

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

Present:

Mr. Justice S M Kuddus Zaman

And

Ms. Justice Tamanna Rahman Khalidi

First Appeal No.136 of 2017

With

Civil Rule No.333(F) of 2013

The Civil Engineer's Ltd,
represented by its Managing Director,
Engineer Md. Atiqur Rahman, Gulshan, Dhaka.
....Appellant

-Versus-

Rowshan Ara Akter and others

... Respondents

Mr. Abdul Khaleque, Advocate

... For the appellant.

Mr. Md. Khalilur Rahman, Senior Advocate

... For the respondent Nos.1-13.

Heard on 03.02.2026 and Judgment on 24.02.2026.

S M Kuddus Zaman, J:

This First Appeal is directed against the judgment and decree dated 19.04.2017 passed by the learned Joint District Judge and Arbitration Court, Dhaka in Title Suit No.175 of 2016.

In this First Appeal the appellant filed an application for an order of temporary injunction and on that application Civil Rule No.333(F) of 2017 was issued. Above Civil Rule is also heard and being disposed of by this single judgment.

Facts in short are that opposite party Nos.1-13 as the lawful owners and possessors of 43.29 decimal land executed and registered 12 irrevocable general power of attorney deeds with the petitioner on 07.07.2009 for construction of a commercial cum residential complex and they authorized the petitioner to sale the apartments or space of his share along with undemarcated land. Clause 14 of above irrevocable general power of attorney deeds provide for arbitration for settlement of any dispute out of above contract. The opposite parties issued legal notice to the petitioner on 15.10.2012 for payment of signing money at the market price of above land and execute a deed of agreement within 30 days failing which above deeds of power of attorney will be cancelled. The petitioner having not responded to above notice or redress redress their grievances the opposite parties cancelled above irrevocable deed of power of attorney on 26.12.2012. Challenging the legality and propriety of above cancellation of power attorney deeds opposite parties as plaintiff instituted Civil Suit No.311 of 2013 in the 2nd Court of Joint District Judge, Dhaka. Opposite parties as defendants entered appearance in above suit and submitted a petition under Order 7 Rule 11Ga of the Code of Civil Procedure for rejection of plaint alleging that Clause 14 of irrevocable above power of attorney deeds dated 07.07.2009 provide for arbitration for settlement of any dispute arising out of above deed but the plaintiff instead of initiating

arbitration proceeding most illegally filed above suit which is not tenable in law.

The learned Joint District Judge allowed above petition under Order 7 Rule 11 of the Code of Civil Procedure and rejected the plaint vide impugned judgment and decree dated 19.04.2017.

Being aggrieved by and dissatisfied with above judgment and decree above plaintiff as appellant moved to this Court and preferred this First Appeal.

Mr. Md. Abdul Khaleque, learned Advocate for the appellant submits that the defendants executed and registered irrevocable general power of attorney deeds on 07.07.2009 on receipt of Taka 2,00,000/- each for constructing a commercial and residential complex. Clause 14 of above deeds provide for arbitration for settlement of any dispute arising out of above deeds of power of attorney. The defendants instead of initiating arbitration proceeding most illegally cancelled above deeds of irrevocable general power of attorney dated 07.07.2009. As such the plaintiff filed above suit for cancellation of above revocation deeds but the learned Joint District Judge failed to appreciate above materials on record and most illegally rejected the plaint which is not tenable in law.

On the other hand Mr. Khalilur Rahman, learned Senior Advocate for the respondent Nos.1-13 submits that the defendants submitted above petition under Order 7 Rule 11(Ka) and Section 151 of the Code

of Civil Procedure for rejection of plaint in view of the fact that Clause 14 of above deeds of irrevocable general power of attorney provides for arbitration for settlement of any dispute arising out of above deeds. The defendants revoked above deeds of power of attorney due to failure of the plaintiff to pay signing money at the rate of market price of above land and execution of property development agreement. The plaintiff challenged above lawful action of the defendants by filing above suit in a Civil Court which had no jurisdiction to entertain any suit involving above dispute. The learned Judge of the trial Court on correct appreciation of above materials on record rightly rejected above plaint which calls for no interference.

We have considered the submissions of the learned Advocates for the respective parties and carefully examined all materials on record.

It is admitted that the 13 opposite parties who are the lawful owners and possessors of dispute land on receipt of Taka 2,00,000/- each executed and registered 12 separate of irrevocable general power of attorney deeds authorizing the petitioner for construction of a commercial and residential complex and empowered the plaintiff to sale his proportional share in above property. It is also admitted that Clause 14 of above deeds of irrevocable general power of attorney provides for arbitration for settlement of any dispute arising out above deed. It is also admitted that the defendants unilaterally revoked all 12 deeds of power of attorney by executing and registering 12 revocation

deed on 26.12.2012 and the petitioner as plaintiff filed Title Suit No.311 of 2013 challenging the legality of above revocation of irrevocable general power of attorney deeds. The Arbitration Act, 2000 is a Special Law and Section 7 of the Act excludes the jurisdiction of a Civil Court to entertain any Suit in respect of a dispute which the parties thereto had agreed for settlement through arbitration. The arbitration clause excludes the jurisdiction of Civil Court and the party feels aggrieved must initiate arbitration proceedings. The Arbitration Act, 2001 regulates the arbitrating proceedings in Bangladesh and allows limited intervening jurisdiction to Civil Court in terms of appointment of arbitrator or Chairman, cancellation or implementation of the award if any party fails to perform his duty or obligation under above Act.

It is admitted that each of the opposite parties received Taka 2,00,000/- as the signing money or consideration of above deeds of power of attorney and agreed to arbitration for settlement of any dispute arising out of above deeds. As such the defendants had no legal competence to unilaterally cancel above bilateral deeds by passing arbitration provision. The defendants should have initiated arbitration proceedings by issuing notice for arbitration under Section 12 of the Arbitration Act, 2001 instead of cancelling above deeds unilaterally.

The petitioner also committed identical error and after alleged unilateral revocation of above bilateral deeds of power of attorney instead of initiating an arbitration proceeding under Section 12 of the

Arbitration Act, 2001 moved to the a Civil Court who had no jurisdiction to entertain a suit involving above dispute. Above disputes and grievances of the parties having arisen out of above irrevocable general power of attorney deeds dated 07.07.2009 those disputes fall within the jurisdiction of the arbitral Tribunal constituted under the Arbitration Act, 2001.

In above view of the facts and circumstances of the case and materials on record we are unable to find any illegality or irregularity in the impugned judgment and decree passed by the learned Joint District Judge nor we find any substances in this First Appeal which is liable to be dismissed.

In the result, this First Appeal is dismissed. Connecting Civil Rule 333(f) of 2017 is accordingly disposed of.

However, there is no order as to cost.

Send down the lower Court's record immediately.

Tamanna Rahman Khalidi, J:

I agree.