

Present:-

Mr. Justice Mahmudul Hoque

Civil Revision No. 3146 of 2009

Messers Idris Trading Corporation,
represented by its Proprietor, Md. Morshed
..... Petitioner

-Versus-

Messers Alamgir and Brothers, represented by
its Proprietor Shahin Aktar and others
..... Opposite-Parties

Mr. Lokman Karim, Advocate with
... For the Petitioner

No one appears
... For the Opposite Parties

Judgment on 23.07.2025

In this revision Rule was issued calling upon the opposite party Nos. 1-6 to show cause as to why the impugned judgment and order dated 11.08.2009 passed by the learned Additional District Judge, 5th Court Chattogram in Miscellaneous Appeal No. 67 of 2009 reversing those dated 12.03.2009 passed by the learned Senior Assistant Judge, Sadar, Chattogram in House Rent Control Case No. 52 of 2007 rejecting the same should not be set aside and/or pass such other or further order or orders as to this Court may seem fit and proper.

Facts relevant for disposal of this Rule, in short, are that the predecessor of opposite party Nos. 1-5 named Md. Alamgir claiming as Proprietor of Messers Alamgir and Brothers and a monthly tenant under

the petitioner Messers Idris Trading Corporation filed House Rent Control Case No. 52 of 2007 in the court of House Rent Controller and Assistant Judge, 1st Court, Sadar, Chattogram under Section 19(1) of the House Rent Control Ordinance praying for depositing monthly rent being refused to accept by the landlord.

The case was contested by the present petitioner by filing written objection. The trial court after hearing rejected the application. Thereafter, the alleged tenant preferred Miscellaneous Appeal No. 67 of 2009 before the District Judge, Chattogram. Eventually, the appeal was heard and disposed of by the Additional District Judge, 5th Court, Chattogram on transfer who after hearing by the impugned judgment and order dated 11.08.2009 allowed the appeal and directed the tenant to deposit monthly rent before the rent controller. At this juncture, the petitioner moved this Court by filing this application under section 115(1) of the Code of Civil Procedure and obtained the present Rule and order of status quo.

Mr. Lokman Karim, learned Advocate appearing for the petitioner submits that the tenant opposite party after allowing them to deposit monthly rent before the Rent Controller did not take any step even deposited the rent as per judgment and order of the appellate court. In

support of his such submission, he filed an information slip issued by the Sherestader, Rent Controller and 1st Senior Assistant Judge, Chattogram dated 20.07.2025 showing that after disposal of appeal on 11.08.2009 till today, the opposite party deposited no monthly rent before the Rent Controller which made them worst type of defaulter, as such, the judgment and order of the appellate court is liable to be set aside.

This matter appearing in the list for couple of days with the name of the learned Advocate for the opposite parties. Today, appeared in the list as heard in part, but none appears for the opposite parties to oppose the rule, consequently, I have heard the learned Advocate for the petitioner, have gone through the revisional application under Section 115(1) of the Code of Civil Procedure, application under Section 19(1) of the House Rent Control Ordinance, written objection thereto and impugned judgment and decree of both the courts below.

The opposite party though claimed that he is the tenant under the petitioner and paying monthly rent regularly, but at a point of time the landlord refused to receive monthly rent, consequently, he sent the money by post which was also returned with remark refused. Thereafter, he filed this case before the Rent Controller seeking permission to deposit the rent

ultimately the case was dismissed, but in appeal he succeeded, meaning thereby, the opposite party was allowed to continue deposit before the Rent Controller, but the opposite party did not deposit the rent before the Rent Controller till today as appearing from information slip issued by the trial court dated 20.07.2025. Because of none appearance of the learned Advocate for the opposite parties and absence of any contrary evidence or submissions it can be easily construed that the opposite parties though claimed him as tenant under the petitioner he lost the status of tenant making him defaulter and not depositing monthly rent with the Rent Controller, therefore, I find that the opposite party lost their interest to continue as tenant under the petitioner by paying monthly rents.

In view of the above, I find merit in the Rule as well as in the submissions of the learned Advocate for the petitioners.

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

The judgment and order of the appellate court is hereby set aside and the judgment and order of the trial court is hereby restored.

The order of stay granted at the time of issuance of the Rule stands vacated.

Communicate a copy of this judgment to the court concerned and send down the lower court records at once.

Md. Akteruzzaman Khan (B.O)