

Bench:

Mr. Justice Md. Ruhul Quddus

Civil Revision Number 3581 of 2022

Dipon Chandra Das and others

...Petitioners

-Versus-

Haradhan Chandra Das and another

... Opposite parties

Mr. Kanai Lal Saha, Advocate

... for the petitioners

Mr. Shahin Alam, Advocate

... for opposite party number 1

Judgment on 10.12.2024

This rule was issued at the instance of the plaintiff-petitioners challenging the judgment and order dated 16.06.2022 passed by the Joint District Judge, First Court, Feni in Miscellaneous Appeal Number 02 of 2018 allowing the same with modification on setting aside the order dated 29.11.2017 passed by the Senior Assistant Judge, Feni Sadar, Feni in Title Suit Number 29 of 2015 rejecting an application for temporary injunction filed by the defendant-opposite party number 1.

The plaintiff-petitioners instituted the suit for declaration that the exchange deed as described in Schedule-Ka of the plaint was null

and void, illegal, ineffective, collusive and not binding upon the plaintiff's land as described in Schedule-Kha of the plaint.

Defendant-opposite party number 1 has been contesting the suit by filing a written statement denying the plaintiffs' case. He also filed an application for temporary injunction for restraining the plaintiffs from selling the land, changing its nature and character and also from evicting him therefrom. Learned Senior Assistant Judge rejected the application by order dated 29.11.2017. Being aggrieved, he preferred Miscellaneous Appeal Number 2 of 2018 in the Court of District Judge, Feni. Learned Joint District Judge, First Court, Feni ultimately heard the appeal and allowed the same with modification of the impugned order directing the parties to maintain the status quo in respect of possession, sale and change of the nature and character of the suit land.

Mr. Kanai Lal Saha, learned advocate for the plaintiff-petitioners submits that the record of right is in favour of the plaintiffs, which is a document of possession, but the lower appellate court without considering the documents found *prima facie* case in favour of defendant number 1 and passed the order of status quo and thereby committed error of law.

Mr. Shahin Alam, learned advocate for opposite party number 1, on the other hand, submits that the defendant clearly pleaded his title and possession derived from the admitted owner Bhogoban Chandra Das through his via Jaminy Kumar Sarker. By the same

exchange deed, said Jamani Kumar Sarker is enjoying some other land belonged to Bhogoban Chandra Das. The preparation of record of right in favour of the plaintiffs is also under challenge before the Land Appeal Board. Where credible title documents are there in favour of defendant number 1, the so-called record of right cannot take away his lawful right, title and possession over the suit land. The rule is, therefore, liable to be discharged.

I have considered the submissions of the learned advocates and gone through the record. It appears that the lower appellate court on perusal of the documents, which are awaiting to be adduced in evidence in course of trial, passed the order of status quo in respect of possession, sale and change of the nature and character of the suit land, which appears to be an innocent order. Under the circumstances, I am of the view that this rule should be disposed of with a direction upon the trial court to conclude the hearing of the suit expeditiously.

Accordingly, the rule is disposed of. Learned Senior Assistant Judge, Feni Sadar, Feni is directed to dispose of the suit expeditiously preferably within six months from receipt of this order without granting unnecessary adjournment to either party.