Bench:

Mr. Justice Md. Ruhul Quddus

<u>Civil Revision Number 6040 of 2023</u>

with

<u>Civil Miscellaneous Number 12 of 2024</u>

Md. Rafiqul Islam Gazi
...Petitioner in both the rules
-Versus-

Firoz Shikder
… Opposite party in both the rules

Mr. Kingshuk Das, Advocate

…for petitioner in both rules

Mr. Jahidul Haque with Mr. Akram Hossain, Advocates

… for opposite party in the both

Judgment on 26.06.2025

The above mentioned two cases arising out of one proceeding between the same parties have been heard simultaneously and are being disposed of by this one judgment.

The rule in the civil revision was issued on an application under Section 115 (1) of the Code of Civil Procedure challenging the legality of ad-interim order of injunction dated 04.07.2023 passed by the District Judge, Madaripur in Arbitration Miscellaneous Case Number 02 of 2023, while the Miscellaneous Case was filed for transfer of the same from the Court of District Judge, Madaripur to any other District Judge's Court, wherein rule was issued and the proceedings of the case was stayed.

Opposite party being petitioner filed the Arbitration Miscellaneous Case under Section 12 of the Arbitration Act and also filed an application for injunction under Section 7 A thereof restraining the opposite party (petitioner herein) from selling the goods as described in the schedule of the application.

Learned District Judge, Madaripur issued a show cause notice, to which the petitioner filed a written objection denying the authenticity of the arbitration agreement, and claiming the arbitration case to be a premature one.

The application was lastly fixed for hearing on 20.07.2003. In the meantime, the present opposite party filed an application for ad-interim injunction on 04.07.2023. Learned District Judge heard the application and allowed the same by order dated 04.07.2023 granting ad-interim injunction in favour of the opposite party. Challenging the said order, the present petitioner moved in this court and obtained the rule. He also filed the miscellaneous case for transfer of the case brining allegation of bias against the Judge passed the order and obtained rule.

Mr. Kingshuk Das, learned Advocate for the petitioner submits that the learned District Judge heard the application for ad-interim injunction on an advanced date beyond the petitioner's knowledge and also without serving him any notice. It shows illegality and biasness on the part of the learned District Judge, Madaripur.

Mr. Jahidul Hoque, learned Advocate for the opposite party with reference to the counter-affidavit (vide Annexure-II) submits that

before obtaining the rule, the original application for temporary injunction was already disposed of, but the petitioner without challenging the said order of temporary injunction, filed the present application and obtained the rule suppressing the material fact. Learned District Judge who passed the order has also been transferred elsewhere and as such the rule in the miscellaneous case has also become infractuous.

Mr. Kingshuk Das, learned Advocate for the petitioner does not controvert the authenticity of the statement made in the counter-affidavit and Annexure-II appended thereto.

I have heard the learned advocates and gone through the record. It appears from the counter affidavit filed by the opposite party that the application for temporary injunction was allowed by order dated 20.07.2023 and the rule in the present civil revision was issued on 19.11.2023 challenging the earlier order dated 04.07.2023. So, at the time of issuance of the rule, there was no force in the impugned order.

It further appears that the learned District Judge, before whom the case was pending, is no longer posted at Madaripur. The rule in the miscellaneous case has, therefore, become infructuous and lost its force to proceed.

Under the circumstances, both the rules are discharged. The stay of the arbitration proceedings granted earlier by this court stands vacated. Learned District Judge, Madaripur is directed to dispose of the arbitration case as early as possible.