

Bench:

Mr. Justice Bhishmadev Chakrabortty

And

Mr. Justice Md. Akhtaruzzaman

First Misc Appeal No. 269 of 2022

With

Civil Rule No. 670 (fm) of 2022

Kaniz Fahmida Ahmed appellant

-Versus-

Farhad Rafi Uddin Ahmed and others

..... respondent

Mr. Suvra Chakraborty with

Mr. Md. Sumon Ali, Advocates

..... for the appellant

Mr. Ragib Rouf Chowdhury, Advocate

..... for the respondent 1

Judgment on 21.01.2024

Bhishmadev Chakrabortty, J.

Since in the appeal and the rule the parties are same and common question of fact and law are involved, these have been heard together and are being disposed by this judgment.

The miscellaneous appeal is directed against the judgment and order of the Joint District Judge, Court No. 1, Sariatpur passed on 11.10.2022 in Title Suit No. 16 of 2022 rejecting the appellant's application for temporary injunction.

At the time of admission of appeal, the appellants filed an application praying for temporary injunction restraining opposite parties 1 and 2 from changing the nature and character of suit land and transferring the same and obstructing the plaintiffs in the peaceful enjoyment of the land till disposal of the appeal. Upon which the

above rule was issued and an ad interim order directing the parties to maintain *status quo* in respect of the possession and position of the suit land and transfer of the same was passed. The aforesaid order of *status quo* still exists.

Facts relevant for disposal of the appeal as well as the rule, in brief, are that the plaintiff instituted the suit against the defendants praying for declaration of title and also for partition of the suit land as detailed to the schedule of the plaint claiming his *saham* to the extent of 2.11 acres. Defendants 1 and 2 appeared in the suit and filed written statement to contest it. During pending of the suit the plaintiff filed an application under order 39 rule 1 of the Code of Civil Procedure praying for temporary injunction restraining the defendants from creating any disturbance to the plaintiff over the suit land. Defendants opposed the application for temporary injunction by filing written objection. However, the learned Joint District Judge after hearing the parties by the judgment and order rejected the said application for temporary injunction. Against the aforesaid judgment and order the plaintiff filed the miscellaneous appeal and obtained this rule with an in order of *status quo* in respect of possession, position and transfer of the suit land.

Mr. Md. Sumon Ali, learned Advocate for the appellant as well as the petitioner of the rule submits that the order of *status quo* passed by this Court on 08.11.2022 is still in force. The respondents neither

take any step in the appellate division by filing an appeal challenging the aforesaid order nor filed any application in this Court for vacating the order. Therefore, justice would be met, if the appeal as well as the rule are disposed of with a direction to the trial Court to dispose of the suit expeditiously keeping the order passed by this Court as it is.

Mr. Ragib Rouf Chowdhury, learned Advocate for respondent 1 opposes the appeal and the rule. He submits that the learned Joint District Judge rejected the application for temporary injunction on merit finding no *prima facie* arguable case, and as such there is nothing to interfere with the said order.

We have considered the submissions of the learned Advocates for both the sides and gone through the materials on record.

It appears that the original suit was for declaration of title and partition. The plaintiff claimed *saham* to the extent of 2.11 acres as detailed to the schedule of the plaint. In that suit the plaintiff prayed for temporary injunction restraining the defendants from interfering with the plaintiff's peaceful possession over the suit land which was rejected. Against that order this appeal has been preferred.

At the time of admission of appeal, the plaintiff appellant filed an application in this Court and prayed for an order of temporary injunction. This Court passed an order directing the parties to maintain *status quo* in respect of possession and position and transfer of the suit land. The said order of *status quo* was passed on

08.11.2022 and subsequently extended till disposal of the rule. But the respondents did not take any step to challenge it before the appellate Division. They did neither file any application to this Court for vacating the order of *status quo* nor took any steps to get the rule heard.

Under the circumstances, we find that justice would be best served, if we direct the trial Court to dispose of the suit within a short span of time keeping the order of *status quo* passed by this Court as it is.

Therefore, the trial Court is directed to dispose of the suit expeditiously preferably within 01 (one) year from the date receipt of this judgment and order. In the meantime the order of *status quo* passed by this Court shall operate. With the aforesaid finding and direction this appeal and the rule are disposed of. However, there will be no order as to costs.

Communicate this judgment and order to the concerned Court.

Md. Akhtaruzzaman, J.

I agree.