

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

Civil Revision No. 5417 of 2023

In the matter of:

Md. Jalal Uddin and others.
...Petitioners.

-Vs-

Md. Habibur Rahman Sarker
and others.

...Opposite parties.

Ms. Masuma Jamil, Adv.

...For the petitioners.

Ms. Nargis Tanjima, Adv. with

Ms. Nilufa Sultana, Adv.

...For the opposite party No. 1.

Heard & Judgment on: **The 23rd January, 2025**

Present
Mr. Justice Mamnoon Rahman

In an application under section 115(1) of the Code of Civil Procedure, 1908 rule was issued calling upon the opposite party No. 1 to show cause as to why the impugned judgment and order dated 22.08.2023 passed by the learned District Judge, Gaibandha in Other Class Appeal No. 30 of 2020 allowing the appeal and thereby reversing the judgment and decree dated 19.02.2020 passed by the Senior Assistant Judge, (Chowki Court), Gobindaganj, Gaibandha in Other Class Suit No. 223 of 2010 dismissing the suit should not be set aside and/or pass such other or further order or orders as to this court may seem fit and proper.

I have heard the learned Advocates for the petitioners as well as opposite party No. 1. I have perused the impugned judgment and order passed by the court below, perused the revisional application, ground taken thereon as well as necessary papers and documents annexed herewith.

On perusal of the same, it transpires that during pendency of the appeal the plaintiff-appellant pressed an application before the court below

on 22.08.2023 for hand writing expert. The court below on the same date, namely 22.08.2023 allowed the same. So, it transpires that though the respondents contested the appeal but no notice was served upon the respondents enabling them to file any written objection. It also transpires from the submissions as made by the learned Advocate for the petitioner-respondents that though the lower appellate court passed an order for hand writing expert to compare the thump impression but the alleged Amalnama does not contain any thump impression at all. However, these are the question of record.

Considering the facts and circumstances, I am of the view that justice would be best served if a direction be given upon the lower appellate court to hear and dispose of the application afresh by giving an opportunity to the petitioner-respondents to file written objection. Accordingly, the lower appellate court is directed to hear and dispose of the application for hand writing expert afresh strictly on merit by giving an opportunity to the petitioner-respondents within 30(thirty) days from the date of receipt of the instant judgment and order without fail and without giving any adjournment to the parties. The lower appellate court is also directed to examine the record regarding the Amalnama and other documents before passing any order.

With this observation and direction, the instant rule is disposed of. Communicate the order at once.

(Mamnoon Rahman,J:)