

IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(CIVIL REVISIONAL JURISDICTION)

Civil Rule No. 206 (F) of 2020

In the matter of:
An application for injunction.

AND

In the matter of:
Hosne Ara Begum

.... Petitioner

-Versus-

M/S Shilpi Food Products Ltd and others

....Opposite-parties

None appears

... For the petitioner

Mr. Md. Abdul Halim Biswas, Advocate

....For the opposite party nos. 9,10,12

Heard and Judgment on 15.05.2024.

Present:

Mr. Justice Md. Mozibur Rahman Miah

And

Mr. Justice Md. Bashir Ullah

Md. Mozibur Rahman Miah, J:

At the instance of the plaintiff no. 1 in Title Suit No. 191 of 2009 vis-a-vis the appellant in First Appeal No. 06 of 2020, this rule was issued (on an application for injunction) calling upon the opposite party nos. 3,6,7,9-14 to show cause as to why the opposite parties should not be restrained by an order of injunction from entering into the scheduled property of the petitioner or from disturbing the peaceful possession of the petitioner or dispossessing the

plaintiff-petitioner from the suit land till disposal of the appeal/or such other or further order or orders passed as to this court may seem fit and proper.

At the time of issuance of the rule, this court also passed an order of injunction restraining the opposite parties from entering into the scheduled property or to disturb the peaceful possession of the plaintiff-petitioner for a period of 06 (six) months, That rule gave rise to above Civil Rule. However, the said order of injunction was subsequently extended from time to time and subsequently the said order of injunction was modified by this court on 07.11.2020 and parties were directed to maintain status quo in respect of possession and position of the suit land till disposal of the rule.

The short facts leading to issuance of the rule are:

The present petitioner as well as other 7 persons as plaintiffs originally filed the aforesaid title suit no. 191 of 2009 against the present opposite party nos. 9,10,12 and others as defendants. After that, the defendant nos. 6,7,9,14,15(ka)-15(Jha) 16 and 19 filed an application under Order 7 Rule 11 of the Code of Civil Procedure for rejection of plaint and the learned judge of the trial court vide judgment and order dated 26.08.2019 allowed the said application consequent to rejected the plaint. Against that order of rejection of plaint the plaintiff no. 1 as appellant then preferred First Appeal No. 06 of 2020 before this court. After preferring the appeal, the plaintiff no. 1 also filed an application for injunction asserting that he had been possessing the suit property which has been described in the schedule to the application for injunction since 09.04.2006 on erecting 8-storey building with the permission of the Rajuk and upon considering the said application this court vide order dated 22.03.2020 issued rule and passed an order of injunction which

afterwards modified to an order of status quo. It is worthwhile to mention here that, the said First Appeal was ultimately taken up for hearing by this court and after hearing the parties to the appeal, this court vide judgment dated 29.02.2024 allowed the appeal-in-part directing the trial court to expunge the prayer no. 4 to the plaint of the Title Suit and proceed with the trial thereof.

None appears for the petitioner to press the rule though the matter has been appearing with the name of the learned counsel for the parties.

On the contrary, Mr. Md. Abdul Halim Biswas, the learned counsel appearing for the opposite party nos. 9,10,12 upon taking us to the application for injunction and by supplying the copy of the plaint of Title Suit No. 191 of 2009 at the very outset submits that, though the petitioner in paragraph no. 21 claimed to have been in possession by erecting 8-storey building but in paragraph no. 11 and 13 the plaintiff clearly admitted that, he has been dispossessed by the defendant from the suit property.

The learned counsel further contends that, this plaintiff had earlier filed a similar application for injunction which the learned judge of the trial court vide judgment and order dated 10.09.2009 rejected the same against which the plaintiff as petitioner filed a Civil Revision being Civil Revision No. 3674 of 2009 and the rule of the said Civil Revision was ultimately discharged on 20.04.2010. Afterwards, the plaintiff filed a Civil Petition for Leave to Appeal No. 1034 of 2010 before the Appellate Division which was also dismissed on 26.09.2013 but that very material facts has clearly been sidetracked in the entire application for injunction.

The learned counsel further contends that, since the application for injunction had earlier been tested by the apex court though the said facts has been suppressed in the entire application for injunction so no equitable relief can be obtained by the plaintiff-petitioner in the instant rule and the rule is thus liable to be discharged.

We have considered the submission so advanced by the learned counsel for the respondent opposite party nos. 9,10 and 12 and perused the revisional application and other materials available in the record. We have also very meticulously gone through the application for injunction as well as the plaint of Title Suit No. 191 of 2009 in particular paragraph no. 11 and 13 where it has been asserted by the plaintiff that she has been dispossessed by the defendant having no occasion to pass any order of injunction as the plaintiff has admittedly does not have any possession in the suit property.

Regard being had to the above facts and circumstances we don't find any substance in the rule.

Accordingly, the rule is discharged however without any order as to costs.

The order of status quo granted and extended subsequently stands vacated.

Let a copy of this order be communicated to the court concerned forthwith.

Md. Bashir Ullah, J:

I agree.