

Present:
Mr. Justice Sheikh Abdul Awal
and
Mr. Justice Md. Rafizul Islam

First Miscellaneous Appeal No. 23 of 2004

In the Matter of:

Nurul Islam Sikder and others

.....Plaintiff-appellants.

-Versus-

Government of the People's Republic of
Bangladesh, represented by the Deputy
Commissioner, Barisal and others.

..... Defendant- respondents.

No one appears

.....For the appellants

Mr. Abdul Mannan Abid, D.A.G. with
Mrs. Papia Sultana, A.A.G

.....For the Defendant-respondents.

Judgment on 17.06.2026

Sheikh Abdul Awal, J:

This First Miscellaneous Appeal is directed against the order dated 08.07.2002 passed by the learned Joint District Judge, 3rd Court, Barisal in Title Suit No. 8 of 2002 rejecting an application for temporary injunction under Order 39, Rule 1 and 2 read with section 151 of the Code of Civil Procedure.

The short fact of the case is that the appellants as plaintiffs instituted Title Suit No. 17 of 2002 in the Court of the learned Joint District Judge, 1st. Court, Barisal for declaration of title in the suit land as described in the schedule of the plaint.

Subsequently, the suit was renumbered as Title Suit No. 8 of 2002 on transfer in the Court of the learned Joint District Judge, 3rd Court, Barisal.

Thereafter, while the suit was in progress the plaintiffs filed an application for temporary injunction under Order 39, Rule 1 and 2 read with section 151 of the Code of Civil Procedure against the Government respondents.

The learned Joint District Judge, 3rd Court, Barisal by the impugned order dated 08.07.2002 rejected the application on the findings that the suit land is unspecified land and there is no prima-facie case in favour of the plaintiffs

Aggrieved thereby the plaintiffs preferred this First Miscellaneous Appeal before this Court.

No one appears to press the Appeal on repeated calls.

In view of the fact that this petty old First Miscellaneous Appeal of 2004 has been dragging before this Court over a period of 20 years arising out of an order, we are inclined to take it up for disposal on merit perusing the available materials on record.

On scrutiny of the record, it appears that plaintiffs filed the case for declaration of title in the suit land as described in the schedule of the plaint. The learned trial Judge after a detailed discussions arrived at a finding that plaintiffs having failed to established a prima-facie case in their favour and the suit land is unspecified one.

On a query from the Court learned Assistant Attorney General Mrs. Papia Sultana could not submit anything as to the present position of this old suit, whether the suit is still pending or disposed of.

On going through the available materials on record together with the impugned order, we find no flaw in the reasonings of the trial Court or any ground to assail the same. The impugned order appears to be well founded in law and facts. No interference, is therefore, called for.

In the result, the First Miscellaneous appeal is dismissed without any order as to costs. Since the First Miscellaneous Appeal is dismissed, the connected Rule being Civil Rule No. 387(FM) of 2002 is discharged. The order of status-quo granted earlier by this Court stands vacated. Since the suit is an old one of 2002, the trial Court concerned is directed to dispose of the suit expeditiously preferably within a period of 4 (four) months from the date of receipt of this judgment, if any.

Communicate this order at once.

Md. Rafizul Islam, J:

I agree.