

Present:-

Mr. Justice Mahmudul Hoque

Civil Revision No.154 of 2025

Shah Polash and others

... Petitioners

-Versus-

Md. Al-Amin and another

...Opposite-parties

No one appears

...For the petitioners

Mr. Muhammad Ashraful Islam, Advocate

...For the opposite-party Nos.1 and 2.

Judgment on 20th November, 2025.

On an application under Section 115(1) of the Code of Civil Procedure this Rule was issued at the instance of the petitioners calling upon the opposite parties to show cause as to why the impugned judgment and order dated 20.11.2024 passed by the learned District Judge, Meherpur in Miscellaneous Appeal No.19 of 2024 disallowing the appeal and thereby affirming the judgment and order dated 15.05.2024 passed by the learned Senior Assistant Judge, Gangni, Meherpur in Title Suit No.143 of 2023 granting an order of temporary injunction should not be set aside and/or pass such other or further order or orders as to this Court may seem fit and proper.

Shorn of unnecessary details, fact of the case lies in a very narrow compus. The opposite parties, as plaintiff, filed Title Suit No.

143 of 2023 in the Court of Senior Assistant Judge, Gangni, Meherpur against the present petitioners, as defendant, for a decree of permanent injunction praying for restraining the defendants from dispossessing them from the suit land and disturbing in their peaceful possession in anyway. In the suit the plaintiffs filed an application under Order 39 Rules 1 and 2 of the Code of Civil Procedure, praying for temporary injunction against the defendants which was resisted by filing written objection on the part of the defendants. The trial court heard the matter and after hearing by its judgment and order dated 15.05.2024 allowed the application filed by the plaintiffs and restrained the defendants as prayed for till disposal of the suit.

Being aggrieved by and dissatisfied with the judgment and order of the trial court, the defendant Nos.1-6, as appellant, preferred Miscellaneous Appeal No.19 of 2024 before the Court of learned District Judge, Meherpur who heard the appeal and after hearing by the impugned judgment and order dated 20.11.2024 dismissed the appeal and thereby affirming the judgment and order of the trial court. At this juncture, the petitioners, moved this Court by filing

this application under Section 115(1) of the Code of Civil Procedure and obtained the present Rule and order of status-quo.

When the matter is taken up for hearing ,learned Advocate for the petitioners found absent on repeated calls, consequently, heard the learned Advocate for the opposite parties.

Mr. Muhammad Ashraful Islam, learned Advocate appearing for the opposite party Nos.1 and 2 submits that the plaintiffs in support of their claim submitted before the trial court all the record of rights like C.S, R.S and present khatian and the deed of purchase of the year 1956 and subsequent purchase deeds from Harun-Or-Rashid and others. The trial court as well as the appellate court while allowing the application for injunction and dismissing the miscellaneous appeal found prima facie case in favour of the plaintiffs, though the defendant Nos.1-6 contested the application by filing written objection claiming that the property belonged to Harun-Or-Rashid, who subsequently in the year 1989 transferred the property along with other non-suited property to one Asadur Rahman who died leaving the defendants could not produce even a single paper in favour of their respective case. In the absence of any

document both the courts below rightly observed that mere filing of written objection against the application for injunction without any supporting document, cannot entitle the defendants to oppose application for injunction.

He further submits that the present plaintiffs earlier filed Title Suit No.36 of 2022 for partition of the suit property in which present defendant Nos.1-6 have been made defendant Nos.12-17, wherein, temporary injunction was also sought for. These defendant-petitioners appeared in that suit and filed an application under Order 1 Rule 10(2) of the Code of Civil Procedure, praying for striking out their names from that suit on the ground that they had no connection or claim of the suit property. The trial court allowed that application vide order No.9 dated 11.06.2023 and as such, in the instant case, they cannot claim any right, title in the property which they have already given up. He finally argued that both the courts below in granting injunction and dismissing the miscellaneous appeal have not committed illegality or error of law in the decision occasioning failure of justice.

Heard the learned Advocate for the opposite parties, have gone through the application under Section 115(1) of the Code of Civil Procedure, plaint, written objection and the impugned judgment and order passed by both the courts below.

It is submitted that the property originally belonged to C.S. owners. Subsequently, by way of inheritance their heirs acquired the property. By exchange one Shakha Uddin got the suit property. Said Shakha Uddin transferred the property to plaintiff No.1 along with Harun-Or-Rashid and others. Subsequently, the remaining owners of the property Harun-Or-Rashid and others transferred their share to the plaintiff Nos.1 and 2. Accordingly, the plaintiffs are in possession of the suit property in ejmali with other co-sharers. For partition of the same, the plaintiffs filed Title Suit No.36 of 2022, wherein, present defendant Nos.1-6 have been made defendant Nos.12-17. They entered into appearance in the earlier suit and filed an application under Order 1 Rule 10(2) of the Code of Civil Procedure praying for striking out their names from the category of the defendants on the ground that they have no claim in the property involve in Title Suit No.36 of 2022. The trial court allowed the

application vide order No.9 dated 11.06.2023. In the instant suit the defendant Nos.1-6 contested the injunction application filed by the plaintiffs, claiming that the property belonged to one Harun-Or-Rashid who transferred the same to the predecessor of the defendant named Asadur Rahman. But at the time of hearing they could not file even a single paper in support of their claim. Moreover, in Title Suit No.36 of 2022 they did not claim any title in the property, rather, got their names struck off from the plaint as defendant Nos.12-17. Both the courts below while granting injunction rightly held that the plaintiffs could not produce documents in support of their claim showing prima facie case and they claimed their possession in the property. On the other hand, the defendants in earlier suit admitted that they have no claim in the property involved in the partition suit. But in the instant suit claimed that they are owner in possession by inheritance through their predecessor Asadur Rahman, but could not file any document in support of their such claim, consequently, the trial court as well as the appellate court found prima facie case in favour of the plaintiffs and granted injunction as prayed for.

Apart from this, this is a suit for simple injunction. In the event of refusing temporary injunction, restraining the defendants from disturbing possession of the plaintiffs the relief sought for in the instant suit will become infructuous and claim of the plaintiffs will be frustrated.

In view of the observations made hereinabove, I find that both the courts below in granting injunction committed no illegality or error of law in the decision occasioning failure of justice.

In the result, the Rule is discharged, however, without any order as to costs.

Order of status-quo stands vacated.

Communicate a copy of the judgment to the Court concerned at once.