

Present:
Mr. Justice Sheikh Abdul Awal
and
Mr. Justice Md. Rafizul Islam

First Miscellaneous Appeal No. 80 of 2011

In the Matter of:

Khaja Nazimuddin

.....Defendant-appellant.

-Versus-

Saleh Ahmed Sikder and others

..... Plaintiff- respondents.

No one appears

....For the appellant

No one appears

.....For the respondents.

Mr. Abdul Mannan Abid, D.A.G

Judgment on 14.06.2026

Sheikh Abdul Awal, J:

This First Miscellaneous Appeal is directed against the order dated 16.06.2010 passed by the learned Joint District Judge, 1st. Court, Cox's Bazar in Other Class Suit No. 2 of 2010 directing the defendant No. 1 to maintain status-quo in respect of possession of the suit land.

The short fact of the case is that the respondent No.1 as plaintiff filed Title Suit No. 02 of 2010 in the Court of the learned Joint District Judge, 1st. Court, Cox's Bazar for declaration of title in the suit land as described in the schedule of the plaint.

Thereafter, the plaintiff filed an application for temporary injunction under Order 39, Rule 1 and 2 read with section 151 of the Code of Civil Procedure against the defendant No.1.

The defendants resisted the said application by filling written objection.

The learned Joint District Judge, 1st. Court, Cox's Bazar by the impugned order dated 16.06.2010 allowed the application in a modified form directing the defendant No.1 to maintain status-quo in respect of possession of the suit land on the finding that the plaintiff has been succeeded to prove prima-facie case and the balance of convenience and inconvenience is in favour of the plaintiff.

Aggrieved thereby the defendants preferred this First Miscellaneous Appeal before this Court.

No one appears to press the Appeal on repeated calls.

In view of the fact that this petty old First Miscellaneous Appeal of 2011 has been dragging before this Court over a period of 15 years arising out of an interlocutory order, we are inclined to take it up for disposal on merit perusing the available materials on record.

On scrutiny of the record, it appears that respondent No.1 as plaintiff filed Title Suit No. 02 of 2010 in the Court of the learned Joint District Judge, 1st. Court, Cox's Bazar for declaration of title. After institution of the suit the plaintiffs filed an application under Order 39, Rule 1 and 2 read with section 151 of the Code of Civil Procedure for temporary injunction. Thereafter, the defendants entered appearance in the suit and contested the injunction application by filling written objection stating, inter-alia, that the plaintiff filed the suit on false averments, the suit is not maintainable in its proper form and manner, the plaintiff has/had no right title and possession in the suit land and, in-fact, the defendants are in possession in the suit land.

The learned Joint District Judge upon hearing the parties by the impugned order dated 16.06.2010 arrived at a finding that plaintiff has been succeeded to prove prima-facie case and that balance of convenience and inconvenience is in the favour of the plaintiff and on

this finding directed the defendant No.1 to maintain status-quo in the suit land. In this case it found that both the parties are claiming their respective possession in the suit land.

Therefore in a case of this nature the trial Court below committed no illegality in directing the defendant No. 1 to maintain status-quo in the suit land.

On going through the available materials on record together with the impugned order, we find no flaw in the reasonings of the trial Court or any ground to assail the same. The impugned order appears to be well founded in law and facts. The Court bellow appears to have considered all the material aspects of the case and justly directed the defendant No.1 to maintain status-quo in the suit land. No interference, is therefore, called for.

In the result, the First Miscellaneous appeal is dismissed without any order as to costs. Since the First Miscellaneous Appeal is dismissed, the connected Rule being Civil Rule No. 109(FM) of 2011 is discharged. Since the suit is an old one of 2010, the trial Court concerned is directed to dispose of the suit expeditiously preferably within a period of 4(four) months from the date of receipt of this judgment, if any.

Communicate this order at once.

Md. Rafizul Islam, J:

I agree.