

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

Present:

Mr. Justice Muhammad Abdul Hafiz

CIVIL REVISION NO. 2348 OF 2019

K. M. Azizul Islam and another
Plaintiffs-Respondents-Petitioners

Versus

Md. Saidur Rahman Kagoji and others
Defendants-Appellants-Opposite Parties

Md. Saiful Islam, Advocate
for the plaintiffs-respondents-petitioners

Ms. Salina Akter, Advocate
for the defendants-appellants-opposite party
Nos. 1-2

Judgment on 24.7.2022

This Rule was issued calling upon the opposite party Nos. 1-2 to show cause as to why the impugned Judgment and Order dated 10.7.2019 passed by the learned Additional District Judge, 1st Court, Khulna in Miscellaneous Appeal No. 15 of 2019 allowing the appeal and thereby reversing the Judgment and Order dated 27.3.2019 passed by the learned Senior Assistant Judge, Paikgacha, Khulna in Other Class Suit No. 36 of 2019 allowing the application for temporary injunction 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 plaintiffs' case and the written objection have been narrated in details in this Revisional Application.

The learned Senior Assistant Judge, Paikgacha, Khulna allowed the application for temporary injunction by its Judgment and Order dated 27.3.2019. Against the said Judgment and Order the defendants-opposite party Nos. 1-2 as appellants preferred appeal being Miscellaneous Appeal No. 15 of 2019 before the Court of learned District Judge, Khulna which was transferred to the learned Additional District Judge, 1st Court, Khulna who allowed the appeal on 17.10.2019 and thereby reversing the Judgment and Order of the Trial Court and hence the plaintiffs-respondents as petitioners moved this application under section 115 (1) of the Code of Civil Procedure before this Court and obtained this Rule.

Mr. Md. Saiful Islam, learned Advocate for the plaintiffs-respondents-petitioners submits that the Trial Court rightly allowed the application for temporary injunction holding that the plaintiffs petitioners have been able to prove prima-facie title and possession of the suit land and the findings of the Trial Court to this effects are as follow- “নালিশী ভূমিতে বাদী পক্ষই ঘেরের মাধ্যমে দখলকৃত অবস্থায় আছেন।” He then submits that the impugned Judgment and order passed by the Appellate Court below is not a proper judgment of

reversal according to Order 41 rule 31 of the Code of Civil Procedure which is liable to be set aside.

Ms. Salina Akter, the learned Advocate for the defendants-appellants-opposite party Nos. 1-2, opposes the Rule and submits that the Appellate Court below rightly disallowed the appeal as the suit land is vague and unspecific.

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

The petitioners as plaintiffs filed a suit for permanent injunction and during pendency of the suit they filed an application for temporary injunction under Order 39 rule 1 and 2 read with section 151 of the Code of Civil Procedure but it appears from the record that the suit land is vague and unspecific and thus the Appellate Court below rightly disallowed the appeal.

Considering the facts and circumstances of the case I find no substances in the Rule.

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

The impugned Judgment and Order dated 10.7.2019 passed by the learned Additional District Judge, 1st Judge, Khulna in Miscellaneous Appeal No. 15 of 2019 allowing the appeal and thereby reversing the Judgment and Order dated 27.3.2019 passed by the learned Senior Assistant Judge, Paikgacha, Khulna in Other

Class Suit No. 36 of 2019 allowing the application for temporary injunction is hereby set aside.

The order of status-quo granted earlier by this Court is hereby vacated.

The learned Trial Court is directed to conclude the Trial within 06 (six) months from the date of receipt of the copy of this judgment.

Send a copy of this judgment to the Court below at once.