

Present:

Mr. Justice Sheikh Abdul Awal

and

Mr. Justice Md. Mansur Alam

First Miscellaneous Appeal No. 375 of 2009

In the Matter of:

Government of the People's Republic of
Bangladesh, represented by Forest bit Officer,
Hobirbari, Mymensingh.

.....Defendant -appellant.

-Versus-

Consumer Mitex limited and others

.....Plaintiff-respondents.

Mr. Md. Yousuf Ali, D.A.G.with

Ms. Israt Jahan, A.A.G with

Mr. Md. Siddik Ali, A.A.G with

Ms. Sabina Yasmin Nira, A.A.G.

... For the defendant-appellant.

No one appears

.....For the plaintiff-respondents.

Judgment on 29.05.2025.

Sheikh Abdul Awal, J:

This first Miscellaneous appeal at the instance of defendant-appellant is directed against the order No. 15, dated 19.10.2006 passed by the learned Joint District Judge, 3rd Court, Mymensingh in Other Class Suit No. 32 of 2006 granting temporary injunction.

The short fact of the case is that the respondent-plaintiff filed Other Class suit No. 32 of 2006 in the Court of the learned Joint District Judge, 3rd Court, Mymensingh stating, inter-alia, that one Abdus Salam got the suit property by way of settlement from the

Government, vide case No. 828(XII)80-81/742(XII)S/80-81 and thereafter Kabuliya was registered on 22.01.82 A.D. and the said Abdus Salam got possession over the suit property on payment. Thereafter, the property was recorded in the name of Abdus Salam in B.R.S. Khatian and thereafter Abdus Salam sold out 77 decimals land on 12.12.2005 A.D. and 22 decimals land on 28.12.2005 A.D. by two separate registered deeds to the plaintiff. The plaintiff has purchased 10/12 acres land and established a firm thereon. In this back ground on 18.06.2006 A.D. the defendant No.1, as per direction of the defendant Nos. 2 – 3 has resisted the employees of the plaintiff saying that defendants are owner of the suit land and if the plaintiff side by ignoring the direction of the defendants tried to stay over the suit land then police will arrest them as illegal occupant and hence, the suit.

Thereafter, while the suit was in progress the plaintiff filed an application for temporary injunction restraining the defendants from dispossessing the plaintiff over the suit land. Defendant No. 1 resisted the said application by filing written objection contending, inter-alia, that the plaintiff has/had no good prima-facie and arguable case.

Defendant-Government has acquired the suit land by gazette notification on 02.04.56 and thereafter, converted the land as reserve forest and the forest department has been possessing the suit land. The plaintiff has/had no right, title and possession over the suit land. Plaintiff filed the case as well as the injunction application on false statements and the prayer for injunction is liable to be rejected.

The learned Joint District Judge after hearing the parties by his order dated 19.10.2006 granted temporary injunction

restraining the defendants from dispossessing the plaintiff from the suit land until disposal of the original suit.

Aggrieved by the aforesaid impugned order dated 19.10.2006 the Government of the People's Republic of Bangladesh represented by the forest bit officer, Hobirbari, Mymensingh preferred this First Miscellaneous Appeal before this Court.

Mr. Md. Yousuf Ali, the learned Deputy Attorney General appearing for the appellant submits that the trial Court without considering the case of both the parties most illegally allowed the prayer for temporary injunction in favour of the plaintiff. The learned Deputy General further submits that it is on record that the suit property has been acquired by the Government which also duly published in official gazette and thereafter, the property in question converted as reserve forest and the forest department has been possessing the suit land by cultivating various trees, on the other hand, plaintiff has/had no legal right, title and possession over the suit land and as such, the order of injunction is liable to be set-aside.

No one appears for the respondents.

Having heard the learned Deputy Attorney General, perused the memo of Appeal, impugned order and available materials on record.

It appears that in this case both the parties are claiming their possession over the suit land. However, on a query from the Court the learned Deputy Attorney General could not submit as to the exact position of the suit whether it is pending or disposed of. Therefore, in a suit of this nature and in the facts and circumstance

of the case, we think that ends of justice, will be met if the order of injunction is converted to an order of status-quo.

In the result, the appeal is allowed in-part without any order as to costs. The order of ad-interim injunction dated 19.10.2006 is modified to the effect that the parties are directed to maintain status-quo till disposal of the suit, if any.

Let a copy of this judgment be communicated to the Court concerned at once.

Md. Mansur Alam, J:

I agree.