

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

Civil Revision No. 2066 of 2021

IN THE MATTER OF

Sree Nirmal Kumar Pall and others

.....Plaintiffs-Petitioners

-Versus-

1. Mst. Rabeya Khatun and others

.....Defendants-Opposite parties

2. Md. Shah Jamal

.....Pro-forma opposite party

Mr. Md. Alamgir Hossen, Advocate

.....For the petitioner

Mr. Sarwar Hasan Faruque, Advocate

.....For opposite party No. 12

Heard on 14.06.2023 and judgment passed on 13.07.2023

Present:

Mr. Justice Kazi Md. Ejarul Haque Akondo

Kazi Md. Ejarul Haque Akondo, J.

This Rule, under section 115(4) of the Code of Civil Procedure, 1908 was issued in the following term:

“Record need not be called for. Leave is granted. Let a Rule be issued calling upon the opposite parties to show cause as to why the impugned judgment and order dated 21.03.2021 passed by the learned District Judge, Thakurgaon

in Civil Revision No. 20 of 2019 dismissing the revisional application by affirming the order dated 14.05.2019 passed by the learned Joint District Judge, 1st Court, Thakurgaon in Other Class Suit No. 15 of 1997 allowing the application for addition of party filed under Order 1 Rule 10 read with section 151 of the Code of Civil Procedure 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 petitioners as the plaintiffs filed Other Class Suit No. 15 of 1997 before the learned Joint District Judge, 1st Court, Thakurgaon against the present opposite parties as the defendants for a decree of declaration of title and partition and also for a declaration that the sole decree dated 29.07.1982 passed in Other Suit No. 264 of 1981 is forced, collusive, illegal and not binding upon the plaintiffs.

It has been stated that during the pendency of the suit, the present opposite party No. 12 Md. Abdur Rob Alam filed an application for the addition of party as defendant No. 12 under Order 1 Rule 10 read with section 151 of the Code of Civil

Procedure, 1908. After hearing the same the learned Joint District Judge, Thakurgaon by his order dated 14.05.2019 allowed the application for the addition of a party. Against which the plaintiffs filed Civil Revision No. 20 of 2019 before the learned District Judge, Thakurgaon, and after hearing the same the learned Judge by impugned judgment and order dated 21.03.2021 disallowed the revision by affirming those of the Trial Court.

Being aggrieved by the said impugned judgment and order dated 21.03.2021 the plaintiffs as the petitioners had preferred this civil revision before this Court and obtained the instant Rule which is before us for consideration.

Anyway, Mr. Md. Alamgir Hossain, the learned Advocate appearing for the petitioners submits that opposite party No. 12 Md. Abdur Rob Alam filed Writ Petition No. 6444 of 2004 before this Court praying for a direction “to restore possession of 28 decimals of the land of plot No. 466 of Khatian No. 581 with all structures therein which was ‘stand released’ from the list of abandoned property in favor of the petitioner.” After hearing the said writ petition one of the Benches of this Division directed the

Government to ensure that the property is handed back free of all encumbrances to the rightful owner namely, Rabeya Khatun wife of late Chand Muhammad Ouraishi in accordance with law. In the present suit said Rabeya is defendant No. 1, and opposite party No. 12 namely Md. Abdur Rob is not a necessary party but the Courts below without considering this erroneously allowed the application for the addition of a party and thereby committed an error of an important question of law occasioning failure of justice.

On the other hand, Mr. Sarwar Hasan Faruque, the learned Advocate appearing for opposite party No. 12 submits that this opposite party being the necessary party filed an application for the addition of a party in the suit and both the Courts below considering the facts and circumstances of the case rightly allowed the application for proper adjudication of the suit and thereby committed no illegality occasioning failure of justice.

Heard the learned Advocates of the parties and perused the application. It appears that the present opposite party No. 12 filed an application before the Trial Court for the addition of a party under Order 1 Rule 10 read with section 151 of the Code of Civil

Procedure, 1908 for the reasons stated therein against which the present petitioners filed an objection, and after hearing the same both the Courts below on concurrent findings allowed the application by adding the applicant as defendant No. 12 for proper adjudication of the suit and thereby committed no error of an important question of law resulting in erroneous decision occasioning failure of justice.

Given the above, I do not find any substance in the submissions so made by the learned Advocate for the petitioners. Accordingly, the Rule fails.

As a result, the Rule is discharged without cost.

The impugned judgment and order dated 21.03.2021 passed by the learned District Judge, Thakurgaon in Civil Revision No. 20 of 2019 disallowing the revision by affirming the order dated 14.05.2019 passed by the learned Joint District Judge, 1st Court, Thakurgaon in Other Class Suit No. 15 of 1997 allowing the application for addition of a party under Order 1 Rule 10 read with section 151 of the Code of Civil Procedure, 1908 are hereby upheld.

Communicate the judgment to the Court concerned at once.

(TUHIN BO)