

Present:

Mr. Justice Sheikh Abdul Awal

and

Mr. Justice Md. Mansur Alam

In the Matter of:

First Miscellaneous Appeal No. 88 of 2008

Abdul Jabbar Tarek

.....3rd party applicant-appellant

-Versus-

Amulaya Kumar Dutta @ Amulaya
Chandra Dutta and others

...Plaintiff-respondents.

None appears

..... For the appellant.

None appears

..... For the respondents

Judgment on 08.05.2025

Sheikh Abdul Awal, J:

This First Miscellaneous Appeal is directed against the order dated 29.07.2007 passed by the learned Joint District Judge, 2nd Court, Dhaka in Title Suit No. 310 of 2004 rejecting the application under Order 22, Rule 10 read with section 151 of the Code of Civil Procedure for addition of party.

No one found present to press the appeal on repeated calls.

In view of the fact that this petty old appeal arising out of an interlocutory order has been dragging before this Court over a period of 17 years, we are, inclined to take it up for disposal on merit as per materials on records.

It appears from the available materials on record that while Title Suit No. 310 of 2004 was in progress in the Court of the

learned Joint District Judge, 2nd Court, Dhaka one, Abdul Jabber Tarek as applicant filed an application under Order XXII, Rule 10 read with section 151 of the Code of Civil Procedure praying as follows:

“সেমেতে প্রার্থন হজুর আদালত দয়া প্রকাশে উপরোক্ত অবস্থা ও কারণাধীনে ন্যায় বিচারের স্বার্থে অত্র দরখাস্তকারীকে অত্র মোকদ্দমায় বাদীর নিকট হইতে রেজিস্ট্রিকৃত সাফ কবলা দলিলের ভিত্তিতে বাদীর স্থলাভিষিক্ত হিসাবে অত্র মোকদ্দমায় বাদী শ্রেণীভুক্ত করিবার আদেশ দিয়া বাদী হিসাবে মানীয় আদালতে অত্র মোকদ্দমা চালাইবার আদেশদানে সুবিচার করিতে মর্জি হয়।”

The learned Joint District Judge, 2nd Court, Dhaka after hearing the application by his order dated 29.07.2007 rejected the application holding that it is revealed from the plaint that the plaintiff has filed this suit for a declaration of title in the suit land measuring 19.83 decimal of land and the present applicant also claimed the ownership of the said land by way of purchase which shows that there is a conflict of interest between the plaintiff and the applicant and therefore the applicant cannot be allowed to be added as plaintiff.

Being aggrieved by the aforesaid impugned order passed by the learned Joint District Judge, 2nd Court, Dhaka, the 3rd party applicant as appellant filed this First Miscellaneous Appeal before this Court.

On a reading of the plaint as well as application under Order XXII, Rule 10 read with section 151 of the Code of Civil Procedure, it appears that plaintiff as well as applicant-appellant claimed self-same suit land and as such, the applicant cannot be

allowed to be added as plaintiff of the suit standing on the same footing with the plaintiff.

On a reading of the impugned order, it appears to us that the reasonings given by the learned Joint District Judge are sound and proper. Therefore, we do not find any reason to differ from it. No interference is, therefore, called for.

In any view of the matter, having regard to the fact as aforesaid, this appeal must fail.

In the result, the appeal is dismissed without any order as to costs. Since the appeal is dismissed, the connected Rule being Civil Rule No. 636 (FM) of 2007 is also discharged.

Communicate this order at once.

Md. Mansur Alam, J:

I agree.