

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

Present:

Mr. Justice Md. Jahangir Hossain.

Civil Revision No.205 of 2021.

Sham Debnath and others

.....Petitioners.

Vs.

Shamol Debnath and others

..... Opposite-Parties.

Mr. Shakawat Hossain, Advocate for

Mr. Ujjal Kumar Roy, Advocate.

..... For the petitioners.

Mr. A.S. Md. Ramzan Khan, Advocate

.....For the opposite parties.

Heard on 21.04.2024 and

Judgment on 22nd April -2024.

This Civil Revision No. 205 of 2021 has been filed under Section 115(1) of the Code of Civil Procedure.

The Rule was issued on 14.01.2021 which was as bellows:

The delay of 10 (ten) days in filing the revisional application is hereby condoned subject to raise valid objection at the time of hearing.

“Let a Rule be issued calling upon the opposite parties to show cause as to why the judgment and order dated 29.01.2020 passed by the learned District Judge, Patuakhali in Civil Revision No. 33 of 2019 disallowing the Revision and thereby affirming the judgment and order dated 10.06.2019 passed by the learned Joint district Judge, 2nd Court, Patuakhali in Title Suit No. 45 of 2018 dismissing the suit

should not be set aside and /or such other or further order or orders passed as to this court may seem fit and proper.”

At the time of issuance of the Rule the operation of the judgment and order passed by the below court was stayed for a period of 06 (six) months. Thereafter the stay order was extended for till disposal of the Rule.

It transpire from the record that stay order granted by the both lower court was stayed by this High Court in this Civil Revision.

The learned Advocate for the petitioners Md. Shakawat Hossain submits that the learned court below on misreading and misconstruing the material evidence on record passed the impugned judgment and decree. The impugned judgment and order are not proper and the same is not sustainable in the eye of law. Lastly he submits the learned District Judge Patuakhali in Civil Revision No. 33 of 2019 disallowing the revision and affirming the order of learned Joint District Judge is unlawful and liable to be set aside. This court perused meticulously the revisional application filed by the petitioner.

I am unable to find out what are the statement in this revision application. There are so many mistakes in the application and the prayer portion in the application.

On the other hand learned Advocate for the opposite parties Mr. A.S. Md. Ramzan Khan in his submission stated that by making fraud practice this petitioner predecessor made a solenama in the title suit No. 48 of 1960 on 09.05.1960. In collusion and without knowledge of the predecessor of the opposite parties they made unlawful solenama and they made fraud practice

upon the court. Petitioner's predecessor were 05 brothers who are sons of Gurucharan Nath and Nabatara in collusion with each other made this solenama.

Upon such fact and circumstances the stay order granted by the trial court and the revisional court that is the learned District Judge of Patuakhali passed the impugned order correctly for the ends of justice. On perusal of the record it appears the plaintiff opposite party filed the said title suit approximately after 58 years in the Trial Court.

I have gone through the application of solenama in title suit No. 48 of 1960 and the order passed upon the solenama on 09.05.1960. It also transpired from those solenama and its order that there was some direction upon the correction of S.A record and other record which may examine on at the time of trial.

On the other hand it appears the original owner of the said property was present before the court and gave her deposition in favour of the plaintiff in Title Suit No. 48 of 1960

Upon such fact and circumstances it clearly shows that solenama judgment and decree was passed by the proper court in 1960. After filling such judgment the court below without considering the judgment of the proper court allowed the stay application and which was uphold by the appeal court without proper examine. The original matter and disputed question will be decided by the trial court after examine the documents and evidences. At this stage the justice will be meet if the order of stay is modified in the form of statusquo upon the property. The learned trial court is directed to dispose the original suit within 09 (nine) months after

receiving this order. Both the parties are directed to take all proper steps for disposal of the original suit without fail.

The trial is at liberty to dispose the Title Suit No. 45 of 2018 with its own process.

Upon such the Rule is disposed of.

Send down the L.C. record along with the copy of the judgment at once.