

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

First Miscellaneous Appeal No. 94 of 2011

In the Matter of:

Haji Mahabubul Hoq and others
.....Plaintiff-appellants.

-Versus-

Arfa Khatun and others
..... Defendant- respondents.

No one appears

....For the appellants

No one appears

.....For the respondents.

Mr. Abdul Mannan Abid, the learned Deputy
Attorney General.

Judgment on 21.05.2026

Sheikh Abdul Awal, J:

This First Miscellaneous Appeal is directed against the order No.1 dated 17.04.2011 passed by the learned Joint District Judge, 1st Court, Chittagong in Other Suit No. 151 of 2011 rejecting an application for temporary injunction under Order 39, Rule 1 and 2 of the Code of Civil Procedure holding that the plaintiffs having failed to make out a prima-facie arguable case.

The brief fact of the case is that the appellants as plaintiffs instituted Other Class Suit No. 151 of 2011 for setting-side the ex party decree obtained by the defendants. After institution of the suit the plaintiffs filed an application for temporary injunction.

The defendants resisted the said injunction application by filing written objection stating, inter-alia, that the plaintiffs filed the suit on false averments. The injunction application is not tenable in law and facts.

The learned Joint District Judge, 1st Court, Chittagong after hearing the parties and on considering the materials on record by the impugned order dated 17.04.2011 rejected the injunction application summarily.

Aggrieved thereby the plaintiffs 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 order, we are inclined to take it up for disposal on merit perusing the available materials on record.

On going through the record together with the impugned order dated 17.04.2011, it is found that the learned Joint District Judge, 1st Court, Chittagong after hearing the parties and on considering the materials on record by the impugned order dated 17.04.2011 rejected the injunction application summarily holding that: “নিষেধাজ্ঞার দরখাস্ত পর্যালোচনায় দেখা যায় যে, তর্কিত একতরফা রায় ডিক্রি প্রচার করার পর বাদী পক্ষ নালিশী জমি খরিদ করিয়াছে মর্মে প্রতিভাত হয়। অপর দিকে একতরফা রায়ের উপর ভিত্তি করিয়া অপর পক্ষ সংশ্লিষ্ট সহকারী কমিশনার অফিস হইতে নাম জারী করিয়াছেন। একতরফা রায় ডিক্রী ফেরবী কিনা তাহা মূল মামলায় সাক্ষ্য গ্রহণ ব্যতীত নিরূপন করা সম্ভব নহে সুতরাং এক দিকে আদালতের এক তরফা রায় এবং তৎ বুলিয়াদি সৃজিত নাম জারী এবং অপর দিকে একতরফা রায়ের পরে বাদীর অনুকূলে থাকা দলিল এই দুইটি বিষয় বিবেচনা করিয়া প্রাইমাফেসী টাইটেল বাদীর আছে বলিয়া

অত্রাদালতের নিকট প্রতীয়মান হয় না। আপাতঃদৃষ্টে সার্বিক বিবেচনায় নিষেধাজ্ঞার দরখাস্তটি সরাসরি নামঞ্জুর করা হইল।”

This order certainly indicates that the learned Joint District Judge, 1st Court, Chittagong considered all aspects of the matter and thereafter, recorded the rejection order. The reasonings given by the then learned Joint District Judge appear to us to be proper and sound and we, do not find any reason to differ from it.

On going through the available materials on record, 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. No interference, is therefore, called for.

In the result, the First Miscellaneous appeal is dismissed without any order as to costs. Since the suit is an old one of 2011, the trial Court concerned is directed to dispose of the suit expeditiously preferably within 4 (four) months in accordance with law, if any.

Communicate this order at once.

Md. Rafizul Islam, J:

I agree.