

District: Dhaka

In the Supreme Court of Bangladesh
High Court Division
(Civil Revisional Jurisdiction)

Present

Mr. Justice Md. Zakir Hossain

Civil Revision No. 6041 of 2023

Mahbub Alam and others

.....Defendant-Petitioners

-Versus-

Md. Ferdous Alam and others

.....Plaintiff-Opposite Parties

None appears

..... For the petitioners

Mr. Mohammad Jewel, Advocate

....For the opposite party Nos.1-4

Heard on:08.05.2024

Judgment on:11.07.2024

At the instance of the petitioners, the *Rule* was issued by this Court with the following terms:

“Leave is granted to decide the question raised that the impugned Judgment and Order dated 06.08.2023 passed by the learned Senior District Judge, Dhaka in Civil Revision No. 279 of 2022 rejecting the same and thereby affirming the Judgment and Order dated 30.10.2022 passed by the learned Joint District Judge, 1st Court, Dhaka in Title Suit No. 472 of 2022 so far it relates to allow application of the plaintiffs for local investigation is illegal as was passed without applying the judicial mind.”

Facts leading to the issuance of the Rule are *inter alia* that in Title Suit No. 472 of 2022, the plaintiffs and the defendant No. 1-7 filed two separate petitions for holding local investigation. Upon hearing, the learned Joint District Judge, First Court, Dhaka was pleased to allow both the petitions. Impugning the judgment and order of the learned Joint District Judge so far it relates to allowing the petition for local investigation filed at the instance of the plaintiffs, the defendants being appellants preferred Civil Revision No. 279 of 2022 before the Court of the learned District Judge, Dhaka. Upon hearing, the learned District Judge was pleased to reject the Revisional Application and thereby upheld the judgment and order of the learned Joint District Judge dated 30.10.2022 passed in the aforesaid suit. Challenging the legality and propriety of the judgment and order of the learned District Judge, the petitioners moved this Court and obtained the Leave.

Heard the submissions advanced by the learned Advocate of the opposite parties at length and perused the materials on record with due care and attention and seriousness as they deserve. The convoluted question of law embroiled in this case has meticulously been waded through.

The learned Joint District Judge after considering the facts and circumstances of the case rightly allowed the petition for local investigation filed at the instance of both the plaintiffs and the defendants. The learned Advocate for the opposite parties informed this Court. Accordingly, the Court appointed Advocate Commissioner and issued Writ. The learned District Judge assigning cogent reason

concurrent with the decision of the learned Joint District Judge. No illegality has been spelt out within the bounds of the impugned judgment and order. The nature of the suit warrants for local investigation and for final and effective disposal of the suit; local investigation is *sine qua non*. Hence, the Rule shall fall flat.

In the result, the Leave is dismissed and accordingly, the Rule is discharged, however, without passing any order as to costs.

Let a copy of the judgment be sent down to the Courts below at once.

.....
Md. Zakir Hossain, J

Naser
Po