

Present:

Mr. Justice Sheikh Abdul Awal
and

Mr. Justice Md. Rafizul Islam

In the Matter of:

First Miscellaneous Appeal No. 194 of 1996

Serajul Haque

.....Defendant -appellant.

-Versus-

Anowar Hossain and others

.....Plaintiffs -respondents.

None appears

..... For the appellant.

None appears

.....For the respondents.

Judgment on 21.05.2026.

Sheikh Abdul Awal, J:

This matter has been sent by the Hon'ble Chief Justice of Bangladesh for disposal as very old petty case.

This First Miscellaneous Appeal is directed against the impugned order No. 10, dated 01.10.1996 passed by the learned Subordinate Judge, 3rd Court, Chottagram in Other Class Suit No.73 of 1996 allowing the prayer for temporary injunction under Order 39, Rule 1 and 2 of the Code of Civil Procedure.

The brief fact relevant for disposal of this appeal is that the respondents as plaintiffs instituted Other Class Suit No. 73 of 1996 in the Court of the then Subordinate Judge, 3rd Court, Chottagram against the appellant as defendants praying for declaration of title and also getting compensation money.

Thereafter, while the suit in progress the plaintiffs filed an application under Order 39, Rule 1 and 2 of the Code of Civil

Procedure for temporary injunction. The defendants-appellant resisted the said application by filing written objection stating, inter alia, that the suit instituted by the plaintiffs is not maintainable in law and the plaintiffs filed the suit on false averments etc.

The learned Subordinate Judge after hearing the parties by his order dated 01.10.1996 granted the temporary injunction against the defendant Nos.1-4.

Being aggrieved by the aforesaid impugned order dated 01.10.1996 passed by the learned Subordinate Judge, 3rd Court, Chottagram, the defendant appellant preferred this appeal before this Court.

No one found present to press the appeal on repeated calls.

Despite of fact that this appeal appeared in the cause list with the name of the learned Advocates for both sides for a number of days.

In view of the fact that this petty old appeal arising out of an interlocutory order has been dragging before this Court over a period of 30 years, we are, inclined to take it up for disposal on merit.

On scrutiny of the record, it appears that the respondents as plaintiffs instituted Other Suit No.73 of 1996 in the Court of the learned Subordinate Judge, 3rd Court, Chottagram praying for declaration of title and also recovery of compensation money. Thereafter, the plaintiffs filed an application for injunction against the defendants.

The learned Trial Judge after hearing the parties by impugned order No.10, dated 01.10.1996 granted temporary injunction on the finding that the plaintiffs have right, title and possession in the suit land.

On a query from the Court Mr. Abdul Mannan Abid, the learned Deputy Attorney General having failed to submit as to the exact position of the suit whether it is still pending or disposed of.

On going through the impugned order together with the documents available in record it seems to us that the impugned order was passed before 30 years back and without knowing up to the facts of the suit, we are not inclined to disturb the impugned order, whatsoever.

On an analysis of the impugned order we find no flaw in the reasonings of the impugned order. No interference is, therefore, called for.

In the result, the appeal is dismissed without any order as to costs.

Since the suit is an old one of 1996 the trial Court concerned is directed to hear and dispose of the suit within a period of 4 (four) months from the date of receipt of this order, if any.

Since the appeal is dismissed, the connected Rule being Civil Rule No. 358 (F.M) of 1996 is also discharged.

Communicate this order at once.

Md. Rafizul Islam, J:

I agree.