

Present:

Mr. Justice Sheikh Abdul Awal

and

Mr. Justice S.M. Iftekhar Uddin Mahamud

First Miscellaneous Appeal No. 63 of 2008

In the Matter of:

Memorandum of appeal from the original order.

-and-

In the Matter of:

Nowab Court of Wards, represented by its Manager, Land Reform Board.

.....Defendant No.1-appellant.

-Versus-

Md. Zillur Rahman and others

.....Plaintiff-respondents.

Mr. Md. Tasadder Raihan Khan, Advocate
..... For the appellant.

Mr. Md. Humaun Kabir with

Mr. Mohammed Kawsar, Advocate.

.....For the proforma-respondent No. 4.

Heard on 19.02.2026, 22.02.2026 and

Judgment on 23.02.2026.

Sheikh Abdul Awal, J:

This First Miscellaneous Appeal at the instance of the defendant-appellant is directed against the judgment and order dated 25.05.2006 passed by the learned Joint District Judge,

Additional Court, Dhaka in Title Suit No. 122 of 2004 granting status-quo till disposal of the suit.

Facts of the case in brief is that the respondent Nos. 1-2 as plaintiff filed Title Suit No. 122 of 2004 in the Court of the learned Joint District Judge, Additional Court, Dhaka praying a decree for declaration of title and permanent injunction.

Thereafter, while the suit was in progress the plaintiff-appellants on 20.10.1995 filed an application under Order XXXIX, Rule 1 and 2 read with section 151 of the Code of Civil Procedure for temporary injunction restraining the defendants from disturbing the peaceful possession of the plaintiff.

The learned Joint District Judge, Additional Court, Dhaka upon hearing the parties by his order dated 25.05.2006 passed an order of status-quo in respect of possession of the suit land till disposal of the suit.

Being aggrieved by the aforesaid impugned order dated 25.05.2006 passed by the learned the then Joint District Judge the defendant No.1 as appellant filed this First Miscellaneous Appeal.

The case of the defendant No.1-appellant in short is that the original owner of suit land was Zamindar Nawab Ahsan Ullah after his death to maintenance and management the whole land of zamindar Ahsan Ullah declared "disqualified property" as per courts of wards Act, 1879 under section 6(e). In this situation then government on 10.08.1907 published gazette accruing all the Zamindary property of Nawab Ahsanullah. Thereafter, the government took over the maintenance and management of the property under section 6 of the court of wards Act and the Government Administer collected Revenue to lease out the property by year to year basis in the year

1989 court of wards Nawab Estate comes under Bhumi Reform Board.

On the other hand pro-forma defendant respondent No.4 entered appearance in the appeal and contested the first miscellaneous appeal.

The case of the pro-forma defendant respondent No.4 in brief is that the Forest Department has become owner and possessor of the suit land vide Gazette Notification No. 3125 dated 13.04.1955 under section 4 of the Forest Act, 1927 and Dacca Gazette, Part II, dated 04.07.1957 under section 6 of the Act as "reserved forest". The Courts of Wards does not have any right, title and possession in the suit land after publication of the said gazette notifications. The predecessor of the plaintiff admittedly purchased the suit land vide an unregistered deed on 04.03.1963. A sale deed is a compulsory registrable document as per Section 17 of the Registration Act, 1908. Accordingly, if a registrable document is not registered, it will have no legal effect under Section 49 of the Registration Act, 1908 inasmuch as it cannot be used to create, declare, assign, limit, or extinguish any right, title, or interest in the property. Since, the suit land was already declared as reserved forest on 13.04.1955. Therefore, after declaration of the suit land as "reserved forest", execution of any subsequent deed is invalid in the eye of law. The plaintiff has failed to prove prima facie right, title and ownership in the suit land. He is a mere illegal occupant. The suit land along with other land i has been duly recorded in BS Khatian no. 2 in the name of the Forest Department and the Forest Department has been paying land tax accordingly for the suit land.

Mr. Md. Tasadder Raihan Khan, the learned Advocate appearing for the appellant submits that the defendants claiming the suit property on the basis of an unregistered deed and they failed to establish their prima-facie case over the suit land. The plaintiffs have/had no right, title and possession in the suit land

and due to the order of status-quo the defendant-appellant has been facing various problems specially to give year to year lease and as such the order of status-quo passed by the learned Joint District Judge is liable to be set-aside for the ends of justice.

Mr. Md. Humaun Kabir, the learned Advocate appearing for the pro-forma respondent No.4, on the other hand, submits that the suit land is admittedly acquired by a gazette notification which is land of reserved forest and that the plaintiff or any third person have/had no right, title and possession over the suit land. The learned Advocate further submits that due to order of status-quo the forest department has been suffering very much problem as to control over the reserved land. He adds B.S. khatian has been prepared in the name of forest department and it is on record that the forest department has been paying rent to the Government and that the plaintiffs do not deserve to get any order of status-quo.

No one found present to press on behalf of the plaintiff-respondents.

Heard the learned Advocate for the defendant No.1-appellant and the learned Advocate for the defendant pro-forma respondent No.4 and having gone through the materials on record and other relevant documents as placed before this Court.

On perusal of the record, it appears that order of status-quo passed on 25.05.2006 and the same has been continuing till today. It further appeal that the original suit is still pending for pre-emptory hearing. Since status-quo has been passed long 20 years back in a suit of this nature filed for declaration of title and permanent injunction in the suit land, we are not inclined to disturb the order of status-quo

particularly for a period of 4 (four) months from the date of receipt of this order.

In the attending facts and circumstance we are inclined to direct the trial Court to hear and dispose of the case within a period of 4 (four) months from the date of receipt of this order, failing which the order of status-quo granted by the Court below stands vacated.

In the result, the appeal is disposed of in the above manner. The trial Court concerned is directed to dispose of this old suit within 4(four) months from the date of receipt of this order.

Communicate this order at once.

S.M. Iftekahar Uddin Mahamud, J:

I agree.