

Bench:

Mr. Justice Md. Ruhul Quddus

Civil Revision Number 3369 of 2001

Md. Joynal Abedin being dead his legal heirs
1(a) Mst. Hanufa Bewa and others

... Petitioners

-Versus-

Md. Omarujjaman Sarker being dead his legal
heirs 1(a) Mst. Rizia Bewa and others

... Opposite parties

No one appears for either party.

Judgment on 09.03.2025

This rule was issued on an application under Section 115 (1) of the Code of Civil Procedure challenging the judgment and order dated 26.02.2001 passed by the Subordinate Judge, First Court, Natore in Miscellaneous Appeal Number 07 of 2000 affirming those dated 30.11.1999 passed by the Assistant Judge, Gurudaspur, Natore in Miscellaneous Case Number 21 of 1998.

The rule was fixed for hearing by order dated 22.10.2024 and was called on for hearing on 09.12.2024, but no one for the petitioner appeared. However, for ends of justice, this court passed an order for placing the matter in the daily cause list with

name of the learned advocate for the petitioner. Accordingly, it has been appearing in the daily cause list with his name. Today it is called on again for hearing, but no one for either party appears. Since this is an old matter of 2001, it is taken up for disposal in absence of the parties.

Facts relevant for disposal of the rule are that the petitioners filed an application under Section 96 of the State Acquisition and Tenancy Act, 1950 (for short, SAT Act) for preemption of 15 decimals of land. They claimed themselves to be co-sharers of the land and alleged that opposite parties number 2-3 had secretly transferred the land to opposite party number 1 by two deeds under the garb of exchange. The opposite parties did it only to deprive them (petitioners) from their lawful right of preemption.

Opposite party number 1 contested the case by filing a written objection denying the material allegations of the preemption application, and contended that a separate khatian against the transferred land was already prepared in the names of his vendors in Miscellaneous Case Number 159/1991-92, and that the land was transferred by real exchange, not by sale.

On the above pleadings, learned Trial Judge framed issues and proceeded with trial, in course of which, both the parties

adduced evidence in support of their respective cases. On conclusion of hearing, learned Assistant Judge, Gurudaspur found the transfer in question by way of real exchange, thus rejected the preemption case by judgment and order dated 30.11.1999. Being aggrieved, the preemptors filed Miscellaneous Appeal Number 07 of 2000 in the Court of District Judge, Natore. Learned Subordinate Judge, First Court, Natore ultimately heard the appeal and dismissed the same by the impugned judgment and order giving rise to the instant civil revision.

I have gone through the judgment and orders of the courts below and considered the grounds taken in the revisional application. It appears that both the courts below found the transfer by way of real exchange, not a paper transaction to deprive the petitioners from their right of preemption. Under the circumstances, I do not find any merit in the rule.

Accordingly, the rule is discharged.

Send down the records.