

Present:

MR. JUSTICE S.M. EMDADUL HOQUE

CIVIL REVISION NO. 5427 OF 2022.

IN THE MATTER OF:

An application under Section 115(4) of the Code of Civil Procedure.

- AND -

IN THE MATTER OF:

Md. Shafi Miah.

....Defendat-petitioner.

-Versus –

Taslima Begum and others.

....Plaintiff-opposite parties.

No one appears.

..... For the petitioner.

Mr. Rafiqul Islam, Advocate

..... For opposite parties.

Heard and Judgment on 05.06.2024.

On an application of the petitioner Md. Shafi Miah under section 115 (4) of the Code of Civil Procedure the leave was granted and a Rule was issued calling upon the opposite parties to show cause as to why the impugned order dated 06.09.2022 passed by the learned District Judge, Brahmanbaria in Civil Revision No. 11 of 222 allowing the application and thereby reversing the judgment and order 11.04.2022 passed by the Assistant Judge, Sorail, Brahmanbaria in Title Suit No. 76 of 2018 allowing an application for return of the plaint should not be set aside.

Facts necessary for disposal of the Rule, in short, is that the present opposite party Nos.1-8 as plaintiff instituted Title Suit No. 76 of 2018 before the court of Assistant Judge, Sorail, Brahmanbaria for partition of

the Ejmali property and for declaration that the judgment and decree passed in Title Suit No. 17 of 2017 is not binding upon the plaintiffs.

The defendant No.1 entered appeared in the suit and contested the suit by filing written statement denying all the material assertion made in the plaint.

The defendant No.1 the present petitioner filed an application on 10.03.2022 for returning back of the plaint for wants of duly pecuniary jurisdiction under Order VII Rule 10 of the code of civil procedure on the ground that the trial court has no such jurisdiction to hear the suit since the value of the suit is more than the pecuniary jurisdiction of the Trial court.

The trial court after hearing the parties and considering the facts and circumstances of the case allowed the application by its judgment and order dated 24.02.2022.

Against the said judgment and order of the trial court the plaintiff opposite parties filed Civil Revision No. 11 of 2022 before the learned District Judge, Brahmanbaria under section 115(2) of the code of civil procedure.

The revisional court after hearing the parties and considering the facts and circumstances of the case allowing the revisional application and setting aside the judgment and order of the trial court dated 11.04.2022 by its judgment and order dated 06.09.2022.

Being aggrieved by and dissatisfied with the impugned judgment and order of the revisional court the defendant petitioner filed this revisional application under Section 115(4) of the Code of Civil Procedure accordingly the leave was granted and a Rule was issued.

No one appears on behalf of the petitioner to press the revisional application. The matter has been posted in the daily cause list in a couple of days and since the revisional application against an order, thus I am inclined to dispose of the Rule on merit.

However, Mr. Md. Rafiqul Islam, the learned Advocate for Mr. Mohammad Baker Uddin Bhuiyan, Advocate appeared on behalf of the plaintiff-opposite-parties.

I have perused the impugned judgment and order of the courts below and the papers and documents as available on the record.

It appears that the trial court after consideration of the application of the defendant No.1 decided that the value of suit which was challenged by the aforesaid Title Suit No. 17 of 2017 was Tk. 1,50,000/- but as per report of Sub-Registrar of Sub-registry office the value would be Tk. 35,65,650/- and accordingly return back the plaint to file the case before the court having jurisdiction.

Against the said judgment and order of the trial court the plaintiff filed revisional application and the revisional court after considering the facts and circumstances of the case took view that the finding of the trial court is erroneous one and accordingly allowed the revisional application

by setting aside the judgment and order of the trial court. The revisional court also directed the trial court to dispose of the Title Suit No. 76 of 2018 expeditiously.

Considering the entire material facts of the case and the finding of the revisional court it is my view that the revisional court rightly passed the impugned judgment.

It also appears that in the meantime the pecuniary jurisdiction of the court has been changed by the amendment of the Act and considering the aforesaid facts now the trial court should dispose of the suit which valued up to 6,00,00,000/- (six core).

And if we considered the subsequent amendment the Civil Revision became infractious.

Considering the aforesaid facts and circumstances of the case the Rule is hereby discharged.

However, since this is a long pending case the trial court is directed to dispose of the suit as early as possible preferably within 6 (six) months from the date of received of this order in accordance with law.

The order of stay granted earlier by this court is hereby recalled and vacated.

Communicated the order at once.

M.R.