

In the Supreme Court of Bangladesh  
High Court Division  
(Civil Revisional Jurisdiction)

Present:

**Mr. Justice Muhammad Abdul Hafiz**

**CIVIL REVISION NO. 2065 OF 2008**

Md. Manik Mollah and others  
Pre-emptors-Appellants-Petitioners

Versus

Giasuddin and others  
Pre-emptees-Respondents-Opposite Parties

Mr. Md. Shibbir Ahmad, Advocate  
for the pre-emptors-appellants-petitioners

Mr. Md. Mahbubur Rahman, Advocate  
for the pre-emptees-respondents-opposite  
parties.

**Judgment on 08.11.2022**

This Rule was issued calling upon the opposite party Nos. 1-5 to show cause as to why the impugned Judgment and Order dated 21.1.2008 passed by the learned Joint District Judge, 2<sup>nd</sup> Court, Jhalakathi in Miscellaneous Appeal No. 10 of 2005 dismissing the appeal and thereby affirming the Judgment and Order dated 30.11.2004 passed by the learned Senior Assistant Judge, Rajapur (in charge), Jhalakathi in Pre-emption Miscellaneous Case No. 14 of 2002 rejecting the pre-emption miscellaneous case should not be set aside and/or such other or further order or orders passed as to this Court may seem fit and proper.

The petitioners as pre-emptors instituted Pre-emption Miscellaneous Case No. 14 of 2002 before the learned Senior

Assistant Judge, Kathalia, Jhalakathi under Section 96 of the State Acquisition and Tenancy Act, 1950 stating inter alia that the pre-emptors-petitioners are co-sharers of the case Jote by inheritance and by purchase. The pre-emptee-opposite party No. 2 is full brother of the pre-emptors-petitioners and without serving any notice upon the pre-emptors-petitioners sold the case land secretly to the stranger-pre-emptee-opposite party No. 1 vide registered deed No. 1988 dated 30.12.2001. The pre-emptors-petitioners came to know aforesaid fact from Mahtab Ali Howlader on 3<sup>rd</sup> Baishakh of 1409 i.e. 16.4.2002 and after searching pre-emptors-petitioners collected the certified copy of the disputed deed No. 1988 on 29.4.2002 from the Sub-registry Office and thereafter the pre-emptors-petitioners filed pre-emption miscellaneous case on 20.5.2002.

The opposite party No. 1 as pre-emptee contested the pre-emption miscellaneous case by filing a written objection stating inter alia that the case is bad for defect of parties and the same is barred by limitation. So the case is liable to be disallowed with costs.

The learned Senior Assistant Judge, Rajapur (in charge), Jalakhathi rejected the Pre-emption Miscellaneous Case No. 14 of 2002 on 30.11.2004. Against the aforesaid judgment and order the pre-emptors as appellants preferred Miscellaneous Appeal No. 10

of 2005 before the learned District Judge, Jalakhathi which was transferred before the learned Joint District Judge, 2<sup>nd</sup> Court, Jhalakathi who dismissed the appeal and hence the pre-emptors-appellants as petitioners moved this application under section 115 (1) of the Code of Civil Procedure before this Court and obtained this Rule.

Heard the learned Advocates for both the parties and perused the record.

Admittedly, the pre-emptee-opposite party No. 1 purchased the case land on 30.12.2001 vide registered deed No. 1988 dated 30.12.2001 and thus the pre-emptors instituted the Pre-emption Miscellaneous Case No. 14 of 2002 before the Trial Court on 20.5.2002. So, it is crystal clear that the instant case was filed out of time and in this respect pre-emptor No. 3 as P.W. 1 stated in his deposition “১৪০৯ সালের ৩ রা বৈশাখ দলিলের বিষয় মাহতাবের নিকট শহীদের মোকাবিলায় জানতে পারি।” but the aforesaid Mahtab was not examined before this Court. Accordingly, the pre-emptors-petitioners failed to prove the date of knowledge. So the instant pre-emption case is barred by limitation as the pre-emptors failed to prove when and from whom the pre-emptors came to know about the sale of the case land.

Considering facts and circumstances of the Case, I find no substance in this Rule.

**In the result, the Rule is discharged without any order as to costs.**

The impugned Judgment and Order dated 21.1.2008 passed by the learned Joint District Judge, 2<sup>nd</sup> Court, Jhalakathi in Miscellaneous Appeal No. 10 of 2005 dismissing the appeal and thereby affirming the Judgment and Order dated 30.11.2004 passed by the learned Senior Assistant Judge, Rajapur (in charge), Jhalakathi in Pre-emption Miscellaneous Case No. 14 of 2002 rejecting the pre-emption miscellaneous case is hereby up-held.

Send down the lower Courts record with a copy of the Judgment to the Courts below at once.