

Present:
Mr. Justice S M Kuddus Zaman

CIVIL REVISION NO.3545 of 2017

Kinkor Paul Khokon and another
.... Petitioners

-Versus-

Chandi Proshad Dhor and others
....opposite parties

None appears
.... For the petitioners
Mr. S.M. Obaidul Haque, Advocate
... For the opposite party
Nos.1-2.

Heard and judgment on 12.07.2023

This Rule was issued calling upon the opposite parties to show cause as to why the impugned judgment and decree dated 24.04.2017 passed by the learned Senior Assistant Judge, Sadar, Netrokona in Small cause Court Suit No.1 of 2008 decreeing the suit.

Facts in short are that opposite parties as plaintiffs filed above suit for eviction of defendant Nos.1-2 from the disputed premises as described in the schedule to the plaint.

It was alleged that the defendants were their monthly tenants for the above premises and they have defaulted in paying of rent since January 2008.

The plaintiffs issued a notice under Section 106 of the State Acquisition and Tenancy Act upon the defendants terminating above tenancy since June

2008. But the defendants failed to hand over vacant possession of above premises.

It has been further stated that the Plaintiff Nos.1-2 are successive heirs of Debendra Kishore Dhor, Berondra Kishore Dhor and Nogendra Kishore.

Defendant Nos.1-2 contested the suit by filing a joint written statement alleging that their father Bhuvan Mohon Paul purchased 7 decimals land from Nogendra Kishore in 1963 and possessed the same by constructing the disputed house. After demise of their father Bhuvan Mohon Paul they are possessing the disputed house as his heirs. They are not tenants of the plaintiffs. Nogendra Kishore has gone to India in 1963-64 and his father died in 1983.

At trial plaintiffs examined one witness and produced and proved documents which were marked as Exhibit Nos.1 series - 7 series. But the defendants did not produce any document.

On consideration of facts and circumstances of the case and evidence on record the learned Judge of the Small Causes Court decreed the suit.

Being aggrieved by above judgment and decree defendants as petitioners moved to this Court and obtained this Rule.

No one appears on behalf of the petitioners when the Civil Revision was taken up for hearing although it appeared in the list for hearing today.

Mr. S.M. Obaidul Haque, learned Advocate for the opposite party Nos.1-2 submits that the disputed property originally belonged to Gopinath Biswas and C.S. Khatian No.689 was correctly prepared in his name. Above Gopinath died leaving three sons, namely, Monindra Kishore, Binendra Kishore and

Nogendra Kishore as his heirs and relevant record of right was prepared in their names. Plaintiffs are successive heirs of above recorded tenants. Defendants were monthly tenants of the plaintiffs for disputed premises and they paid rent until December 2007. Defendant No.2 while giving evidence as DW1 admitted that the plaintiffs obtained rent receipts from them for the disputed premises.

Defendants have set up a false claim of title by oral purchase from Nogendra Kishore the uncle of the plaintiffs in 1963. But above claim remains not substantiated by any evidence oral or documentary.

On consideration of above evidence on record the learned Judge of the Trial Court has rightly decreed the suit which calls for no interference.

I have considered the submissions of the learned Advocate for the opposite parties and carefully examined the pleadings, evidence, impugned judgment and decree and other materials on record.

Undisputedly above premises belonged to three brothers namely Monindra Kishore, Binendra Kishore and Nogendra Kishore and plaintiffs are sons of Monindra Kishore and deceased plaintiff No.1 was the heir Binendra Kishore and Nogendra Kishore died leaving his above mentioned two brothers as his heirs.

Plaintiff No.2 gave evidence as PW1 and has reiterated above claims as set out in the plaint and produced a series of rent receipts, record of right of the disputed premises and a series of receipts of Municipal taxes for the disputed property which were marked as Exhibit Nos.3, 4 and 6 series respectively. In cross examination he stated that

the defendants paid rents for the period from 2007-2009 and produced above rent receipts.

Defendant No.2 while giving evidence as DW1 admitted in his cross examination that the plaintiffs obtained rent receipt from them by creating confusion.

The defendants have set up a claim of title over the disputed premises alleging that their father purchased above property in 1963 from Nogendra Kishore. In their written statement defendant Nos.1-2 did not mention the exact date of alleged purchase or the amount of consideration money or the names of othe wntnesses who were present at the time of talk of sale. At trial DW1 Kingkor Paul Khokon did not say anything about the date of consideration or witnesses of above purchase. DW2 Gopal Chandra Barman and DW3 Dhinesh Kumar Debnath have given evidence as to the possession of the defendants in the disputed premises which is an admitted fact. No witness was examined by the defendants in support of alleged purchase of the disputed property by their father in 1963.

On consideration of above facts and circumstances of the case and evidence on record I hold that the plaintiffs have succeeded to prove that the defendant Nos.1 and 2 are their monthly tenants for the disputed premises and they have defaulted in paying rent since June 2008 and accordingly, the learned Judge of the Trial Court has rightly decreed the suit which calls for no interference.

In above view of the materials on I am unable to find any substance in the Civil Revision and the Rule issued in this connection is liable to be discharged.

Accordingly, this Rule is discharged.

However, there is no order as to costs.

Send down the lower Court's records immediately.

MD. MASUDUR RAHMAN
BENCH OFFICER