

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

**Civil Revision No. 1301 of 2022**

**IN THE MATTER OF**

A.N.M Riad Uddin

.....Defendant No. 1-Petitioner

-Versus-

1. Advocate Ferdous Khanom Mukta

.....Plaintiff-Opposite party

2. Tahmina Khanom and others

.....Defendant Nos. 2, 3 & 4  
Pro-forma opposite parties

Mr. Md. Harun-Or-Rashid, Advocate

.....For the petitioner

Mr. Md. Wahiduzzaman Sohel, Advocate

.....For opposite party

**Heard on 02.11.2023 and judgment passed on 01.02.2024**

*Present:*

*Mr. Justice Kazi Md. Ejarul Haque Akondo*

**Kazi Md. Ejarul Haque Akondo, J.**

This Rule, under section 115(4) of the Code of Civil Procedure, 1908, was issued in the following terms:

*“Record need not be called for. Let a Rule be issued calling upon the opposite party to show cause as to why the impugned judgment and order dated 22.02.2022 passed by the learned Senior District Judge,*

*Dhaka in Civil Revision No. 131 of 2021 rejecting the same and thereby affirming the order No. 18 dated 28.10.2021 passed by the learned Joint District Judge, 5<sup>th</sup> Court, Dhaka in Title Suit No. 350 of 2020 for local commission should not be set aside and/or pass such other or further order or orders as to this Court may seem fit and proper.”*

The present opposite party No. 1 as the plaintiff filed Title Suit No. 350 of 2020 in the Court of Learned Joint District Judge, 5<sup>th</sup> Court, Dhaka imp leading the present petitioner and others as the defendants for partition.

During the pendency of the suit defendant No. 1 filed an application praying for temporary injunction and on receipt of notice of the same the plaintiff also filed an application for temporary injunction. After hearing both the applications analogously the learned Trial Judge passed an order of status quo on 10.02.2021 directing the parties to maintain in respect of possession and position of the suit land. Thereafter, the plaintiff further filed an application before the Trial Court praying for a

mandatory injunction on the allegation that the defendant violated the order of status quo and demolished the A scheduled tin-shed rooms, and constructing shops thereon. After hearing the said application the learned Trial Judge by his order dated 28.10.2001 directed the plaintiff to take the initiative for local inspection of the suit land and fixed the next date on 17.11.2021 for hearing of the application for mandatory injunction along with the local inspection report. Being aggrieved by the same defendant No. 1 preferred a civil revision before the learned District Judge, Dhaka, and the same was numbered as Civil Revision No. 131 of 2021. After hearing the same the learned Senior District Judge, Dhaka by his judgment and order dated 22.02.2022 rejected the revision summarily. Against which defendant No. 1 filed the instant civil revision before this Court and obtained the instant Rule.

Anyway, Mr. Md. Harun-Or-Rashid, the learned Advocate appearing for the defendant-petitioner submits that the learned Trial Judge without serving notice upon the defendant and giving him any opportunity of being heard passed the order on 28.10.2021 for local inspection and fixed the next date for hearing

the application for mandatory injunction along with the inspection report against which the defendant preferred a civil revision before the learned District Judge, Dhaka who without considering the facts and circumstances of the case erroneously passed the impugned judgment and order committing illegality occasioning failure of justice.

Conversely, Mr. Md. Wahiduzzaman Sohel, the learned Advocate appearing for plaintiff-opposite party No. 1 submits that the Trial Judge initially passed an order of status quo directing the parties to maintain in respect of the suit land but the defendant violated the order of status quo and then the plaintiff filed the application for a mandatory injunction and the learned Trial Judge after hearing the parties sent the matter for local inspection for the ends of justice and fixed the next date for the hearing of the application for mandatory injunction with the inspection report and thereby committed no illegality occasioning failure of justice.

He further submits that the learned Judge of the revisional Court below considering the facts and circumstances of the case and the materials on record rightly rejected the revision on

concurrent findings by affirming the order so passed by the learned Judge of the Trial Court and thereby committed no illegality to be interfered with.

Heard the learned Advocates of the contending parties and perused the materials on record. It appears that the present opposite party No. 1 as the plaintiff filed Title Suit No. 350 of 2020 in the Court of Learned Joint District Judge, 5<sup>th</sup> Court, Dhaka imp leading the present petitioner and others as the defendants for partition. During the pendency of the suit defendant No. 1 filed an application praying for a temporary injunction and on receipt of notice of the same the plaintiff also filed an application for a temporary injunction. After hearing both the applications analogously the learned Trial Judge passed an order of status quo on 10.02.2021 directing the parties to maintain concerning possession and position of the suit land. But thereafter, the plaintiff filed an application before the Trial Court praying for mandatory injunction alleging that the defendant violated the order of status quo, and after hearing the same the learned Trial Judge by his order dated 28.10.2001 directed the plaintiff to take initiative for local

inspection of the suit land for proper adjudication of the matter and fixed the next date on 17.11.2021 for hearing of the application for mandatory injunction along with the local inspection report. Being aggrieved by the same defendant No. 1 preferred a civil revision before the learned District Judge, Dhaka, who after hearing the parties by judgment and order dated 22.02.2022 rightly disallowed the revision by affirming those of the Trial Court on concurrent findings and thereby committed no error of an important question of law occasioning failure of justice. In the premises, there is no reason to interfere with the impugned judgment and order.

Given the above, I do not find any substance in the submissions made by the learned Advocate for the defendant-petitioner; rather, I find substance in the submissions made by the learned Advocate for the opposite party. Accordingly, the Rule fails.

As a result, the Rule is discharged without cost.

Stay vacated.

The impugned judgment and order dated 22.02.2022 passed by the learned Senior District Judge, Dhaka in Civil Revision No.

131 of 2021 disallowing the same by affirming order No. 18 dated 28.10.2021 passed by the learned Joint District Judge, 5<sup>th</sup> Court, Dhaka in Title Suit No. 350 of 2020 directing for local inspection is hereby affirmed.

Send a copy of this judgment to the Court concerned at once.

(TUHIN BO)