

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

Present:

Mr. Justice S M Kuddus Zaman

CIVIL REVISION NO. 5050 OF 2022

In the matter of:

An application under Section 115(1) of the Code of Civil Procedure.

And

Budha Gazi Mosque (Budha Gazi Mosque Waqf Estate,
Chattogram ... Petitioner

-Versus-

Mohammad Aminur Rahman and others
... Opposite parties

None appears

.... For the petitioner.

Mr. Shishir Kanti Mazumder, Advocate

.... For the opposite party Nos.1 and

15-20.

Heard and Judgment on 16.07.2023.

The Rule was issued calling upon the opposite party No.1 to show cause as to why the order No.1 dated 18.05.2022 passed by learned District Judge, Chattogram in Miscellaneous Appeal No.214 of 2022 staying the operation of the order and thereby reversing the order No.23 dated 03.03.2022 passed by the learned Senior Assistant Judge, 5th Court, Chattogram, in Other Suit No.218 of 2018 renumbered as Other Suit No.589 of 2021 allowing the application for temporary injunction under Order 39 Rule 1 and 2 of the Code of Civil Procedure.

Facts in short are that the petitioner as plaintiff instituted the Other Suit No.218 of 2018 renumbered as Other Suit No.589 of 2021 in the Court of Senior Assistant Judge, 5th Court, Chattogram for declaration of title for the disputed property and correction of record of right and for mutation. In above suit plaintiff filed a petition for an order of temporary injunction and on hearing of the learned Advocates for the both sides and on consideration of materials on record the learned Senior Assistant Judge passed an order of temporary injunction against the defendant vide order dated 03.03.2022.

Being aggrieved by above judgment and order of the Trial Court defendant preferred Miscellaneous Appeal No.214 of 2021 in the Court of District Judge, Chattagram who admitted the appeal and stayed above order of temporary injunction vide order No.1 dated 18.05.2022.

Being aggrieved by the judgment and order passed by the learned District Judge the plaintiff as petitioner moved to this Court and obtained this Rule and an order of status-quo.

No one appears on behalf of the petitioner when the Civil Revision was taken up for hearing although the Revision appeared in the list for hearing today.

Mr. Shishir Kanti Majumder, learned Advocate for the opposite party Nos.1 and 15-20 submits that the learned District Judge passed

the order of stay dated 18.05.2022 for a limited period until 18.08.2022. The plaintiff preferred this Civil Revision before this Court on 25.10.2022 and obtained an order of stay of the impugned order dated 18.05.2022 on 25.10.2022 when the operation of impugned order No.1 dated 18.05.2022 already expired. Since this revision and the order of admission and stay passed by this Court after the expiry of the operation of the impugned order dated 18.05.2022 passed by the learned District Judge, Chattogram in Miscellaneous Appeal No.214 of 2022 the instant Rule has become infructuous and the same is liable to be discharged.

I have considered the submissions of the learned Advocate for the opposite parties and carefully examined all materials on record .

The instant Rule was issued by this Court on 25.10.2022 calling in the question the legality of order dated 18.05.2022 passed by the learned District Judge, Chattogram staying order of temporary injunction passed by the learned Senior Assistant Judge, Chattgram. An order of stay was also passed by this Court on 25.10.2022 staying the operation of the impugned order dated 18.05.2022 passed the learned District Judge.

It turns out from record that the learned District Judge passed the impugned order of stay dated 18.05.2022 for a limited period until

18.08.2022. As such after expiry on 18.08.2022 the operation of impugned order No.1 dated 18.05.2022 of the learned District Judge and this Rule was issued by this Court on 25.10.2022 challenging the legality of above mentioned infractious order No.1 dated 18.05.2022 of the learned District Judge and an order of stay was also passed.

In view of above materials on record I hold that the instant Rule has become infructuous since the impugned order of the learned District Judge expired before the issuance of this Rule and the order of stay.

In the result, the Rule is discharged as being infructuous. The order of status-quo granted at the time of issuance of this Rule is hereby recalled and vacated.

The learned Senior Assistant Judge is directed to proceed with the trial of the case expeditiously.

Send down the lower Court's record immediately.

MD. MASUDUR RAHMAN
BENCH OFFICER