

IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(CIVIL REVISIONAL JURISDICTION)

Present:

Mr. Justice Md. Badruzzaman.

And

Mr. Justice Sashanka Shekhar Sarkar

CIVIL REVISION No. 3722 OF 2017.

Momtaz Begum

...Petitioner.

-Versus-

Fatema Begum and others.

....Opposite parties.

None appears

... For the petitioner.

Mr. Ajoy Shankar Bhowmik, Advocate

... For the opposite party No.1

Heard and Judgment on: 09.06.2024.

Md. Badruzzaman,J

This Rule was issued calling upon opposite party No. 1 to show cause as to why judgment and order dated 08.06.2017 passed by Orpito Sompotti Prottarpon Additional Appellate Tribunal and learned Additional District Judge, 6th Court, Chattogram in Orpito Appeal No. 24 of 2016 disallowing the appeal and affirming an order dated 12.06.2016 passed by Orpito Sompotti Prottarpon Additional Tribunal, Patiya, Chattogram in Orpito Sompotti Tribunal Case No. 11110 of 2012 rejecting an application for addition of party should not be set aside.

At the time of issuance of Rule this Court vide order dated 26.10.2017 stayed further proceedings of the Tribunal case for a period of 03 (three) months which, was, subsequently extended till disposal of the Rule.

Facts relevant, for the purpose of disposal of this Rule, are that opposite party No. 1 filed the aforesaid Orpito Sompotti Prottarpon

Case No. 11110 of 2012 for releasing the suit property from the 'Ka' list of vested properties published in Bangladesh Gazette.

During pendency of the case, the petitioner filed an application under section 25 of Orpito Sompotti Prottarpon Ain, 2001 for adding her as a party to the case claiming to be owner of the suit property. Opposite party No. 1 filed written objection to contest the application and the Tribunal, after hearing the parties, vide order dated 12.06.2016 rejected the application against which the petitioner preferred Orpito Sompotti Prottarpon Appeal Tribunal Case No. 24 of 2016 before the Orpito Sompotti Prottarpon Appellate Tribunal, Chattogram which was then transferred to Orpito Sompotti Prottarpon Additional Appellate Tribunal and 6th Court of Additional District Judge, Chattogram for disposal who, after hearing the parties, by impugned judgment dated 08.06.2017 disallowed the appeal against which the petitioner has come up with this application under section 115(1) of the Code of Civil Procedure and obtained the instant Rule and order of stay, as stated above.

This matter was fixed for hearing at the instance the opposite party on 19.05.2024 and thereafter, the matter has appeared in the daily cause list for hearing for a number of days and today the matter is taken up for hearing but the learned Advocate for the petitioner is found absent.

Since the matter involves only question of law we are inclined to dispose of this matter in the absence of the learned Advocate for the petitioner.

Mr. Ajoy Shankar Bhowmik, learned Advocate appearing for opposite party No. 1 submits that there is no scope under Orpito Sompotti Prottarpon Ain, 2001 to add any party to the proceeding

initiated by an aggrieved party for release of the Orpito Sompotti and if any party is aggrieved by the publication of the Gazette Notification he has to file independent application/case for releasing the said property from the Gazette. The petitioner by claiming title to the suit property filed application for addition of party to the proceeding initiated by opposite party No. 1 and as such, the application is not tenable under law. Learned Advocate further submits that as per provision of section 22(3) of the Orpito Sompotti Prottarpon Tribunal Ain, 2001 the decision of the Appellate Tribunal is final and accordingly, this revision is not maintainable, also.

We have heard the learned Advocate, perused the revisional application along with the orders passed by the Courts below and the grounds taken in the revisional application. In the grounds it have been stated that the Appellate Tribunal illegally disallowed the appeal without considering the case of the petitioner and as such, interference is called for by this Court.

It appears that as per section 10 of Orpito Sompotti Prottarpon Ain, 2001 the claimant of the property published in the schedule 'Ka' of the Gazette published under section 9 of the Ain, may file application within 300 days before the Tribunal by enclosing relevant supporting documents for releasing the property. By amendment, said period of 300 days for filing application has been extended till 31.12.2013. In the instant case, opposite party No. 1 by claiming the suit property, filed the application for releasing it from the 'Ka' list of the Gazette Notification. On the other hand, by claiming the same property the present petitioner has filed the application for addition of party in the proceeding initiated by opposite party No. 1. It appears that conflicting

question of title would arise if the petitioner is added as party to the proceeding.

The Orpito Sompotti Prottarpon Tribunal has vested with the power to decide whether any property has been legally enlisted as vested property or not and it has got no jurisdiction to decide any conflicting title between rival parties. As such, there is no scope under the law to add any party to a proceeding initiated by any other party under Orpito Sompotti Prottarpon Ain, 2001. So the petitioner has no *locus standi* to file application for adding her as party to the proceeding initiated by opposite party No. 1.

Moreover, as per section 22 (3) of the Orpito Sompotti Prottarpon Ain, 2001 the decision of the Appellate Tribunal is final which cannot be challenged under revisional jurisdiction. In that score also, this revisional application is not maintainable.

Considering the facts and circumstance of the case and relevant provision of law, we find no merit in this Rule.

In the result, the Rule is discharged however, without any order as to costs.

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

The concerned Tribunal is directed to proceed with the case in accordance with law.

Communicate a copy of this judgment to the Court below at once.

(Justice Md. Badruzzaman)

I agree.

(Mr. Justice Sashanka Shekhar Sarkar)