

*Present:-*

*Mr. Justice Mahmudul Hoque*

**Civil Revision No. 622 of 2022**

Peninsula Fishing Limited on behalf of-In  
charge (HR & Admin) Mohammad Miron  
Khan

... Petitioner

-Versus-

Mohobbot Ali and others

...Opposite-parties

No one appeared.

...For the petitioner

Mr. Bazlur Rashid with

Mr. Pinto Lal Saha, Advocates

...For the opposite-party No. 1.

**Judgment on 4<sup>th</sup> February, 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 parties to show cause as to why the impugned judgment and order No. 10 dated 14.12.2021 passed by the learned Joint District Judge, 1<sup>st</sup> Court, Chattogram in Other Suit No. 285 of 2021 rejecting the application filed by the plaintiff under Section 151 of the Code of Civil Procedure seeking extension of status-quo (earlier granted on 24.10.2021 vide Order No. 1) in respect of the possession and transfer of the suit property till disposal of the application for temporary injunction should not be set aside and/or pass such other or further order or orders as to this Court may

seem fit and proper. At the time of issuance of the Rule this Court granted an order on 09.03.2022 directing both the parties to maintain status-quo.

The opposite-party, as plaintiff, filed Other Suit No. 285 of 2021 in the Court of Joint District Judge, 1<sup>st</sup> Court, Chattogram against the present petitioner, as defendant, for declaration of title, confirmation of possession, decree of permanent injunction along with other prayers. 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 defendant.

The trial court after hearing issued notice to show cause upon the defendant and pending hearing of the injunction application passed an order directing both the parties to maintain status-quo in respect of possession and transfer of the suit property for a limited period on 24.10.2021 in the following terms:

*“ইত্যবসরে অস্থায়ী নিষেধাজ্ঞার দরখাস্তের বিরুদ্ধে আপত্তি দাখিল পর্যন্ত সময়ের জন্য নালিশী সম্পত্তির দখল ও হস্তান্তর বিষয়ে স্থিতাবস্থা বজায় রাখার জন্য বাদী ও ১নং বিবাদীকে নির্দেশ দেয়া হলো। সত্বর তলবানা দাখিল করা হোক।”*

Thereafter, the plaintiff filed an application on 15.12.2021 under Section 151 of the Code of Civil Procedure praying for extension of order of status-quo till disposal of the suit along with other applications. The trial court heard all the applications filed by the plaintiff, such as, amendment of plaint and the application for extension of order of status-quo. The trial court by impugned order dated 14.12.2021 allowed the application for amendment of plaint, but refused to extend the order of status-quo on the ground of filing written objection against the application for injunction by defendant No. 1. At this juncture, the plaintiff-petitioner, moved this Court by filing this revisional application and obtained the present Rule and order of status-quo.

The opposite-party No. 1 though entered into appearance but did not file any counter-affidavit.

None appears to press the Rule.

Mr. Bazlur Rashid with Mr. Pinto Lal Saha, learned Advocates appearing for the opposite-party No. 1 submit that the entire matter is now pending for disposal before the trial court. The trial court

though granted an order of status-quo for a limited period of 30 days, when the opposite-party No. 1 filed written objection against application for injunction, the court fixed the matter for hearing on 13.01.2022, as such, the petitioner ought to have waited till hearing of the injunction application on merit but instead of get the application heard on merit the plaintiff only to delay disposal of the suit and harass the opposite-party-defendant moved this Court and obtained the Rule and order of status-quo. He submits that justice will be done instead of making the Rule absolute, if the trial court is directed to dispose of the suit as early as possible giving top most priority.

Heard the learned Advocates for the opposite-party No. 1, have gone through the revisional application, plaint, application for injunction, application for extension of order of status-quo and the impugned judgment and order passed by the trial court.

This is a suit for declaration of title, confirmation of possession, permanent injunction and other declaration to the effect that record of right wrongly prepared in the name of defendant. On the very day of filing this suit the plaintiff filed an application

praying for temporary injunction against the defendant No. 1 from disturbing with the peaceful possession and transferring the suit property. The trial court considering facts and circumstances of the case issued notice to show cause for 30 days upon the defendant No. 1 and passed an order directing the parties to maintain status-quo in respect of possession and transfer of the suit property for limited period till filing written objection. Thereafter, the plaintiff got their plaint and injunction application amended and also filed an application for extension of order of status-quo. The trial court allowed the application for amendment of plaint, but rejected the application for extension of status-quo on the ground of filing written objection by the defendant No. 1. Had the trial court extended the order of status-quo till hearing of the injunction matter on 13.01.2022, the matter in dispute would not have dragged further for 2 years more. The trial court while fixing the matter of injunction for hearing on 13.01.2022 ought to have extended the order of status-quo passed earlier to secure ends of justice by which both the party in litigation would not have affected. Because of rejection of application for extension of status-quo the plaintiff had to move this

Court by filing this revision and obtained the order of status-quo like the order passed by the trial court at the first instance which is still continuing. I feel that the opposite-party suffered no injury or the order is acting against his interest. Purpose of granting an order of status-quo is to keep the subject matter as it is till disposal of the injunction matter or till disposal of the suit. Since the order of status-quo passed by this Court is still in operation, I think that justice will be met and the purpose of the parties will be served if the trial court is directed to dispose of the suit within a shortest possible time, maintaining the order of status-quo granted by this Court at the time of issuance of the Rule.

It is to be noted that no order of stay has been passed by this Court staying further proceedings of the suit, but the trial court did not proceed with hearing of the suit by disposing the application for injunction or proceeding towards hearing of the suit on merit since 2001 which is not at all desirable from the trial court. The trial court should bear in mind that unless a proceeding of any suit is stayed by higher Court there is no impediment on his part to proceed with the proceeding and get the suit disposed of on merit as early as possible.

In view of the above, I am inclined to dispose of the Rule maintaining the order of status-quo with the following direction.

The trial court is hereby directed to dispose of the suit within 06(six) months from the date of receipt of this judgment and order positively without allowing any unreasonable adjournment to the parties.

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

The order of status-quo shall continue till disposal of the suit.

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