

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

Present:

Mr. Justice Zafar Ahmed

Civil Revision No. 3350 of 2022

Umme Kulsum (Sriti) and others

..... Defendant-petitioners

-Versus-

A.T.M. Jashimuddin being dead his heirs

A.H.M. Kamruzzaman (Apu) and others

..... Plaintiff-opposite parties

Mr. Sheikh Habib-Ul-Alam, Advocate

....for the petitioners

Mr. Md. Golam Samdani, with

Mr. Mohammad Mahabubur Rahman

(Kishore), Advocates

... for the opposite party No. 2

**Heard on: 11.11.2024, 25.11.2024 and
01.12.2024 Judgment on: 17.12.2024**

In the instant civil revisional application, this Court on 23.08.2022 issued a Rule calling upon the opposite parties to show cause as to why the judgment and order dated 21.06.2022 passed by the Additional District Judge, 8th Court, Dhaka in Civil Revision No. 73 of 2021 dismissing the said revision filed against the order No. 30 dated 23.08.2021 passed by the Joint District Judge, 2nd Court, Dhaka in Title Suit No. 513 of 2016

allowing the application for amendment of plaint should not be set aside.

At the time of issuance of the Rule, this Court passed an interim order staying operation of the judgment and order dated 21.06.2022.

When the Rule was taken up for hearing, Mr. Mahabubur Rahman, the learned Advocate appearing for the plaintiff-opposite parties, filed an application under Order 23 Rule 1 of the Code of Civil Procedure (CPC) for withdrawal of the suit. It is stated in the said application that during pendency of the suit, on 04.04.2021 the plaintiff filed an application for amendment of the plaint under Order VI rule 17 read with 151 of Section of the CPC and upon hearing the trial Court allowed the application on 23.08.2021. Being aggrieved, the defendant-petitioners preferred civil revision before the Court of learned Joint District Judge, 2nd Court, Dhaka and upon hearing the revisional Court below dismissed the revision on 21.06.2022 and thereby affirmed the order of the trial Court.

It is further stated that during the course of hearing of the instant civil revision, it appeared that the plaintiff should file a suit for eviction against the defendants as permissive possessors instead of suit for declaration of title and eviction as

illegal occupants and as such, the framing of the suit by the plaintiff in the lower Court was not correct and the suit suffers from formal defects which cannot be cured by way of amendment of plaint. In view of the facts and circumstances of the case, the plaintiff seeks permission to withdraw the Title Suit No. 513 of 2016 with liberty to sue afresh and also prays to dispose of the instant Civil Revision, otherwise, the applicants will suffer irreparable loss and injury.

On hearing the learned Advocates and perusal of the application for withdrawal of the suit, I find substance in the application. Accordingly, the same is allowed.

In the result, Title Suit No. 513 of 2016 of the 2nd Court of Joint District Judge, Dhaka is withdrawn with permission to sue afresh as per prayer of the plaintiff-opposite parties. The Rule is disposed of accordingly.