

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

Present:

Mr. Justice Zafar Ahmed

Civil Revision No. 1357 of 2024

Alhaj Advocate Rebeka Sultana Daiji and another
Defendant-respondent -petitioners

-Versus-

Shah Newaj Ibne Mustaque and others
Plaintiff-appellant-opposite parties

Mr. Khandaker Aminul Haque, with
Ms. Mehreen Hassan, Advocates

...For the petitioners

Mr. Ragib Rauf Chowdhury, Senior Advocate, with
Mr. Ruhul Quyum, Advocate

... For the opposite parties

Heard on: 23.02.2025 and 25.02.2025

Judgment on: 09.03.2025

The instant Rule is directed against the judgment and order dated 01.02.2024 passed by the learned Senior District Judge, Cox's Bazar in Miscellaneous Appeal No. 23 of 2023 allowing the appeal and reversing the judgment and order dated 07.05.2023 passed by the learned Joint District Judge, 2nd Court, Cox's Bazar in Other Suit No. 313 of 2016 rejecting the application for temporary injunction filed by the plaintiff-opposite parties. This Court on 01.04.2024 issued a Rule.

Plaintiff opposite party No. 1 has contested the Rule by filing a wokatnama.

The opposite parties as plaintiff filed the suit impleading the present petitioners as defendants praying for declaration that the registered sale deed No. 2086/14 dated 16.04.2014 is forged and not binding upon the plaintiffs and that the B.S. Khatian No. 285 in respect of the suit land measuring 24.23 acres is wrong, ineffective and not binding upon the plaintiffs.

The defendants filed a joint written statement in the suit. During pendency of the suit, the plaintiffs on 11.01.2017 filed an application for temporary injunction before the trial Court under Order 39 rules 1 and 2 read with Section 151 of the Code of Civil Procedure praying for restraining the defendants from selling or transferring the suit land till disposal of the suit. The defendants filed written objection on 30.10.2019 against the said application for injunction. The application was eventually heard by the trial Court on 07.05.2023. The application for injunction was rejected on contest. The lower appellate Court, however, allowed the appeal on contest in modified form. The appellate Court passed an order of temporary injunction restraining both plaintiffs and defendants from transferring the suit land and also passed an order of *status quo* in respect of the possession of the same. Being aggrieved, the defendants filed the instant revision and obtained Rule.

Admittedly, in the original application for injunction, the plaintiffs did not pray for any order regarding the possession of the suit land. The appellate Court below travelled beyond the prayer made in the application for injunction and passed an interim order of *status quo* in respect of possession. When the instant Rule was taken up for hearing, learned Advocate for defendant-petitioners submits that he has no objection regarding the original prayer made in the injunction application filed by the plaintiffs. The learned Advocate, however, submits that the defendants are two full sisters and are quite aged persons. If they require money they may have to sell part of the suit land with approval of the Court. Mr. Ragib Rouf Chowdhury, the learned Senior Counsel for the plaintiffs, opposes the prayer and submits that although in the original injunction application no prayer was made regarding possession of the suit land but when the matter was decided by the appellate Court below possession became an issue and the appellate Court below rightly addressed the issue regarding possession and passed the order of *status quo* which should not be interfered by this Court.

I have perused the memorandum of appeal presented before the appellate Court below. I have not found anything regarding possession of the suit land in the said memorandum of appeal. I have no hesitation to hold that the appellate Court below passed the order of *status quo* which was not even agitated before the Court. Therefore,

that part of the order is liable to be set aside. The other part of the order passed by the appellate Court below regarding prohibition on transfer of the suit land is modified in the following terms:

Pending disposal of the Other Suit No. 313 of 2016 the defendants are restrained by an order of injunction from selling or transferring the suit land or part of the same without approval of the trial Court.

With the above observations and directions, the Rule is disposed of.