

Bench:

Mr. Justice Bhishmadev Chakrabortty

Civil Revision No. 4160 of 2018

Lokman Hossainpetitioner

-Versus-

1. Abdus Satter being dead his heirs

1(a) Rayhan Sultana and others

.....opposite parties

No one appears for the petitioner

Mr. Md. Shahjahan with Ms. Mahmuda

Khanam, Advocates

.....for opposite party1

Judgment on 09.05.2024

This rule at the instance of defendant 15 was issued calling upon defendant 41(opposite party1 herein) to show cause as to why the judgment and order of the District Judge, Noakhali passed on 19.07.2018 in Miscellaneous Appeal No. 15 of 2018 allowing the appeal reversing the judgment and order of the Assistant Judge, Companyganj, Noakhali passed on 22.04.2018 in Title Suit No. 84 of 2011 allowing the application for injunction in a modified form directing the parties to maintain *status quo* should not be set aside and/or such other order or orders passed to this Court may seem fit and proper.

At the time of issuing the rule, this Court passed an order directing the parties to maintain *status quo* in respect of the possession and position of the suit land for a limited period which was subsequently extended till disposal of the rule.

Facts relevant for disposal of the rule, in brief, are that the plaintiff instituted the suit for partition of the suit land claiming his *saham* to the extent of 1.475 acres out of 13.14 acres as detailed in the schedule to the plaint. Defendant 15 appeared in the suit and filed a written statement denying the statements made in the plaint. They further contended that the suit in the present form without any prayer for recovery of possession is not maintainable. In the said suit defendant 15 filed an application under Order 39 Rule 1 read with section 151 of the Code of Civil Procedure praying for temporary temporary injunction restraining defendant 41 from changing the nature and character of the suit land. Defendant 41 opposed the application by filing written objection denying the facts stated in the application for injunction.

However, the Assistant Judge allowed the said application in a modified form directing the parties to maintain *status quo* in respect of the suit land. Against the aforesaid order passed by the Assistant Judge defendant 41 preferred an appeal before the District Judge, Noakhali stating grounds therein. The District Judge heard the appeal and by the judgment and order allowed the appeal and set aside the judgment and order passed by the Assistant Judge. Defendant 15 challenged the aforesaid order in this Court and obtained this rule with an interim order to maintain *status quo* in respect of the possession and position in the suit land.

No one appears for the petitioner, although the matter has been appearing in the daily cause list with the name of the learned Advocate for the petitioner.

Ms. Mahmuda Khanam, learned Advocate for opposite party 1 opposes the rule and submits that the Court of appeal below entered into the merit of the case and allowed the appeal setting aside the judgment and order passed by the trial Court and consequently the *status quo* was vacated. The judgment and order passed by the Court of appeal below is based on materials on record. The appellate Court finding no ground for granting injunction or *status quo* allowed the appeal and set aside the order of *status quo* passed by the trial Court. The Rule, therefore, having no merit would be discharged.

I have considered the submissions of the learned Advocate for opposite party 1, perused the petition, grounds taken therein and the impugned appellate order. The Assistant Judge in disposing the application for temporary injunction directed the parties to maintain *status quo* in respect of the suit land on 22.04.2018 which was set aside by the appellate Court on 19.07.2018. Defendant 15 then approached this Court and the rule was issued on 12.12.2018 with an ad interim order directing the parties to maintain *status quo* in respect of the possession and position of suit land. The order was subsequently extended till disposal of the rule. Although, an application for vacating the order of *status quo* was filed by the

opposite party but it was kept with the record. Opposite party1 did not take any steps to get the rule heard expeditiously which proves that he has no urgency in dealing with this matter. However, the order of *status quo* passed by this Court has been in force for more than five years.

Considering the facts that the order of *status quo* passed by this Court has been continuing for long years, I find that justice would be adequately met, if the Assistant Judge is directed to dispose of the suit expeditiously keeping the order of *status quo* passed by this Court as it is.

Therefore, the Assistant Judge, Companyganj, Noakhali is directed to dispose of the suit expeditiously, preferably within 6 (six) months from the date of receipt of this judgment and order in the meantime the order of *status quo* passed by this Court shall continue. In dealing with the suit the Assistant Judge shall not allow either party any adjournment without extreme exigency.

With the aforesaid finding and direction the rule is accordingly disposed of.