

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

Present:

Mr. Justice Md. Khairul Alam

Civil Revision No. 3442 of 2023

Md. Afaz Uddin and others.

..... Petitioners.

-Versus-

Mst. Jubeda Khatun and others.

.....Opposite parties.

Mr. Noor-A-Alam Uzzal, Advocate

..... For the petitioners.

Mr. A.K.M. Shamsul Haque, along with

Mr. Md. Hekam Ali, Advocates

..... For the opposite parties No. 1-7.

Heard on 08.05.2025, 28.05.2025
and Judgment on: 01.06.2025.

This Rule was issued calling upon the opposite parties to show cause as to why the impugned judgment and order dated 01.06.2022 passed by the learned Additional District Judge, 1st Court, Mymensingh in Miscellaneous Appeal No. 35 of 2021 allowing the appeal and thereby reversing the order dated 24.03.2021 passed by the learned Assistant Judge, Goforgaon, Mymensingh in Title Suit No. 113 of 2020 rejecting the application for temporary injunction 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 the present opposite parties as plaintiffs filed Title Suit No. 113 of 2020 in the court of Assistant Judge, Goforgaon, Mymensingh impleading the present petitioners as defendants praying for a permanent injunction over the suit property.

In the said suit, the plaintiffs filed an application under Order XXXIX rules 1 and 2 read with section 151 of the Code of Civil Procedure praying for temporary injunction.

The present petitioners contested the said application by filing a written objection denying the material allegations made in the application.

After hearing the parties the learned Assistant Judge, Goforgaon, Mymensingh by the order dated 24.03.2021 rejected the application.

Challenging the said order the defendants preferred Miscellaneous Appeal No. 35 of 2021 before the Court of District Judge, Memensingh. The appeal was subsequently transferred to the Court of Additional District Judge, 1st Court, Mymensingh.

The learned Additional District Judge, 1st Court, Mymensingh after hearing the said Miscellaneous Appeal by the judgment and order dated 01.06.2022 allowed the appeal and thereby reversed the order passed by the trial court and passed an order of injunction restraining the defendants from creating any obstruction in the peaceful possession of the plaintiffs.

Being aggrieved thereby, the petitioners filed this civil revision and obtained the Rule and an order of stay of the impugned order dated 01.06.2022.

Mr. Noor-A-Alam Uzzal learned Advocate appearing for the petitioners submits that regarding the same suit property the opposite parties earlier filed another suit seeking recovery of khas possession against the petitioners which proves that the petitioners have been possessing the suit property but the court of appeal below without

considering the same passed the impugned judgment and order and thereby committed an error of law resulting in an error in the decision occasioning failure of justice in passing the impugned judgment and order and he prays for making the Rule absolute.

On the other hand, Mr. A.K.M. Shamsul Haque along with Mr. Md. Hekam Ali, the learned Advocates appearing for the opposite parties No.1-7 submit that the suit property was recorded in the name of the opposite parties and the Court of appeal below considering this aspect of the case passed the impugned judgment and order and this revisional Court should not interfere with the impugned judgment and order of the court of appeal below.

Heard the learned Advocate for the contending parties, perused the revisional application and other materials on record.

It appears that the present opposite parties as plaintiffs filed a suit for a permanent injunction over the suit property. In the said suit, the plaintiffs filed an application for a temporary injunction. The trial judge rejected the application and in appeal, the appeal was allowed and thereby an order of temporary injunction over the suit property was granted. Challenging the said order the defendants as petitioners 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.

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 Assistant Judge, Goforgaon, Mymensingh is hereby directed to dispose of Title Suit No. 113 of 2020 as early as possible if, in the meantime, same is not otherwise disposed of and both the parties are directed to maintain status quo in respect of possession of the suit land till disposal of the suit.

Send down the lower court's record along with a copy of this judgment at once.

Kashem, B.O