

Present:
Mr. Justice Sheikh Abdul Awal
and
Mr. Justice Md. Rafizul Islam

First Miscellaneous Appeal No. 45 of 1999

In the Matter of:

Sirajul Haque Chowdhury
.....Plaintiff-appellant.

-Versus-

Government of Bangladesh represented
by the Deputy Commissioner Sunamganj
and others

..... Defendant- respondents.

No one appears.

....For the appellant

Mr. Abdul Mannan Abid, D.A.G.

.....For the Govt. respondents.

Judgment on 18.05.2026

Sheikh Abdul Awal, J:

This First Miscellaneous Appeal is directed against the order dated 24.11.1998 passed by the learned sub-ordinate Judge, 2nd Court, Sunamganj in Title Suit No. 1 of 1998 granting temporary injunction in favour of defendant-respondent Nos. 7-16 on an application under Order 39, Rule 1 and 2 of the Code of Civil Procedure.

The brief fact of the case is that the appellant as plaintiff and others filed Title Suit No. 1 of 1998 in the Court of the learned sub-ordinate Judge, 2nd Court, Sunamganj for declaration of Title in the suit land as described in the schedule of the plaint.

After institution of the suit the plaintiffs filed an application for temporary injunction against defendant Nos. 1 to 6 restraining them from leasing out the suit property to any third party.

The defendant Government resisted the said application by filing written objection.

In this back drop the defendant Nos. 7-16 filed an application for ad-interim injunction restraining the plaintiffs from cutting paddy in the suit land etc.

The learned sub-ordinate Judge upon hearing the parties by his order dated 24.11.1998 allowed the prayer of the defendant Nos. 7-16 granting temporary injunction.

Aggrieved thereby the plaintiff-appellant preferred this First Miscellaneous Appeal.

No one appears to press the Appeal on repeated calls.

In view of the fact that this petty old First Miscellaneous Appeal of 1999 has been pending for hearing before this Court over a period of 27 years arising out of an interlocutory order, we are inclined to dispose of the same on merit as per materials on record.

On scrutiny of the record, it appears that the appellant as plaintiff and others filed title Suit No. 1 of 1998 for declaration of title. Thereafter, the plaintiffs also filed an application under Order 39, Rule 1 and 2 for temporary injunction restraining the Government defendant Nos. 1-6 from leasing out the property in question to any third party. The Government-defendant resisted the said application by filling written objection.

Thereafter, the defendant Nos. 7-16 filed an application for temporary injunction restraining the plaintiffs from cutting paddy

in the suit land cultivated by those defendants. The learned subordinate Judge after hearing the parties by the impugned order dated 24.11.1998 allowed the prayer for temporary injunction in the following language-

“ স্হায়ী নিষেধাজ্ঞার দরখাস্ত ও শপথ নামাসহ দাখিলকৃত কাগজাদি দেখলাম। আশার কান্দি মৌজর ১২০ দাগের ১২.৪১ একর মধ্যে ১১.০৫ একর ভূমি বাবদ অস্হায়ী নিষেধাজ্ঞার প্রার্থনা করা হয়েছে। বাদী আরজীতে এই ভূমিকে গোচর বলে দাবী করছেন। অপর দিকে অত্র বিবাদী পক্ষ এই ভূমিকে ফসলি জমি বলে দাবি করেছেন। বাদীপক্ষের দাবী মোতাবেক এই ভূমি ফসলী নয়। কাজেই বাদীপক্ষ কর্তৃক ফসল ফলানোর প্রশ্ন উঠে না। ফসলি ভূমি হয়ে থাকলে তা বিবাদীপক্ষ ফসল ফলায়েছে। মোকদ্দমা চলাকালে ফসল বাদীপক্ষ কর্তৃক কর্তন করা হলে ৭-১৬ নং বিবাদীদের অপূরণীয় ক্ষতির কারণ হবে। কাজেই অত্র দরখাস্তের যৌক্তিকতা দেখা যায় এবং মঞ্জুর যোগ্য।”

From the above, it appears that the plaintiffs side claimed the suit property stating that the suit land is a Gochor (গোচর) and defendants claimed that suit land is paddy land. It is found that the impugned order passed as to cutting paddy in the year 1998 till disposal of the suit.

On a query from the Court learned Deputy Attorney General Mr. Abdul Mannan Abid could not submit anything as to the present position of this old suit, whether the suit is still pending or disposed of.

Considering all the aspects of the case as revealed from the materials on the record, we are of the view that purpose of the ad-interim injunction has already been ended long before.

Resultantly, the First Miscellaneous appeal is disposed of. The trial Court concerned is, however, directed to disposed of the suit as early as possible preferably within the period of 3(three) months from the date of receipt of this judgment, if any.

Since the appeal is disposed of, the connected Rule being Civil Rule No. 225(FM) of 1999 is disposed of.

Communicate this order at once.

Md. Rafizul Islam, J:

I agree.