

Present:-

Mr. Justice Mahmudul Hoque

Civil Revision No.939 of 2021

Md. Mosfiquir Rahman

... Petitioner

-Versus-

Nasima Haque alias Nasima Khatun alias
Nasima Akter and others

...Opposite-parties

No one appears

...For the petitioner

Mr. Md. Mojibur Rahman (Samrat), Advocate

...For the opposite-party No.1.

Judgment on 31st July, 2025.

On an application under Section 115(1) of the Code of Civil Procedure this Rule was issued at the instance of the petitioner calling upon the opposite parties to show cause as to why the impugned judgment and order dated 06.01.2021 passed by the learned Additional District Judge, 2nd Court, Jhenaidah in Miscellaneous Appeal No.14 of 2019 disallowing the same and thereby affirming the order dated 08.04.2019 passed by the learned Assistant Judge, Kotchandpur, Jhenaidah in Title Suit No.38 of 2019 allowing the application for temporary injunction should not be set aside and/or pass such other or further order or orders as to this Court may seem fit and proper.

The opposite party No.1, as plaintiff, filed Title Suit No.38 of 2019 in the Court of Assistant Judge, Kotchandpur, Jhenaidah against the petitioner along with other opposite parties, as defendant, for declaration of title in the suit property and filed an application under Order 39 Rule 1 read with Section 151 of the Code of Civil Procedure praying for temporary injunction against defendant Nos.4, 5, 6 and 11 restraining them from disturbing with the peaceful possession of the plaintiff entering into the suit land, creating any obstructing in constructing structure by the plaintiff, from transferring the suit property to any other persons or taking away construction materials from the suit land forcibly. The defendant Nos.4, 5, 6 and 11 resisted the application by filing written objection. The trial court heard the injunction matter and after hearing by impugned judgment and order dated 08.04.2019 allowed the application for restraining the defendant Nos.4, 5, 6 and 11 by a temporary injunction as prayed for.

Being aggrieved by and dissatisfied with judgment and order of the trial court, the defendant preferred Miscellaneous Appeal No.14 of 2019 before the learned District Judge. Eventually, said

appeal was transferred to the court of learned Additional District Judge, 2nd Court, Jhenaidah for hearing and disposal, who after hearing by the impugned judgment and order dated 06.01.2021 dismissed the appeal affirming the judgment and order of the trial court. At this juncture, the petitioner moved this Court by filing this revisional application under Section 115(1) of the Code of Civil Procedure and obtained the present Rule and order of stay and status-quo.

This matter appearing in the daily cause list for hearing with the name of the learned Advocates of both the parties for couple of days and today is appearing as heard in part, but none appears for the petitioner to press the Rule. Consequently, I have heard the learned Advocate for the opposite party No.1, have gone through the revisional application under Section 115(1) of the Code of Civil Procedure, plaint in suit, application for injunction, written objection thereto and the impugned judgment and order of both the courts below.

Form perusal of order of the trial court, it appears that when allowing application and granting injunction, the trial court clearly

found a prima facie case in favour of the plaintiff and balance of convenience and inconvenience in her favour. The appellate court concurring with the findings and observations of the trial court held that the plaintiff could able to show a prima facie case in her favour and the balance of convenience and inconvenience in favour of the plaintiff entitling her to get an order of injunction as prayed for, resultantly, dismissed the appeal maintaining order passed by the trial court. In the absence of any contrary submissions on the part of the petitioner-defendant, I find no illegality or error of law in the judgment and order passed by both the trial court and appellate court calling for interference by this Court.

Therefore, I find no merit in the Rule.

In the result the Rule is discharged, however, without any order as to costs.

The order of stay and status-quo granted at the time of issuance of the Rule stands vacated.

The trial court is hereby directed to dispose of the suit within shortest possible time preferably within 6(six) months from the date of receipt of this judgment and order positively.

Communicate a copy of the judgment and order to the Court concerned at once.