

Supreme Court of Bangladesh
High Court Division, Dhaka.

V.C. Civil Rule No. 444 (Con)(Annex-35) of 2019

*Kolim Uddin and others Vs. Government of Bangladesh represented by the Deputy
Commissioner, Chapainawabganj and others
(District- Chapainawabganj)*

Present:

Mr. Justice Md. Mozibur Rahman Miah

29.06.2020

Mr. Mohammad Ali Azam, Advocate

...For the plaintiff-petitioner-applicants

Mr. Md. Jahangir Alam, DAG

...For the Defendant-Government

At the instance of the plaintiffs-petitioners this application has been filed for status quo restraining the defendant from leasing out 5.45 acres of land.

Mr. Mohammad Ali Azam, the learned counsel appearing for the plaintiff-petitioners-applicants, contends that the trial court decreed the suit in their favour which was filed for declaration to the effect that the S.A and R.S khatian has been prepared wrongly however on appeal, the said judgment was set aside against which the plaintiffs-as petitioners filed this Civil Revision application which was out of time by 5661 days for which this court on 23.06.2019 issued rule. Since due to eruption of pandemic the petitioners could not get the said rule heard and disposed of but in the meantime, the defendant is going to lease out 2.26 acres of land in respect of plot no. 782 which was mentioned in serial no. 22 of the tender notice invited by opposite party no. 1 on 16.06.2020 (Annexure-‘A’ to the application).

The learned counsel by substantiating the said application also contends that, until and unless the defendant is restrained for leasing out the said portion of land, he would be highly prejudiced and the rule issued by this Hon’ble court would become infructuous.

On the contrary, Mr. Md. Jahangir Alam, the learned Deputy Attorney-General appearing for the opposite-party-Government opposes the contention so made by the learned counsel for the petitioners-applicants and contends that, since admittedly the property belongs to the Government, so it is the Government who holds the authority to lease out the property and so no illegality has been committed by inviting tender for leasing out the said suit plot.

The learned Deputy Attorney General further contends that, though the rule was issued on condonation of delay on 23.06.2019 but it is the petitioners who did not take any steps to get the rule heard for which the judgment passed by the appellate court below still stands having no illegality on the part of the government to lease out the said property and he finally prays for rejecting the application.

I have considered the submission so placed by the learned counsel for the petitioners and that of the learned Deputy Attorney General at length.

There has been no gainsaying of facts that, this petitioners obtained a decree from the trial court which was reversed by the appellate court below and challenging that very judgment passed by the appellate court below a rule is now pending issued for condoning the delay. Records shows that, during pendency of the rule, the Government is going to lease out the property by inviting impugned tender on 16.06.2020 which actually gave rise to file this application. Since all the lower civil courts including this court has not been functioning on regular basis, so if the suit plot in particular, plot no. 782 is leased out in that event it is none but the petitioners would be highly prejudiced. So I find a *prima facie* and arguable case in favour of the plaintiffs-petitioners for granting an interim order for restraining the defendant from leasing out plot no. 782 measuring an area of 2.26 acres of land so mentioned in the tender notice invited on 16.06.2020.

Accordingly, this application is allowed.

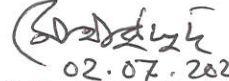
Hence, the parties are directed to maintain status quo in leasing out plot no. 782 measuring an area of 2.26 acres of land under mouja Gomostapur, Chapainababgonj which has been mentioned in serial no. 22 to the tender notice invited by the Government (Annexure-‘A’ to this application for temporary injunction) for a period of 6(six) months from date.

Sd/-
Md. Mozibur Rahman Miah

Copy for kind information & necessary action to:

01. Mr. M. Khaled Ahmed, Advocate -For the petitioners.

By order of the Court


02.07.2020
(Md. Abdul Kuddus)
Bench Officer
courtannex35@gmail.com

মোঃ আবদুল কুদ্দুছ
বেঞ্চ অফিসার
বাংলাদেশ সুপ্রীম কোর্ট
হাইকোর্ট বিভাগ, ঢাকা।

ATTESTED


05.07.20

Md. Harun Reza
Assistant Registrar (Finance)
Senior Assistant Judge
Bangladesh Supreme Court
High Court Division, Dhaka.