

Present:

Mr. Justice Sheikh Abdul Awal

and

Mr. Justice S.M. Iftekhar Uddin Mahamud

In the Matter of:

First Miscellaneous Appeal No. 191 of 1997

Ahsanul Haque Tota

....Plaintiff-appellant.

-Versus-

Sushil Sana and others

.....Defendant-respondent.

None appears.

..... For the appellant.

None appears

..... For the Defendant respondent Nos. 1-49

A.K.M. Rezaul Karim Khandaker, D.A.G with

Mr. Md. Manowarul Islam Uzzal, A.A.G with

Mr. Md. Mokhlesur Rahman, A.A.G.

Ms. Papia Sultana, AAG .

..... For the Govt.-respondents.

Judgment on 02.02.2026

Sheikh Abdul Awal, J:

This First Miscellaneous Appeal is directed against the order Nos. 14 and 15 dated 30.07.1997 passed by the learned the then Subordinate Judge, 4th Court, Khulna in title Suit No. 11 of 1997 rejecting the application under Order XXXIX, Rule 1 and 2 read with section 151 of the Code of Civil Procedure for temporary injunction.

The brief fact relevant for disposal of this appeal is that the appellants as plaintiff instituted Title Suit No. 11 of 1997 in the Court of the then Subordinate Judge, 4th Court, Khulna for declaration of title in the suit land as described in the schedule of the plaint and also declaration that the judgment and decree dated 07.05.1996 passed by the then Subordinate Judge, 4th Court, Khulna in Title Suit No. 250 of 1994 is void, illegal and liable to be set-aside and also for a

declaration that the deed of power of attorney dated 27.02.1954 and the kabala deed No. 6509 dated 04.07.1957 are illegal, forged, void and as such, the same are liable to be cancelled.

Thereafter, while the suit was in progress the plaintiff-appellant filed an application under Order XXXIX, Rule 1 and 2 read with section 151 of the Code of Civil Procedure for temporary injunction restraining the defendants from interfering the possession of the plaintiff in the suit property till disposal of the suit.

The learned Subordinate Judge, 4th Court, Khulna upon hearing the parties by his order dated 30.07.1997 rejected the application for temporary injunction mainly on the finding that the plaintiff side could not substantiate any ground for an ad-interim injunction.

Being aggrieved by the aforesaid impugned order dated 30.07.1997 passed by the then Subordinate Judge, 4th Court, Khulna, the plaintiff-appellant filed this First Miscellaneous Appeal before this Court.

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

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 28 years, we are, inclined to take it up for disposal on merit as per materials on records.

On scrutiny of the record, it appears that a Division bench of this Court by its order dated 08.01.2001 passed in connected Rule being Civil Rule No. 302 (F.M) of 1997 directing to dispose of the original suit being Title Suit No. 11 of 1997 within 6 (six) months from the date of receipt of the order of this Court and parties must take necessary steps on their part for expeditious hearing of the suit, without paying for adjournment except on compelling reasons.

In a case of this nature at this stage without assistance of the learned Advocates for the parties it is not possible on our part to know the exact position of the suit whether the same is still pending or not.

However, on going through the impugned order together with memo of appeal, we find no cogent reason or ground to set-aside the well founded order passed by the then Subordinate Judge. The impugned order appears to be well founded in law and facts. No interference is, therefore, called for.

In the result, the appeal is dismissed without any order as to costs. The trial Court concerned is directed to dispose of this old suit within 3(three) months from the date of receipt of this order, if the suit is pending.

Communicate this order at once.

S.M. Iftekahar Uddin Mahamud, J:

I agree.