

Bench:

Mr. Justice Bhishmadev Chakrabortty

Civil Revision No. 6147 of 2022

Halim Sheikh and others petitioners

-Versus-

Begum Hamida Banu and others

..... opposite parties

Mr. Abul Kalam Azad, Advocate

..... for the petitioners

Mr. Purnindu Bikash Das with

Mr.. Ripon Barai and

Mr. Sanjoy Mandal, Advocates

..... for the opposite parties

Judgment on 30.05.2024

Bhishmadev Chakrabortty, J:

This rule was issued calling upon opposite party 1 to show cause as to why the judgment and order of the Joint District Judge, 2nd Court, Satkhira passed on 30.08.2022 in Miscellaneous Appeal No. 14 of 2022 dismissing the appeal affirming the judgment and order of the Assistant Judge, Shyamnagar, Satkhira passed on 08.02.2022 in Title Suit No. 05 of 2021 allowing the application for temporary injunction should not be set aside and/or such other or further order or orders passed to this Court may seem fit and proper.

Facts relevant for disposal of the rule, in brief, are that opposite party 1 herein as plaintiff instituted the suit praying for permanent injunction in respect of the land as described in schedule to the plaint. In the said suit he filed an application under Order 39 rule 1 and 2 of the Code of Civil Procedure restraining the defendants from entering

into the suit land, changing its nature of character and selling out the same. Defendants 1, 2, 3 and 7 resisted the application by filing written objection where they denied the claim of the plaintiff and stated that they got the suit land by way of inheritance from their forefathers and they are in possession of it. However, the learned Assistant Judge after hearing both the parties passed an order of temporary injunction restraining the defendants as prayed for. Against the aforesaid judgment and order, the defendants preferred appeal before the District Judge, Satkhira. The Joint District Judge, Second Court, Satkhira heard the appeal on transfer and dismissed it affirming the judgment and order passed by the Assistant judge. In this juncture, the defendants approach this Court with the revisional application and obtained this rule with an *interim* order directing the parties to maintain *status quo* in respect of possession and position in the suit land.

Mr. Abul Kalm Azad, learned Advocate for the petitioners takes me through the materials on record and submits that to get an order of temporary injunction in a suit for permanent injunction, the plaintiff is to describe the land specifically. But the statements made in the plaint, the schedule therein and schedule to the application for temporary injunction are dissimilar and as such the plaintiff is not entitled to get any sort of injunction. Both the Courts below committed error of law resulting in an error in such decision

occasioning failure of justice which is required to be interfered with by this Court in the revision.

Mr. Purnindhu Bikash Das, learned Advocate for opposite party 1 opposes the rule and submits that there may be typographical mistake in the schedule of the plaint as well as in the application for temporary injunction as to the plot numbers of the land. However, the trial Court granted temporary injunction finding *prima facie* arguable case of the plaintiff and balance of convenience and inconvenience in her favour relying on some registered documents and the appellate Court affirmed it.. The Courts below on correct assessment of fact and law restrained the defendants from entering, transferring and changing nature and character of the suit land, and as such the rule having no merit would be discharged. Mr. Das very candidly submits that by the order of *status quo* passed by this Court the possession of opposite party 1 in the suit land has been protected and as such this is a harmless order for him. The trial Court may be directed to dispose of the suit keeping the ad *interim* order passed by this Court intact.

We have heard the learned Advocates for both the side, perused the application and the impugned orders.

It appears that the Assistant Judge granted an order of temporary injunction in favour of the plaintiff and appellate Court affirmed it. The defendants then moved in this Court on 12.12.2022 and obtained this rule with an *interim* order of *status quo* in respect of

possession and position of the suit land for a period of 06 (six) months. The said order has been subsequently extended which still subsists. It appears that although an *status quo* order was passed by this Court on 12.12.2022 but the plaintiff-opposite party 1 did neither take any step to vacate the said order by filing an application to this Court nor preferred any appeal to the appellate division challenging the order. Therefore, it appears that opposite party 1 is not dissatisfied with the order of *status quo*. Mr. Das, learned Advocate for opposite party 1 also admits that actually the order of *status quo* passed by this Court caused no harm to his client because she is in possession of the suit land.

Considering the aforesaid facts, I find that justice would be best served, if the trial Court is directed to dispose of the suit expeditiously keeping the order of *status quo* passed by this Court as it is.

Therefore, the Assistant Judge, Shymnagar, Satkhira is directed to dispose of the aforesaid suit without 06 (six) months from the date receipt of this judgment and order. In disposing the suit the Court shall not allow either of the parties any adjournment without extreme necessity. In the meantime, the order to maintain *status quo* in respect of possession and position of the suit land passed by this Court shall operate.

With the aforesaid findings and directions the rule is accordingly disposed of.

Communicate this judgment and order to the Courts concerned.

Rajib