

Present:
Mr. Justice Md. Iqbal Kabir
And
Mrs. Justice Jesmin Ara Begum

First Appeal No. 96 of 2000

Haji Chunu Mia
....Appellant

Versus
Md. Nuruddin died, leaving behind his legal heirs:
Neoyarunnesa and others
....Respondents

Mr. A.K.M. Shamsuddin, Advocate
....For the Appellant

Mr. Sudipta Arjun, Advocate
....For the Respondent Nos. 2(c) and 2(e)

Judgment on 29.10.2025

Md. Iqbal Kabir, J:

This application has been filed under Section 13 of the অর্পিত সম্পত্তি
প্রত্যাপন আইন, ২০০১ (সংশোধিত ২০১১) for noting abatement.

Facts remain that Respondent Nos. 2(c) and 2(e) as applicants by
filing an application brought notice to this Court that the plaintiff
appellant, being aggrieved by and dissatisfied with the judgment and
decree dated 26.09.1999 (decree signed on 04.10.1999) passed by the
learned Subordinate Judge, 3rd Court, Sylhet in Title Suit No. 10 of 1996
dismissing the suit, the plaintiff preferred this appeal.

It has also brought to our notice that during the pendency of the
instant First Appeal, all the plots as described in the 3rd Schedule land of
the plaintiff of the Title Suit No. 10 of 1996 have been enlisted in the "Ka"
list of Vested Property as published through gazette notification dated
15.05.2012 at serial No. 60 in page No. 14439 (Annexure-A).

It is pertinent to note that the appellant, as plaintiff, filed Title Suit
No. 10 of 1996 for declaration of plaintiff's title to the extent of 2/3rd share
in the 1st Schedule land and for partition of the suit 1st schedule land

claiming a saham as described in the 3rd schedule land and also for getting possession therein along with other reliefs.

The defendant Nos. 1-3, and the Deputy Commissioner, defendant No. 5, contested the suit by filing a separate written statement. However, the learned Court by its judgment and decree dated 26.09.1999 dismissed the suit. Being aggrieved, the plaintiffs of Title Suit No. 10 of 1996, as appellant, preferred the instant appeal. The defendant Nos. 1-3 of Title Suit No. 10 of 1996 as plaintiffs also filed Title Suit No. 56 of 1996 against the plaintiff of Title Suit No. 10 of 1996, for declaration of title over 3/5th share in the 1st Schedule by purchase and over 2/5th share of the 1st Schedule by way of leasehold right and for further declaration that the saf kabala described in 2nd Schedule of the plaint are forged, illegal and not binding upon the plaintiffs. Both Title Suit No. 10 of 1996 and Title Suit No. 56 of 1996 were tried analogously, and the learned Subordinate Judge, Third Court, Sylhet decreed the Title Suit No. 56 of 1996 vide judgment and decree dated 26.09.1999.

However, during the pendency of the instant First Appeal, all the plots described in the 3rd Schedule land of the plaint of the Title Suit No. 10 of 1996 have been enlisted in the "Ka" Schedule of Vested Property as published through gazette notification dated 15.05.2012 at serial No. 60 in page No. 14439.

It has also brought notice that the present appellant, as the plaintiff, filed Arpita Shampatti Pratyarpan Case No. 1407 of 2012 before the Arpita Shampatti Pratyarpan Tribunal No. 4, Sylhet, as the suit plot has been included in the "Ka" Schedule. However, the alleged case has been dismissed vide judgment and decree dated 11.07.2018. Being aggrieved, they filed Arpita Shampatti Pratyarpan Appeal No. 142 of 2018 before the Appellate Tribunal, which was also dismissed vide judgment and decree dated 22.01.2020.

It is at this juncture, it has claimed that the suit plots involved in the instant First Appeal have already been enlisted in the vested property "Ka" schedule, therefore according to Section 13 of the অর্পিত সম্পত্তি প্রত্যাপন আইন, ২০০১ (সংশোধিত ২০১১) the proceedings of the instant First Appeal arising out of Title Suit No. 10 of 1996 required to be noted as abated.

Mr. A.K.M. Shamsuddin, the learned Advocate for the appellant, finds it difficult to oppose the same. However, he acknowledged the above position and did not make any objection.

It is pertinent to note that the aforesaid First Appeal was dismissed for default by order dated 02.04.2006. Subsequently, the suit land was included in the schedule of the vested property list, and a notification to that effect was published in the Official Gazette dated 15 April 2012. However, in the same year, the present appellant instituted Arpita Shampatti Pratyarpan Case No. 1407 of 2012. The appellant, at the time of filing the application for restoration of the First Appeal, suppressed or failed to disclose the said material fact. Consequently, the appeal was restored by order dated 22.11.2016. Had this fact of suppression been brought to the notice of this Court at the relevant time, the outcome of the restoration application might have been otherwise. Such conduct of the appellant is not appreciated by this Court.

Upon hearing the parties, this Court examined the record as well as the statements and the annexure appendix in this application. It transpired that the land in question has been brought under the category of vested property and included in the schedule "k". The schedule property of the present case has fallen under the category of vested property and is included in the "Ka" schedule vide notification dated 8 February 2012.

In the above context, by operation of section 13 of the অর্পিত সম্পত্তি প্রত্যাপন আইন, ২০০১, the instant First Appeal, arising out of Title Suit No. 10 of 1996, has been abated. Therefore, the application is allowed.

Consequently, the First Appeal is dismissed.

The office is directed to take note that this matter has already been abated.

Let a copy of this judgment, along with the lower Court records, be communicated to the Court concerned forthwith.

Jesmin Ara Begum, J:
I agree.