

Bench:

Mr. Justice Bhishmadev Chakrabortty

And

Mr. Justice Murad-A-Mowla Sohel

Civil Miscellaneous Case No.36 of 2023

Al Haj Abdur Rashid Hawlader ..... petitioner

-Versus-

Noni Vhushon and others ..... opposite parties

Mr. Md. Saidul Alam Khan, Advocate

..... for the petitioner

Mr. Taposh Kumar Biswas with Mr. A.Z.M  
Morshed Al Mamun (Liton), Advocates

..... for opposite party 5

Judgment on 27.11.2025

Bhishmadev Chakrabortty, J:

This Rule at the instance of the plaintiff was issued under section 24(1)(b)(ii) of the Code of Civil Procedure (the Code) calling upon the opposite parties to show cause as to why Other Class Suit 48 of 2003 now pending in the Court of Assistant Judge (Civil Judge), Bhandaria, Pirojpur shall not be withdrawn therefrom and transfer to any other competent Court of the neighbouring district and/or such other or further order or orders passed to this Court may seem fit and proper.

In the miscellaneous application filed under section 24 of the Code, the plaintiff-petitioner brought allegation against one Md. Shahidul Haq Khan Panna who was the then Government Pleader (GP) of the Pirojpur Judge Court. It has been alleged that Mr. Panna is a powerful man and the plaintiff is afraid of going to the Court at his fear. The appointed Advocate of the plaintiff had issued no objection

certificate expressing his inability to conduct the suit. Bringing all those allegations the miscellaneous case under section 24 of the Code has been filed for transferring the case from Pirojpur district judge Court to any other neighbouring district Court and the aforesaid Rule with an interim order of stay was passed.

Mr. Md. Saidul Alam Khan, learned Advocate for the petitioner taking us through the statements made in the application submits that the situation has not yet been changed although 2 years after issuing the Rule have already passed because that mighty Panna is the lifetime member of defendant 5 Vitabaria Model Secondary School against whom the plaintiff's dispute regarding land and the suit is pending. The petitioner would face the same problem in conducting the suit in any Court situated at Pirojpur district which they faced in 2023. Therefore, the suit would be withdrawn from the aforesaid district and be transferred any other neighbouring district having competent jurisdiction to try it.

Mr. Taposh Kumar Biswas, learned Advocate for opposite party 5 on the other hand opposes the Rule and submits that the allegation brought against Mr. Panna, who was the then GP of Pirojpur Judge Court is no more in the said post and as such grounds taken for transferring the case do not exist now. The apprehension of the petitioner in conducting the suit at Pirojpur has gone. He submits that although earlier a case of similar nature, more or less on similar allegation was transferred by a Bench of this Division to Barishal

district, but in the present case the plaintiff is different and in view of the changing situation this Rule has in fact become infructuous. Therefore, the Rule would be liable to be discharged.

We have considered the submissions of the learned Advocates for both the sides and gone through the materials on record, particularly the statements made in paragraphs 7-11 of the miscellaneous application.

In the aforesaid paragraphs the petitioner has made out a specific case for transferring the suit from Pirojpur district to any other neighbouring district for its smooth disposal. Although opposite party 5 opposes this Rule bringing some facts of changing situation but he did not controvert the statements made in the Rule petition by filing counter-affidavit. The allegation has been brought against Mr. Panna, a lifetime member of opposite party 5 school but no allegation has been brought that he being GP obstructed the plaintiff-petitioner in conducting the case in Pirojpur. But it has been alleged that Mr. Panna himself is a lifetime member of opposite party 5 school and a powerful man of the area and the aforesaid fact remains uncontroverted. It is found in the statement of the Rule petition that the learned Advocate for the plaintiff in the trial Court issued no objection certificate to him expressing his inability to conduct the suit.

Considering the facts and circumstances and the allegation made in this miscellaneous case, we find that justice would be sufficiently met, if we withdraw the suit from the Court of Assistant

Judge (Civil Judge), Bhandaria, Pirojpur and transfer the same to any other neighbouring district having competent jurisdiction for its trial.

In the result, the Rule is made absolute. Other Class Suit 48 of 2003 now pending in the Court of Assistant Judge (Civil Judge), Bhandaria, Pirojpur is withdrawn therefrom and transferred to the Court of Senior Civil Judge, Sadar, Bagerhat for disposal.

However, the transferee Court is directed to dispose of the suit expeditiously, preferably within 06(six) months from the date of receipt of this judgment and order.

Communicate this judgment and order to the Court concern as well as learned District Judges of Pirojpur and Bagerhat.

Murad-A-Mowla Sohel, J.

I agree.