

IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(CIVIL REVISIONAL JURISDICTION)

Civil Revision No. 1220 of 2021

Tofayel Ahmed, son of late Ali Ahmed, 64
Zoynagar, Line -2, College Road, Post Office-
Chakbazar-4203, Police Station- Kotwali (At
present-Chakbazar) District- Chittagong.
Represented by his appointed Attorney-
Mostak Ahmed, son of Tofayel Ahmed,
Mother's name-Nowbahar Begum, 64
Zoynagar, Post Office- Chakbazar-4203,
Police Station- Kotwali (at present Chakbazar)
District- Chattogram.

...Petitioner

-Versus-

Renu Ara Begum, wife of late Md. Abdul
Mabud and others.

..... Opposite parties

No one appears.

.....For the Respective Parties

Heard and Judgment on 04.01.2024

Present:

Mr. Justice Muhammad Mahbub Ul Islam

This is an application under section 115(4) of the Code of Civil
Procedure against the judgment and order dated 06.05.2021 passed by
the learned District Judge, Chattogram (Virtual Adalat) in Civil Revision
No.94 of 2021 and thereby stayed the operation of the Order No.05
dated 29.03.2021 passed by the learned Joint District Judge, 1st court,

Chattogram in Other Class (Partition) Suit No.09 of 2021, pending in the said court for disposal.

On that, this Court issued a Rule under the following terms:

“Let a Rule be issued calling upon the opposite party Nos.1-9 to show cause as to why the impugned judgment and order dated 06.05.2021 passed by the learned District Judge, Chattogram (Virtual Adalat) in Civil Revision No. 94 of 2021 staying operation of the Order No.05 dated 29.03.2021 passed by the learned Joint District Judge, 1st court, Chattogram in Other Class (Partition) Suit No. 09 of 2021 should not be set aside and/or pass such other or further order or orders as to this Court may seem fit and proper. ”

Facts relevant for disposal of the rule, inter-alia, in short, are that one Tofayel Ahmed, son of late Ali Ahmed instituted above mentioned Title Suit (Partition) for getting degree in the schedule mentioned property as his saham 0.290 for 00290 decimals of land against the defendants. After filing the partition suit, the plaintiff-opposite party filed a petition under Order 39 Rules 1/2 and 5A(2) read with section 151 of the Code of Civil Procedure for temporary injunction. It appears that a show cause notice was issued upon the defendants but by this time the plaintiff-petitioner further filed a petition under Order 39 Rule 5A(2) read with Section 151 of the Code of Civil Procedure and on that petition sought an ad-interim injunction against the defendants not to dispose him from the suit land. Pursuant thereto, the learned Joint District Judge, 1st court, Chattogram passed the order for maintaining status-quo by 1st

party and 3rd party defendants till disposal of the temporary injunction petition.

Being aggrieved, the defendants-applicants filed a revisional application before the learned District Judge, Chattogram for setting aside the order of the learned Joint District Judge, Chattogram dated 29.03.2021. The learned District Judge, Chattogram after hearing, stayed further operation of the impugned order of the learned Joint District Judge, 1st court, Chattogram till next date.

Being aggrieved, the defendant-applicants preferred this revisional application under section 115(4) of the Code of Civil Procedure before this Court.

Examined the record, the relevant orders and the other papers. It appears that the original suit was filed for a partition and the plaintiff prayed to get a saham in the suit property. It further appears that a petition for temporary injunction against the defendants under Order 39 Rules 1/2 and 5A(2) read with section 151 of the Code of Civil Procedure also filed by the plaintiff on 10.01.2021 and the learned Joint District Judge, Chattogram, on that, passed an order of the show cause against the defendant on 29.03.2021. Thereafter, due to delay of hearing, apprehending dispossession and other grounds the plaintiff on the light of that petition of temporary injunction further filed an application on 24.03.2021 under Section 151 of the Code of Civil Procedure. The learned Joint District Judge, Chattogram considering the prevailing facts and circumstances allowed the said application with modification invoking power under Section 151 of the Code of Civil Procedure and

directed the plaintiff and 1st party defendants and 3rd party defendants to maintain status-quo in respect of changing nature and character and transfer of the property in question till hearing the temporary injunction petition. Against that order the 1st party defendants and 3rd party defendants as petitioners filed Civil Revision No.94 of 2021 under Section 115(2) of the Code of Civil Procedure to the court of learned District Judge, Chattogram. The learned District Judge stayed the operation of the impugned order on 06.05.2021 of the learned Joint District Judge till next fixed date.

In view of above discussion, it appears that the order dated 29.03.2021 of the learned Joint District Judge is a harmless order for both the sides of the suit that to maintain status-quo in respect of possession, transfer etc. as alleged in the modified form upon both the sides till disposal of the petition of Temporary Injunction.

On revision to learned District Judge, who stayed the order for till next date of the suit fixed in the trial court, so it is for a very short period. The plaintiff revisional applicant has had much more scope to dispose the petition on merit.

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

Let the order of stay as well as status-quo granted earlier by this Court, is hereby stands vacated.

Communicate the order at once.