

IN THE SUPREME COURT OF BANGLADESH  
HIGH COURT DIVISION  
(CIVIL REVISIONAL JURISDICTION)

**Present:**  
**Mr. Justice Md. Moinul Islam Chowdhury**

**CIVIL REVISION NO. 2696 OF 2013**

Syed Nurul Ebran Ali and others  
----- Petitioners

-Versus-

Shish Mohammad and others  
----- Opposite Parties

No one appears  
----- For the Petitioners

Mr. H.M. Borhan, Advocate

----- For the opposite party No. 1, 3-10

Heard and Judgment on **28.11.2016**

At the instance of the defendant-respondent-petitioners, Syed Nurul Ebran Ali and others, this Rule has been issued calling upon the opposite party Nos. 1-10 to show cause as to why the judgment and order dated 29.05.2013 passed by the learned Additional District Judge, Chapai Nawabgonj in Miscellaneous Appeal No.11 of 2009 reversing the judgment and order dated 19.03. 2009 passed by learned Joint Distract Judge, First Court (In charge), Chapai Nawabgonj in Other Class Suit No. 18 of 2008 should not be set aside.

The relevant facts for disposal of this Rule, inter alia, are that the present opposite party No. 1 as the plaintiff filed Other class Suit No. 18 of 2008 in the Court of learned Joint District Judge, First Court, Chapai Nawabgonj for permanent injunction in respect of the land described in the schedule of the plaint who leased out 10.10 acres of land to one Ismail

Hossain, the plaintiff No. 10 in the year of 1347 B.S. Another land measuring 10.10 acres was leased out to Shish Mohammad, the plaintiff No. 1 in the year of 1350 B.S. and similarly other property described in the plaint was leased out to the other plaintiffs on different dates. The properties was mutated through the concerned Mutation Case. On 18.11.2008 the defendant-petitioner threatened to the plaintiffs-opposite parties to take away crops from the suit land.

During the pendency of the above suit the present plaintiffs-opposite parties filed an application under Order 39 Rule 1 read with section 151 of the Code of Civil Processor for temporary injunction restraining the defendant-petitioner not to disturb peaceful possession of the plaintiffs.

The present plaintiffs as the defendants contested the suit and opposed the application for temporary injunction by filing a written objection contending that there is no cause to file an application for temporary injunction as well as to file the suit.

After hearing the parties the learned Joint District Judge, Court No. 1, Chapai Nawabgonj rejected the application for temporary injunction. Being aggrieved the present opposite parties preferred an Appeal being the Miscellaneous Appeal No.11 of 2009 in the court of learned District Judge which was heard and the impugned order was passed by the learned Additional District Judge, Chapai Nawabgonj by allowing the appeal by his judgment and order dated 29.05.2013. This revisional application filed challenging the said judgment and order and the Rule was issued thereupon.

This matter has been appearing in the list for a long period of time and the learned Advocate appearing for the opposite parties informed the learned Advocate for the present petitioner as to hearing of this civil revision in this court but none appears to support the Rule.

The Rule has been opposed by the plaintiff opposite party Nos. 3 to 10.

Mr. H.M. Borhan, the learned Advocate appearing for the opposite parties submits that the learned trial court without considering the necessity of an order of temporary injunction rejected the application thereon. However, the learned appellate court below allowed the application to impose the order of temporary injunction, thus, there was non-consideration or misreading of the evidence by the appellate court in passing the impugned judgment and order, as such, the Rule is liable to be discharged.

Considering the submission and the revisional application under section 115(1) of C.P.C, it appears to me that the original suit was filed by the present opposite parties as the plaintiffs seeking for a decree for permanent injunction. During the pendency of the suit the present opposite parties filed an application for a temporary injunction seeking a remedy for restraining the defendant-petitioner who have been disturbing upon their peaceful possession and position. After hearing the parties the learned Joint District Judge, First Court, Chapai Nawabgonj rejected the prayer of the present opposite parties on the ground that the learned Additional District Magistrate passed an order for appoint of a receiver in the case No. 34(P)/2008, therefore, the appointment of receiver of an interim order for

temporary injunction should not be passed, therefore, rejected the application. Whereas the learned appellate court below by its judgment and order dated 29.05.2013 allowed the appeal by passing the order of temporary injunction.

Now the question is whether the interim order of a temporary injunction is necessary to protect the present opposite parties from any prospective intervention by the defendant-petitioner. I have carefully considered the judgment and order passed by the learned courts below and I consider that the suit should be disposed of by the trial court on basis of the merit of the case. However, as the present plaintiff-opposite parties apprehended any intervention into the peaceful possession of the plaintiff-opposite parties by the defendant-petitioner, therefore, restraining order should be passed in order to keep the peace in and around the suit land. Accordingly, I am inclined to pass an order to maintain statusquo regarding the land in dispute.

Accordingly, the Rule is disposed of.

The defendant-petitioner, Syed Nurul Evran Ali and others and also the present opposite parties Shish Mohammad and others are hereby directed to maintain statusquo as to the possession and position of the suit land till disposal of the Other Class Suit No. 18 of 2008 pending in the court of learned Joint District Judge, Court NO. 1, Chapai Nawabgonj.

The learned Joint District Judge, First Court (In-charge) Court No. 1, Chapai Nawabgonj is directed to conclude and dispose of the Other Class Suit No. 18 of 2008 within 8(eight) months from the date of receipt of the copy of the judgment.

The interim order of stay granted by this court at the time of issuance of the Rule upon the impugned judgment and order dated 29.05.2013 passed by the learned Additional District Judge, Chapai Nawabgonj in Miscellaneous Appeal No. 11 of 2009 is hereby recalled and vacated.

The office is directed to communicate the judgment and order to the concerned.