

In the Supreme Court of Bangladesh

High Court Division

(Civil Revision Jurisdiction)

Present:

Mr. Justice Jahangir Hossain

Civil Revision No. 3970 of 2008

In the matter of :

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

And

In the matter of :

Md. Shafiqur Rahman and others

.....**Petitioners**

-Versus-

Ali Akbar and others

.....**for the opposite parties**

Ms. Hamida Chowdhury, Advocate

.....**for the petitioners**

No one appears

.....**for the opposite parties**

Judgment on 03.11.2020

By order dated 10.11.2008 this Rule was issued calling upon the opposite party Nos. 1-3 to show cause as to why the impugned judgment and order complained of in the petition moved in court should not be set aside and/or such other or further order or orders passed as to this Court may seem fit and proper.

At the time of issuance of the Rule, this Court directed both the parties to maintain status quo in respect of possession and position of the suit land for a period of 06[six] months from date. It was further extended from time to time on the prayer of the defendant-appellant-petitioners by this Court.

Ms. Hamida Chowdhury, learned Advocate appearing for the petitioners submits that the plaintiff-respondent-opposite parties instituted Title Suit No. 13 of 2008 before the learned Assistant Judge, Companigonj, Sylhet against the defendant-appellant-petitioners and others for a declaration and permanent injunction. During pendency of the suit the plaintiffs filed an application for injunction under order 39 Rule 1 of the Code of Civil Procedure. Upon hearing, the trial court directed both the parties to maintain status quo in respect of possession of the suit land. Subsequently on 21.08.2008 the injunction application was granted by the learned Assistant Judge upon hearing of both the parties. Against which the defendants preferred a Miscellaneous Appeal No. 84 of 2008 before the learned District Judge, Sylhet and eventually the said Miscellaneous Appeal was heard by the learned Joint District Judge, Sylhet who was pleased to dismiss the same by his order dated 26.10.2008. Being aggrieved by and dissatisfied with the said order the defendant-appellant-petitioners filed an application before this Court under section 115(1) of

the Code of Civil Procedure and obtained the instant Rule with an order of status quo.

It is further submitted by the learned Advocate that the opposite party Nos. 1-13 having appeared in the present case challenged the said order by filing Civil Misc. Petition No. 913 of 2008 dated 23.11.2008 and the Hon'ble Judge in chamber stayed the order of status-quo passed by this Court at the time of issuance of the Rule and directed the opposite party Nos. 1-13 to file a leave petition before the Appellate Division and the same was filed later on.

Upon hearing of the leave petition the Appellate Division made a direction upon both the parties may take steps for hearing of the Rule pending before this Court. Learned Advocate further submits that the lease of the land in question was granted in favour of the opposite party Nos. 1-13 for a period of 01[one] year only. It was over long before. So the Rule issued by this Court becomes in-fructuous.

No one appears on behalf of the opposite parties to oppose the Rule, when it is taken up for hearing.

Heard the submissions of the learned Advocate, perused the application along with other documents on record wherefrom it appears that this Court issued the Rule with an order of status-quo by order dated 10.11.2008. As per submission of the learned Advocate it has revealed that the Hon'ble Appellate Division having stayed the status quo order of

the High Court Division directed both the parties to take steps for hearing of the Rule by order dated 23.09.2009. In the meantime, around 11 years have elapsed. So, it seems that the interest of the parties has gone out in respect the suit land.

Accordingly, the Rule is, hereby, discharged as being in-fructuous and the order of status quo, granted earlier by this Court stands vacated.

Let a copy of this judgment and order be communicated to the concerned court below at once.

[Jahangir Hossain,J]