

Bench:

Mr. Justice Md. Ruhul Quddus

Civil Revision Number 2278 of 1993

Abdul Jalil Khan

... Petitioner

-Versus-

Chairman (RAJUK) and another

... Opposite Parties

No one appears for the petitioner.

Ms. Anjuman Ara Lima, Assistant Attorney
General

... for opposite party number 2

Judgment on 04.11.2024

This rule was issued at the instance of the plaintiff-appellant on an application under Section 115 of the Code of Civil Procedure challenging the judgment and decree dated 26.04.1993 (decree signed on 02.05.1993) passed by the Additional District Judge, First Court, Dhaka in Title Appeal Number 19 of 1991 dismissing the appeal on affirming those dated 05.11.1990 passed by the Assistant Judge, 4th Court, Dhaka in Title Suit Number 106 of 1988 dismissing the suit.

The petitioner instituted the suit for perpetual injunction to restrain defendant number 1 from evicting him from the suit premises except in due course of law on the averments, *inter alia*, that the suit premises comprising a room in the main building of

RAJUK was leased out to its previous tenant A H Waris. He left the country in 1971 and thereafter, defendant number 2 being the custodian of abandoned property took control of the same and transferred the possession of the suit premises and goodwill of the business of the previous tenant and also sold out the goods kept therein to the plaintiff and handed over the possession thereof in his favour on 22.12.1982. The plaintiff thus became a tenant under defendant number 1, the Rajdhani Unnoyan Kartipakha (RAJUK), and was engaged in the business under the same style and name of the previous tenant. In 1977, rent of the suit premises was rescheduled at Taka 1.50 per squire fit. The plaintiff made several correspondences to defendant number 1 for issuance of a demand letter. The defendant did not issue any such demand letter, but served a notice on 23.06.1987 claiming Taka 3,10,486/- and asked him to vacate the suit premises. Lastly, defendant number 1 threatened the plaintiff to dispossess him from the suit premises. Hence the cause of action for institution of the suit arose.

Defendant number 1 contested the suit by filing a written statement contending, *inter alia*, that the plaintiff being a defaulter tenant and having no valid tenancy agreement, cannot maintain a suit for perpetual injunction against his landlord. He had no cause of action and the suit would be dismissed on merit.

On the aforesaid pleadings, the trial court framed the issues namely, (1) whether the suit was maintainable, (2) whether the

plaintiff could continue as a tenant in the suit premises, (3) whether the plaintiff was entitled to a decree of perpetual injunction, and (4) what other reliefs he was entitled to.

In course of trial, the plaintiff himself deposed as PW 1 and adduced in evidence a set of documents including some correspondences with RAJUK, which were marked as Exhibits: 1-9. The defendant also examined one witness as DW 1 and adduced in evidence three sets of documents, which were marked as Exhibits: Ka-Ga.

After conclusion of trial, learned Assistant Judge dismissed the suit on the findings that from the very inception of his induction as a tenant in the suit premises, the plaintiff did not pay a single farthing. Such a tenant was not entitled to any order of injunction against his landlord. Learned Assistant Judge thus dismissed the suit by judgment and decree dated 11.11.1990. Being aggrieved, the plaintiff preferred Title Appeal Number 19 of 1991 in the Court of District Judge, Dhaka. The Additional District Judge, First Court, Dhaka ultimately heard the appeal and dismissed the same on concurrent finding of facts by the impugned judgment and decree giving rise to the instant civil revision.

Ms. Anjuman Ara Lima, learned Assistant Attorney General appearing for defendant-opposite party number 2 takes me through the evidence of the plaintiff and submits that no tenancy agreement and rent receipt were exhibited by the plaintiff. Actually defendant

number 2 transferred the possession of the suit premises in favour of the plaintiff by letters dated 17.11.1982 and 21.12.1982 (Exhibits: 3 and 4 respectively), but subsequently he did not pay any rent and became a defaulter-tenant. A defaulter-tenant who has got no tenancy agreement in continuation of his document of possession cannot get an order of injunction against his landlord.

I have considered the submission of the learned Assistant Attorney General and gone through the record including the evidence and the judgments of the courts below. It appears that the learned Assistant Judge discussed and considered the evidence in a reasonable manner and arrived at a finding that the plaintiff was a defaulter-tenant and did not pay a single farthing rent in favour of the landlord. The appellate court independently discussed the evidence and also found that the plaintiff's document of transferring possession in his favour (vide Exhibit-3) stipulated some conditions, which he did not fulfill. Learned Judge thus held that the decree of dismissal of the suit was correctly passed. I do not find any error of law resulting in any error in the decision occasioning failure of justice in the judgment and decree of the courts below.

The rule having no merit is, therefore, discharged. Send down the records.