

Present:
Mr. Justice Sheikh Abdul Awal
and
Mr. Justice Md. Mansur Alam

First Miscellaneous Appeal No. 308 of 2003

In the Matter of:

Al-Haz Md. Rafiqullah

.....Defendant-appellant.

-Versus-

Most. Kulsuma Khatun and others

....Plaintiff-respondents.

No one appears

..... For the defendant-appellant.

No one appears

.....For Plaintiff-respondents.

Judgment on 24.02.2025.

Sheikh Abdul Awal, J:

This First Miscellaneous Appeal is directed against the judgment and order No. 01 dated 17.04.2003 passed by the learned Joint District Judge, Court No.2, Chittagong Sadar in partition Suit No. 66 of 2003 directing the defendants to maintain status-quo in respect of the suit land as described in the Schedule of the plaint.

No one appears to press the Appeal on repeated calls.

In this case the record of the case has not been called for.

In view of the fact that this petty case is an old one of 2003 arising out of an interlocutory order, we are inclined to dispose of it on merit perusing the record.

On scrutiny the record, it appears that the respondents as plaintiffs instituted partition Suit No. 66 of 2003 before the learned Joint District Judge, Court No. 2, Chittagong for

partitioning the suit land as described in the schedule of the plaint and thereafter, filed an application for temporary injunction.

The learned Joint District Judge Chittagong Sadar by the impugned order dated 17.04.2003 issued show cause notice on an application under Order 39, Rule 1 and 2 giving 7 days time as to why an ad-interim injunction should not be granted while directing the parties to maintain status-quo in respect of the suit land.

Aggrieved thereby, the defendant, Al-Haz Md. Rafiqullah preferred this First Miscellaneous Appeal before this Court with an application for stay.

It is found that this Court by order dated 24.06.2003 issued a rule calling upon the respondent opposite party Nos. 1-6 to show cause as to why an order of stay should not be passed and also pending hearing of the Rule stayed all further operation of the impugned order dated 17.04.2003 passed by the learned Joint District Judge, Court No. 2, Chittagong Sadar in partition suit No. 66 of 2003 and the said order of stay is still in force.

Order book of the case does not speak nothing as to anyone took any step to get this old First Miscellaneous Appeal and Rule heard and disposed of. In this partition suit there is no specific area or demarcation of the land allegedly encroached by the defendants and thus no order of temporary injunction can be granted.

The of order of status-quo passed by the learned Joint District Judge, Court No.2, Chittagong Sadar on 17.04.2003 has been stayed by this Court on 24.06.2003 and thereafter no one became vigilant to get the matter heard and disposed of.

Therefore, in a suit of this nature and in the facts and circumstances of the case, we are constrained to hold that the instant appeal must fail.

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

Let a copy of this judgment be communicated to the Court concerned at once.

Md. Mansur Alam, J:

I agree.