

Present:
Mr. Justice Md. Salim

CIVIL REVISION NO.631 OF 2021.

Ruhul Amin Sikder
..... *Petitioner.*

-VERSUS-

Mohammad Aiyub Khan and others.
..... *Opposite Parties.*

Mr. Md. Asgar Ali, Advocate
..... *For the Petitioner.*

No one appears
----- *For the opposite parties.*

Heard on 11.11.2024, 30.01.2025 and 13.02.2025

Judgment on 13.02.2025.

By this Rule, the opposite parties were called upon to show cause as to why the impugned judgment and order dated 14.01.2021 passed by the learned District Judge, Chattogram in Miscellaneous Case No.227 of 2018 rejecting the prayer of the petitioner for transfer of Other Suit No.49 of 2006 and Other Suit No.302 of 2008 from the Joint District Judge, 3rd Court, Sadar, Chattogram and other Suit No.119 of 2006 from the Senior Assistant Judge, Hathajari, Chattogram to any other competent Court for simultaneous hearing 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, in brief, for disposal of the Rule are that the opposite party No.1, as plaintiff, instituted Other Suit No.49 of 2006 before the Joint District Judge, 3rd Court Sadar, Chattogram, against the petitioner for cancellation of kabala. The opposite party No.1 as plaintiff also instituted Other Suit No.119 of 2006 before the Senior Assistant Judge, Hathazari, Chattogram against the petitioner and others for declaration of title of the suit land described in the schedule and execution of Heba No.293 dated 07.04.1996 is illegal, collusive and not binding upon the plaintiff. On the other hand, the present petitioner as plaintiff instituted Partition Suit No.302 of 2008 before the Joint District Judge, 3rd Court, Sadar, Chattogram, against the opposite party No.1 and others for partition.

During pendency of the above suits, on 07.11.2018 the petitioner filed Miscellaneous Case No.227 of 2018 before the District Judge, Chattogram under Section 24 of the Code of Civil Procedure for transfer of Other Suit No.49 of 2006 and Other Suit No.302 of 2008 from the Joint District Judge, 3rd Court, Sadar, Chattogram and Other Suit No.119 of 2006 from the Senior Assistant Judge,

Hathajari, Chattogram to any other competent court for simultaneous hearing.

The learned District Judge, Chattogram, disallowed the miscellaneous case by the judgment and order dated 14.01.2021.

Being aggrieved, the petitioner filed this Civil Revision under section 115(1) of the code of civil procedure and obtained the instant Rule.

Mr. Md. Asgar Ali, the learned advocate appearing on behalf of the petitioner, submits that all suits are instituted between the same parties, so different results may come if the suits are tried in various courts, which will cause a miscarriage of justice.

On the other hand, no one appears on behalf of the opposite parties.

I have anxiously considered the submission of the learned advocate and perused the impugned order. In order to substantiate the argument advance by the Bar, the relevant law may be quoted below:-

“Section 24 Code of Civil Procedure provided that

(1) On the application of any of the parties and after notice to the parties and after hearing such of them as desire to be heard, or of its own motion without such notice, the High Court Division or the District Court may at any time.

(a) transfer any suit, appeal, or other proceeding pending before it for trial or disposal to any Court subordinate to it and competent to try or dispose of the same.”

It manifests that with reasonable grounds, the High Court Division, or the District Judge, is empowered to transfer any suit, appeal, or other proceeding pending it for trial or disposal to any Court subordinate to it and competent to try or dispose of it.

Now, the question is whether the above circumstances justify the cases being transferred to another court, as prayed for by the petitioner. In order to transfer the suits to another court under the provision of section 24 of the Code of Civil Procedure, the following reported cases may be referred for proper disposal of the Rule.

Mohur Singh V. Ghuriba 15 W.R (P. C.)8 (at p.10)(A);

Jawahir Kumar Dev V. Naresh Chandra AIR 1920, Pat. 365: 1 Pat. L.T.389(B),

Naramma V. Rengamma MANU/TN/0360/1925: AIR 1926 Mad. 359 (C);

Khuaaja Ahac Shah V. Mt. Ayshan Begum MANU/ LA/ 0456/1923: AIR 1923 Lah 564(D);

Binode Behary Banerjee V. king-Emperor (MANU/BH/ 0106/1923: 5 Pat L. T. 63 : A I R 1925 Pat. 115)(E), and

Abdul Taher V. Abdul Kader @ others 36 DLR (1984) 306:
LEX/ BDHC/0160/1984.

In the above cases, the following grounds for transfer of a suit are well established:-

- (1) When the Superior Court is satisfied that the proceedings in one Court constitute an abuse of the process of the courts; (2) when it is clear that some prejudice has been created, and a fair hearing and an impartial adjudication could not be reasonably expected, even though such a state of things has been brought about by the conduct of the very party applying for the transfer; (4) if a party feels that he is not likely to have a fair trial before a particular court. In such a case, however, the reasonable apprehension on the part of the litigant should indeed receive consideration, but at the same time, the apprehension must be the same as a reasonable man might reasonably expect to have.

Considering the above, it manifests that if there any reasonable apprehensions born in the mind of a person for certain circumstances applying for transfer the suit that he would not receive fair dealings at his trial, or, in other words, that he may not have a fair and impartial trial and may not get

justice in the Court, where the suit is pending, the suit should be transferred.

In the instant case, I do not find any apprehension of the petitioner from the grounds taken for transferring the cases for trial simultaneous hearing. So, I am of the view that the decision of the learned District Judge does not suffer from any illegality, and as such, the impugned judgment and order does not require any interference by this Court exercising revisional power under section 115(1) of the Code of Civil Procedure. So, I do not find any merit in the Rule.

Resultantly, the Rule is discharged with cost.

The order of status-quo granted by this Court at the time of issuance of the Rule is stand vacated.

Communicate the order with the required copies at once.

(MD. SALIM, J).

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