

Present:-

Mr. Justice Mahmudul Hoque

Civil Revision No. 3698 of 2019

Alhaj Azam Khan

... Petitioner

-Versus-

Md. Yousuf Khan and others

...Opposite-parties

Mr. Sayed Mohammad Khan, Advocate

...For the petitioner

Mr. S.M. Arif, Advocate

...For the opposite-party Nos. 1-6.

Heard on 10.05.2024 and

Judgment on 11th June, 2024.

In this application under Section 115(1) of the Code of Civil Procedure, Rule was issued calling upon the opposite party Nos. 1-6 to show cause as to why the impugned judgment and order dated 11.11.2019 passed by the learned District Judge, Chattogram in Miscellaneous Appeal No. 252 of 2019 staying the operation of order dated 30.10.2019 passed by opposite party No. 7 appointing the petitioner as Mutawalli of Hamid Khan Waqf Estate should not be set aside and/or pass such other or further order or orders as to this Court may seem fit and proper.

Facts relevant for disposal of this Rule, in short, are that the opposite party Nos. 1-6, as appellants, filed Miscellaneous Appeal

No. 252 of 2019 against the order dated 30.10.2019 passed by the Administrator Waqf appointing the present petitioner, as Mutawalli of Hamid Khan Waqf Estate for a period of 3 years. In the appeal, the appellant filed an application for stay operation of the Waqf Administrator dated 30.10.2019. The learned District Judge by the impugned judgment and order dated 11.11.2019 admitted the appeal for hearing, issued summon notices to the opposite parties and passed an order staying operation of order dated 30.10.2019 passed by the Waqf Administrator till next date. Neither the petitioner nor the opposite parties could apprise the court about next date. Against the order of the learned District Judge, present petitioner moved this Court by filing this revision and obtained the present Rule and order of stay on 02.12.2019 for 3 months which was subsequently, extended on 02.03.2020 till disposal of the Rule.

Mr. Sayed Mohammad Khan, learned Advocate appearing for the petitioner submits that the petitioner being appointed as Mutawalli of Waqf Estate by order of the Waqf Administrator dated 30.10.2019 continued to serve the Waqf Estate as Mutawalli till today. Because of pendency of the miscellaneous appeal as well as

the instant Rule, further extension has not yet been given by the Waqf Administrator. He submits that learned District Judge while staying operation of the order dated 30.10.2019 failed to appreciate that the petitioner was appointed as Mutawalli giving sufficient hearing to the other parties by a lengthy order passed by the Administrator. However, he prays for disposing the Rule directing the learned District Judge to dispose of the miscellaneous appeal maintaining order of stay.

Mr. S. M. Arif, learned Advocate appearing for the opposite-party Nos. 1-6 submits that admittedly the petitioner was appointed Mutawalli for a period of 3 years which has by this time expired, no further extension has been given to the petitioner. He submits that order of stay passed by the learned District Judge for a limited period till next date which has also been passed long ago, as such, the Rule itself has become infructuous. He candidly submits that not only Rule, the appeal itself also lost cause of action. Therefore, the learned District Judge may be directed to dispose of the appeal within a shortest possible time.

Heard the learned Advocates of both the sides, have gone through the revisional application, impugned order passed by the Waqf Administrator and the judgment and order passed by the learned District Judge.

Admittedly, the petitioner was appointed as Mutawalli of Hamid Khan Waqf Estate by order dated 30.10.2019 for a period of 3 years which has by this time expired. No further extension has yet been given to him. The order passed by the learned District Judge staying operation of that order has also lost its force on the expiry of period. In both the occasions the present Rule has become infructuous as order of stay passed by the learned District Judge no longer exists.

However, this Court thinks that it would be wise and just for the parties to the litigation to get the appeal disposed of within a shortest possible time so that the Waqf Administrator can take step for appointment of a regular Motawalli of the Waqf Estate.

In view of the above, the Rule is discharged, however, without any order as to costs.

The learned District Judge, Chattogram is hereby directed to dispose of the appeal within 01(one) month from the date of receipt of this judgment and order.

The Waqf Administrator is hereby directed to take necessary step for appointment of the regular Mutawalli of the Hamid Khan Waqf Estate in accordance with law.

Order of *stay* granted at the time of issuance of the Rule stands vacated.

Communicate a copy of the judgment to the Court concerned and send down the lower court records at once.