

District: Chapainawabgonj

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

Present

Mr. Justice Sardar Md. Rashed Jahangir

Civil Revision No. 2239 of 2024

In the matter of :

Md. Mohabbot Ali

... Petitioner

-Versus-

Most. Suratn Nesa

...Opposite party

No one appears

... For the petitioner

Mr.Kazi Mynul Hassan, Advocate

... For the opposite party No.1

Judgment on: 09.01.2025

Rule was issued calling upon the opposite party No.1 to show cause as to why the judgment and order dated 24.04.2024 passed by the Additional District Judge, First Court, Chapainawabgonj in Miscellaneous Appeal No. 23 of 2023, affirming the order dated 15.05.2023 passed by the Senior Assistant Judge, Sadar, Chapainawabgonj in Other Class Suit

No.127 of 2022 should not be set aside and/or such other or further order or orders as to this Court may seem fit and proper.

At the time of issuance of the Rule, parties were directed to maintain status-quo in respect of possession and position of the suit land for a period of 2(two) months.

The present petitioner as plaintiff instituted Other Class Suit No.127 of 2022 in the Court of Senior Assistant Judge, Sadar, Chapainawabgonj for declaration of title and partition. The specific case of the plaintiff in short are that R.S. plot No.38 comprises of 0.9075 acres of land, but the map shows 0.9288 acres; R.S. plot No.37 comprises of 0.90 acres of land, but the map shows 0.887 acres and R.S. plot No.1017 comprises of 0.3281 acres of land, but the map shows 0.318 acres, which are completely erroneous. Office of the Deputy Commissioner acquired 0.0495 acres of land from latest plot No.38 for construction of road, which is situated in between the land of the plaintiff and defendant. Accordingly, notices were served from the acquisition office upon the plaintiff and the defendant. At the time of measurement by acquisition office it was detected that excess

land has been incorporated in the map against R.S. plot No.38, though the khatian shows 0.9075 acres of land. The excess land has come from Hal plot No.37 and 1017. Having learnt as to the recording of excess land under R.S. plot No.38, the defendant on 10.07.2022 claimed that they are entitled to get the excess land and threatened the plaintiff with dispossession, so the plaintiff was constrained to file this suit for declaration of title and partition.

After filling of the suit plaintiff filed an application for temporary injunction under Order XXXIX, rule 1 and 2 read with section 151 of the Code of Civil Procedure upon stating the plaint case with further contention that the defendant on 10.07.2022 has threatened the plaintiff with dispossession, for which a temporary injunction required to be passed restraining the defendant from interfering into the peaceful possession of the plaintiff in the suit land.

The defendant entered appearance and filed written objection denying the material allegations, contending inter alia that the land measuring an area of 0.0495 acres was acquired by the Government in L. A. Case No. 01 of 2019-20, accordingly

notices were served upon this defendant under section 3 and 7 of the relevant law. The plaintiff has no right or relevancy against the acquisition. The recorded tenants transferred the suit land in favour of Sohrab Ali, Moyej Uddin, Rakib Uddin and Suratan Nesa, Jesmin Ara Poly mentioning the specific boundary of the properties, the plaintiff has no title in the acquisition land.

Upon hearing the injunction application learned Senior Assistant Judge, Sadar, Chapainawabgonj being pleased by his judgment and order dated 15.05.2023 rejected the application holding that the plaintiff has no prima-facie arguable case and the balance of convenience and inconvenience is against the plaintiff.

Having been aggrieved by the order dated 15.05.2023 passed by the Senior Assistant Judge, Sadar, Chapainawabgonj in Other Class Suit No.127 of 2022, the plaintiff preferred Miscellaneous Appeal No.23 of 2023. On transfer, the said appeal was heard by the Additional District Judge, First Court, Chapainawabgonj and by his judgment and order dated 24.04.2024 dismissed the appeal, affirming those of dated

15.05.2023 of the Senior Assistant Judge, Sadar, Chapainawabgonj.

Being aggrieved by and dissatisfied with the aforesaid judgment and order of learned Additional District Judge, the plaintiff preferred this revisional application and obtained the rule and ad-interim order of status-quo.

No one appears for the petitioner.

On the other hand, Mr.Kazi Mynul Hassan, learned Advocate for the opposite party No.1 appeared in support of the impugned judgment and order.

On perusal of the revisional application together with the annexures, it appears that the present revisional application has been arisen out of an interlocutory order of the Courts below, rejecting the application for temporary injunction, against which the present revisional application has been filed. At the time of issuance of the Rule an ad-interim order was passed directing the parties to maintain status-quo in respect of possession and position of the suit land, which exists till today.

It appears that the original suit is still pending before the Court of Senior Assistant Judge, Sadar, Chapainawabgonj and in such facts and circumstances, this Court is of the view that justice would be best served for now, if the trial Court is directed to hear and dispose of the original suit expeditiously without allowing any unnecessary adjournment.

Accordingly, the Rule is disposed of.

Learned Senior Assistant Judge, Sadar, Chapainawabgonj is hereby directed to hear and dispose of the Other Class Suit No.127 of 2022 as early as possible, preferably within 6(six) months from the date of receipt of this judgment and order.

In the mean time, the parties are directed to maintain status-quo in respect possession.

No order as to cost.

Communicate the judgment and order at once.