

Present:-

Mr. Justice Mahmudul Hoque

Civil Revision No. 1959 of 2022

Shilpi Rani Sarker

... Petitioner

-Versus-

Suranjit Sarker Manik and another

...Opposite-parties

Mr. Shishir Kanti Mazumder, Advocate

...For the petitioner

No one appears

...For the opposite-parties

Judgment on 23rd October, 2024.

On an application under Section 115(1) of the Code of Civil Procedure this Rule was issued at the instance of the petitioner calling upon the opposite party Nos. 1 and 2 to show cause as to why the judgment and order dated 26.01.2022 passed by the learned District Judge, Netrakona in Miscellaneous Appeal No. 55 of 2021 disallowing the appeal and thereby affirming the judgment and order dated 22.09.2021 passed by the learned Senior Assistant Judge, Sadar, Netrakona in Other Class Suit No. 977 of 2021 so far it relates to allowing the prayer for temporary injunction in modified form of maintaining status-quo by both the parties in respect of the suit property should not be set aside and/or pass such

other or further order or orders as to this Court may seem fit and proper.

Shorn of unnecessary details, fact of the case lies in a very short compus. The petitioner, as plaintiff, filed Other Class Suit No. 977 of 2021 in the Court of Senior Assistant Judge, Sadar, Netrakona against the opposite-parties, for a decree of permanent injunction in the following terms;

“(ক) নিম্ন তপছিল বর্ণিত দাবীর ভূমি তথা বাসা হই-ত বিবাদীপক্ষ যাহা-ত বাদীপক্ষ-ক বেদখল করি-ত না পা-র বা বাদিনীর স্বত্ব দখ-লর কোন বিঘ্ন সৃজন করি-ত না পা-র বা বিল্ডিং-এর নির্মাণ কা-জ বাধা প্রদান করি-ত না পা-র তৎম-র্ম বাদীপক্ষ অনুকূ-ল বিবাদীপক্ষ প্রতিকূ-ল স্থায়ী নিষেধাজ্ঞার ডিক্রি দিতে;”

On the very day of filing this suit, the plaintiff filed an application under Order 39 Rules 1 and 2 read with Section 151 of the Code of Civil Procedure praying for temporary injunction against the defendants in the same manner as prayed for in the plaint. The trial court at the first instance granted an order of ad-interim injunction.

The defendants field written objection against the application for injunction. The trial court after hearing both the parties by its

order dated 22.09.2021 allowed the application and passed an order directing both the parties to maintain status-quo modifying ad-interim order of injunction passed earlier by the Court against the defendants.

Being aggrieved by and dissatisfied with the judgment and order of the trial court, the plaintiff preferred Miscellaneous Appeal No. 55 of 2021 before the Court of learned District Judge, Netrakona who after hearing by the impugned judgment and order dated 26.01.2022 disallowed the appeal affirming the judgment and order passed by the trial court. At this juncture, the petitioner, moved this Court by filing this revision and obtained the present Rule and order of stay.

The opposite-party Nos. 1 and 2 though entered into appearance but did not file any counter-affidavit and opposed the Rule.

Mr. Shishir Kanti Mazumder, learned Advocate appearing for the petitioner submits that after obtaining Rule and order of stay the plaintiff got his building construction completed without any

obstruction and hindrances from any quarter as such, the very purpose of the plaintiff has been served. This is a suit for permanent injunction to prevent the defendants from dispossessing the plaintiff, obstructing construction of building in any manner. Since the cause of action and relief sought for has become redundant, no formal order restraining the defendants is required at this stage. He candidly submits that by disposing this Rule, the trial court may be directed to dispose of the suit in accordance with law.

In view of the above submissions of the learned Advocate for the petitioner, I think that the purpose of the parties will serve if the trial court is directed to dispose of the suit as early as possible by disposing the Rule.

Accordingly, the Rule is disposed of, however, without any order as to costs.

The trial court is hereby directed to dispose of the suit within a shortest possible time taking into consideration of the situations stated hereinabove, in accordance with law.

Order of stay stands vacated.

Communicate a copy of the judgment to the Court concerned
at once.

Helal-ABO