Court concerned at once.

Md. Mansur Alam, J:

I agree.