

Present:

Mr. Justice A.K.M. Asaduzzaman

Civil Revision No.758 of 2022

Fazlul Karim Chowdhury and others.

.....Petitioners.

-Versus-

Sakina Khatun and others.

.....Opposite parties.

Ms. Nusrat Jahan, Advocate.

.....For the petitioners.

Mr. Ahmed Nowshed Jamil, Advocate

.....For the Opposite parties.

Heard and Judgment on 09.06.2024.

A.K.M.Asaduzzaman,J.

In a suit for declaration of title and that the judgment and decree dated 18.05.2003 passed by the Joint District Judge, Chattogram in Other Class Suit No. 41 of 2001 shall not be declared to be illegal and not binding upon the plaintiffs. Defendant-petitioner filed an application under Section 10 read with section 151 of the Code of Civil Procedure for staying the proceedings of the suit till disposal of the Writ Petition No. 5362 of 2007 and Civil Revision No. 4444 of 2007 pending before the Hon'ble High Court Division.

Learned Joint District Judge, 1st Court, Chattogram rejected the said application vide order dated 03.02.2021, which was challenged in Civil Revision No. 197 of 2021 before the Court of District Judge, Chattogram, who by the impugned judgment and order dated 09.12.2021 affirmed the said judgment and order of the trial court.

Challenging the legality of that order, defendant–petitioner filed this application under section 115(4) of the Code of Civil Procedure for leave, which was granted on 14.03.2022 and is now placed today before this court for hearing.

Mrs. Nusrat Jahan, the learned advocate appearing for the petitioners drawing my attention to the judgment dated 30.08.2023 passed by a division bench of the Hon'ble High Court Division in Civil Revision No. 4444 of 2007 submits that since the said civil revision for which the instant suit was asked to be stayed has already been decided and no more in existence there before the Higher Court and the writ petition pending is arising out of a revenue matter, the leave petition appears to be infructuous and she thus prays for disposal of this leave petition along with a direction to the trial court to decide the suit expeditiously as early as possible.

Mr. Ahmed Nowshed Jamil, the learned advocate appearing for the opposite parties on the other hand although opposed the leave petition but noticing the submission of the learned advocate for the petitioner found nothing to oppose it and accordingly he conceded the prayer of the learned advocate of the petitioners.

Heard the learned Advocate of both the parties and perused the documents annexed to the application and the supplementary affidavit and the impugned judgment and order.

Although the leave petition contains some substance on refusing to stay all further proceedings of the suit due to the pendency of the Civil Revision arising out of the same suit land before the Hon'ble Court Division but since that Civil Revision has already been disposed of and the writ petition which is arising out of a revenue matter, has got no nexus with the pendency of the suit, I find substance in the submission of the learned advocate of the petitioner and that the leave petition become infructuous.

Accordingly leave petition contains no merits, which is hereby disposed of.

The order of stay granted earlier by this court is hereby recalled and vacated.

However, the trial court is hereby directed to decide the suit expeditiously as early as possible.

Communicate the judgment to the court below at once.