

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

Present:

**Mr. Justice Muhammad Abdul Hafiz**

**CIVIL REVISION NO. 2636 OF 2012**

Most. Azizunnessa  
Plaintiff-Petitioner

Versus

Md. Ayezuddin and others  
Defendants-Opposite Parties

Mr. Abdul Baten, Advocate  
for the petitioner

Mr. Anup Kumar Saha, Advocate  
for the opposite parties

**Judgment on: 30.5.2023**

Leave was granted to consider the legality and propriety of the impugned Judgment and Order dated 26.1.2012 passed by the learned District Judge, Dinajpur in Civil Revision No. 62 of 2011 disallowing the same and thereby affirming the Judgment and Order dated 29.8.2011 passed by the Assistant Judge, Hakimpur, Dinajpur in Title Suit No. 32 of 2001 rejecting the application for handwriting expert's report.

The present petitioner Most. Azizunnessa as plaintiff filed Other Class Suit No. 117 of 1993 before the Senior Assistant Judge, Dinajpur on 08.06.1993 praying for declaration of title over Ka & Kha schedule land, confirmation of possession over Ka

schedule land and recovery of khas possession of Kha schedule land stating, inter alia, that Purno Chandra Basak was the owner of the schedule land who died leaving without any child whereupon his sister's son Ajit Kumar Basak became the owner of the suit land. Ajit Kumar Basak executed a Bainanama deed in favour of the plaintiff's father Md. Kobad Hossain on 04.04.1970 and subsequently transferred the suit land to Md. Kobad Hossain vide Sale Deed No. 10646 dated 30.04.1970 who possessed the same through tenants and the defendant No. 1 Md. Ayezuddin was one of such tenants. Md. Kobad Hossain transferred the suit land in favour of his daughter i.e the plaintiff vide Sale Deed No. 3688 dated 16.03.1973 who tried to mutate the same whereupon the defendant No. 1 disclosed that Sale Deed No. 10646 dated 30.04.1970 may be lying with him but the defendant No. 1 did not provide the said sale deed to the plaintiff. On March, 1992 the plaintiff came to know through her husband that the defendant No. 1 had mutated the suit land in his name vide Mutation Case No. IX/131-132/75-76 whereupon the plaintiff submitted an application for cancellation of the said mutation on 28.03.1992 at which the same was cancelled on 20.01.1993 in Case No. XIII/17/91-92. The defendant Nos. 2-20 began to construct houses over Kha schedule land at the middle part of April, 1993 whereupon the plaintiff tried

to resist them on 20.04.1993 but failed to do so. The defendants are claiming that they have purchased the suit land from the defendant No. 1 and hence the suit.

The suit was transferred to several Courts and it was lastly transferred to the Court of Assistant Judge, Hakimpur, Dinajpur wherein it was renumbered as Other Class Suit No. 32 of 2001.

The plaintiff subsequently amended the plaint of Other Class Suit No. 32 of 2001 and included an additional prayer to the effect that Ga schedule deeds are false, collusive, ineffective and not binding upon the plaintiff.

The defendant Nos. 2, 4, 5, 10 contested the suit by filing joint written statement on 12.7.1994 denying the material allegations of the plaint. The defendants claimed that the plaintiff has neither title nor possession over the suit land and hence the suit is liable to be dismissed.

On 07.03.2007 the present petitioner as plaintiff submitted an application before the Assistant Judge, Hakimpur, Dinajpur in Other Class Suit No.32 of 2001 praying for handwriting expert's report regarding (i) inconsistency of the signatures of Sub-Registrar, Fulbari as present in Sale Deed No. 10646 dated 30.04.1970 and 3688 dated 16.03.1973, (ii) inconsistency of the signature of Sree Ajit Kumar Basak as present in all pages of Sale

Deed No. 10646 dated 30.04.1970 and (iii) inconsistency of the signature of witness Mozaffar as present in page Nos. 2 and 4 of Sale Deed No. 10643.

The Assistant Judge, Hakimpur, Dinajpur vide Order dated 07.03.2007 Ordered that the application for handwriting expert's report dated 07.03.2007 will be disposed of after pre-emptory hearing, if necessary.

On 04.07.2011 the learned Assistant Judge, Hakimpur, Dinajpur again heard the application for handwriting expert's report dated 07.03.2007 and kept the petition on record vide Order No. 134 dated 04.07.2011 opining that the same will be disposed of after pre-emptory hearing, if necessary.

On 03.08.2011 the plaintiff again submitted an application praying for hearing and disposal of the application for handwriting expert report dated 07.03.20007 before peremptory hearing and the learned Assistant Judge, Hakimpur, Dinajpur rejected the same vide Order dated 29.08.2011 and thus the petitioner preferred Civil Revision No. 62 of 2011 before the learned District Judge, Dinajpur challenging the Order dated 29.08.2011 passed by the learned Assistant Judge, Hakimpur, Dinajpur in Other Class Suit No. 32 of 2001 and the learned District Judge, Dinajpur rejected the aforesaid Civil Revision No. 62 of 2011 by his Judgment and

Order dated 26.01.2012 and hence the plaintiff-petitioner moved this application before this Court under Section 115(4) of the Code of Civil Procedure and leave was granted.

Mr. Abdul Baten, the learned Advocate for the petitioner, submits that the present petitioner as plaintiff filed an application praying for handwriting expert's report but the learned Judge ordered that the application will be disposed of after pre-emptory hearing if necessary which is illegal. He then submits that as per our Apex Court it is incumbent upon every Court to dispose of any application placed before it for consideration. He further submits that an application filed by any party may be allowed, rejected or disposed of but cannot be simply ignored.

On the other hand Mr. Anup Kumar Saha, the learned Advocate for the defendant-opposite party, submits that the petitioner prayed for handwriting expert's report regarding (i) inconsistency of the signatures of Sub-Registrar, Fulbari as present in Sale Deed No. 10646 dated 30.04.1970 and 3688 dated 16.03.1973, (ii) inconsistency of the signature of Sree Ajit Kumar Basak as present in all pages of Sale Deed No. 10646 dated 30.04.1970 and (iii) inconsistency of the signature of witness Mozaffar as present in page Nos. 2 and 4 of Sale Deed No. 10643 but falsehood or genuineness of a deed cannot be decided on the

basis of inconsistency of the signatures of the vendor present in the impugned deed, rather the signatures of the vendor of the impugned deed have to be compared with the other specimen signatures of the vendor which is absent from the present case and as such the civil revision is liable to be rejected.

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

Considering the facts and circumstances of the case, the learned Trial Court is directed to conclude the trial of the suit within 06 (six) months from the date of receipt of a copy of this judgment. In the meantime, the Trial Court is also directed to procure handwriting expert's report as per prayer of the plaintiff-petitioner dated 07.3.2007 from the concerned authority within 06 (six) weeks from the date of receipt of a copy of this judgment.

**In the result, the Rule is disposed of.**

Communicate this judgment to the Court below at once.