

District: Netrokona

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

Present

Mr. Justice Sardar Md. Rashed Jahangir

Civil Revision No. 5255 of 2022

In the matter of :

Md. Mojibur Rahman and another
... Petitioners

-Versus-

Md. Abdul Kadir and another
...Opposite parties

No one appears
...For the petitioners

Mr. Kanai Lal Saha, Advocate
...For the opposite parties

Heard on: 22.01.2025

Judgment on: 29.01.2025

Rule was issued on an application under section 115(1) of the Code of Civil Procedure calling upon the opposite parties to show cause as to why the judgment and order dated 15.06.2022 passed by the Joint District Judge, Second Court, Netrokona in Miscellaneous Appeal No. 36 of 2020, affirming those of dated 03.11.2020 passed by the Assistant Judge, Kendua, Netrokona in Other Class Suit No. 91 of 2020, allowing the application for

temporary injunction filed by the plaintiffs-opposite party Nos. 1 and 2 should not be set aside and/or such other or further order or orders as to this Court may seem fit and proper.

The present opposite party Nos. 1 and 2 being plaintiffs filed Other Class Suit No. 91 of 2020 before the Assistant Judge, Kendua, Netrokona impleading the present petitioners as defendants for permanent injunction. The plaintiffs also filed an application under Order XXXIX, rule 1 and 2 read with section 151 of the Code of Civil Procedure sought for an order of temporary injunction restraining the defendants from interfering into the peaceful possession of the plaintiffs. Defendant Nos. 1 and 2 contested the application by filing written objection. Learned Assistant Judge, Kendua, Netrokona upon hearing both the parties and on perusal of the application as well as the written objection being pleased allowed the application on 03.11.2020 restraining the defendant Nos. 1 and 2 from interfering into the peaceful possession of the plaintiffs or from dispossessing the plaintiffs from the suit land.

Having been aggrieved, the defendants preferred Miscellaneous Appeal No. 36 of 2020 before the District Judge, Netrokona. On transfer, the miscellaneous appeal was heard by the Joint District Judge, Second Court, Netrokona and by his judgment and order dated 15.06.2022 dismissed the appeal, affirming those of dated 03.11.2020 passed by the Assistant Judge, Kendua, Netrokona in Other Class Suit No. 91 of 2020.

On being aggrieved by and dissatisfied with the aforesaid judgment and order of learned Joint District Judge, the defendant Nos. 1 and 2 preferred this revisional application and obtained the Rule.

No one appears for the petitioners to defend the Rule.

On the other hand, Mr. Kanai Lal Saha, learned Advocate for the opposite parties submits that both the Courts below after hearing of the parties and on perusal of the plaint together with the submitted documents as well as the application for temporary injunction found prima-facie arguable case in favour of the plaintiffs-opposite parties and also found that the balance of convenience and inconvenience is in favour of the plaintiffs-

opposite parties and upon such consideration allowed the application for temporary injunction restraining the defendant-petitioners from interfering into the peaceful possession of the plaintiffs and or restraining the defendants from dispossessing the plaintiffs from the suit land and in view of the above, he prayed for discharging the Rule.

Heard learned Advocate for the opposite parties, perused the revisional application together with the annexures appended thereto.

Upon perusal, it appears that the present revisional application has been arisen out of an interlocutory order of temporary injunction granted by the trial Court under Order XXXIX, rule 1 and 2 read with section 151 of the Code of Civil Procedure with the finding that the plaintiffs are in possession in the suit property.

At the time of issuance of the Rule i.e. on 05.12.2022, this Court directed the parties to maintain status-quo in respect of possession and position of the suit land and the said ad-interim order still exists with it's full force.

It further appears that the original suit is one of permanent injunction and the same is pending for the last $4\frac{1}{2}$ years and as such, this Court is of the view that justice would be met for now, if a direction is given upon the trial Court to hear and dispose of the suit for permanent injunction expeditiously.

Accordingly, learned Assistant Judge, Kendua, Netrokona is hereby directed to hear and dispose of the Other Class Suit No. 91 of 2020 as early as possible without allowing any unnecessary adjournment.

In the meantime, the parties are directed to maintain status quo in respect of possession and position.

With the above direction, the Rule is disposed of without any order as to cost.

Communicate the judgment and order at once.