

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

Present:
Mr. Justice Md. Khairul Alam

Civil Revision No. 5099 of 2023

Md. Ayub Ali Kha and others
..... Petitioners.

-Versus-

Md. Moslem Uddin Molla being died his legal
heirs Most. Julekha Bibi and others

..... Opposite parties.

Mr. Md. Abdul Matin Sardar, Advocate

..... For the petitioners.

Mr. Md. Saidul Alam Khan, Advocate

..... For the opposite parties.

Heard on 07.08.2025

Judgment on: 13.08.2025.

This Rule was issued calling upon the opposite party to show cause as to why the judgment and order dated 23.08.2023 passed by the learned Additional District Judge, 1st Court, Naogaon in Miscellaneous Appeal No. 01 of 2023 allowing the appeal and thereby reversing the judgment and order dated 28.11.2022 passed by the learned Joint District Judge, 2nd Court, Naogaon in Other Class Suit No. 14 of 2022 rejecting the application for temporary injunction filed by the plaintiff under Order XXXIX rule 1 of the Code of Civil Procedure 1908 should not be set aside and/or pass such other or further order or orders as to this court may seem fit and proper.

Relevant facts for disposal of the Rule are that Md. Moslem Uddin Molla, the predecessor of the present opposite parties as plaintiffs filed Other Class Suit No. 14 of 2022 in the Court of Joint District Judge, 2nd Court, Naogaon impleading the present petitioners as defendants praying for a declaration that the brick-manufacturing

equipments situated upon the land as described in the schedule to the plaint are exclusively the personal property of the plaintiff. In the said suit, the plaintiff filed an application under Order XXXIX rules 1 of the Code of Civil Procedure praying for a temporary injunction. The defendants contested the said application by filing a written objection denying the material allegations made in the application. The learned Joint District Judge, 2nd Court, Naogaon after hearing the parties by the order dated 28.11.2022 rejected the application holding, inter alia, that defendant No.6 obtained authority from the plaintiff and other partners through the chairman to resume operation of the brick field, obtained the trade licence in his name and thereby established himself as the sole proprietor; hence there exist no prima facie case in favour of the plaintiff, and the balance of convenience and inconvenience is also not in favour of the plaintiff. Challenging the said order the defendants preferred Miscellaneous Appeal No. 01 of 2023 before the Court of District Judge, Naogaon which was subsequently transferred to the Court of Joint District Judge, 1st Court, Naogaon who by the judgment and order dated 23.08.2023 allowed the appeal holding, inter alia, that without taking evidence it was not possible to conclusively determine who are in actual possession of the suit property. In such a situation, to prevent further complications and to secure ends of justice a status quo is required to be maintained, and thereby the Joint District Judge, 1st Court, Naogaon directed the parties to maintain the status quo.

Being aggrieved thereby the petitioner filed this civil revision and obtained the Rule and an order of stay of the impugned order.

Heard the learned Advocates for the contending parties, peruse the revisional application and other materials on record.

It appears that the plaintiff filed the suit for a declaration that the brick-manufacturing equipments situated upon the land as described in the schedule to the plaint are exclusively the personal property of the plaintiff. In the said suit, the plaintiff filed an application for a temporary injunction which was rejected. Against the said order, the plaintiff filed an appeal, and on appeal the parties were directed to maintain the status quo in respect of the suit property. Challenging the said order the plaintiff preferred this revisional application and obtained the Rule and an order of stay of the impugned order.

At the time of hearing of the Rule, both parties claimed their respective title and possession to the suit property, but neither of them expressed any apprehension of imminent dispossession from the suit property. From the materials on record, it is not possible to conclusively determine who is in actual possession of the suit property.

In the above facts and circumstances of the case, it appears to this Court that justice would be best served without entering into the merit of the suit if the Rule is disposed of with a direction.

Accordingly, the Rule is disposed of without any order as to cost. The learned Joint District Judge, 2nd Court, Naogaon is hereby directed to dispose of Other Class Suit No. 14 of 2022 as early as possible preferably within 06 (six) months from the date of receipt of this judgment and order. The order of stay passed at the time of issuance of the Rule shall continue till the disposal of the suit.

Let a copy of the judgment and order be communicated at once.

Kashem, B.O