

**Present:**

**Mr. Justice Sheikh Abdul Awal**  
and

**Mr. Justice Md. Rafizul Islam**

In the Matter of:

**First Miscellaneous Appeal No. 44 of 2001**

Rahmat Ali and others.

....Defendant -appellants.

-Versus-

Md. Anwar Hossain.

.....plaintiff-respondents.

None appears

..... For the appellants.

Mr. Nazimuddin, Advocate on behalf of

Ms. Sadia Rowshan Jahan, Advocate

..... For the respondent No.1.

**Judgment on 14.05.2026.**

**Md. Rafizul Islam, J:**

This First Miscellaneous Appeal is directed against the impugned order dated 04.04.2000 passed by the then learned Subordinate Judge, 2<sup>nd</sup> Court, Manikganj in violation Miscellaneous Case No.04 of 1996 arising out of Title Suit No.10 of 1995 framing issues in a proceeding under Order 39, Rule 2 (3) of the Code of Civil Procedure for violation of an order of ad-interim injunction.

Facts, relevant for disposal of this Appeal, in brief are that, the respondent No.1 Md. Anwar Hossain and others as plaintiffs instituted the suit being Title Suit No.10 of 1995 in the Court of the then learned Subordinate Judge, 2<sup>nd</sup> Court, Manikganj against the defendants for partition in the suit land as stated in the schedule to the plaint. On 20.08.1995 the plaintiffs-respondents filed a petition for temporary injunction under Order 39, Rule-1 for restraining the defendant Nos.1-6 from transferring land, erecting new houses, removing old houses

and changing nature of land by digging land and taking and throwing earth of the case land. Thereafter, the learned trial Court upon hearing the plaintiffs issued show cause notices upon the defendant Nos.1-6 giving 7 days time after receiving notices as to why the temporary injunction should not be granted as prayed for and granted an order of ad-interim injunction, vide order dated 30.08.1995. Thereafter, on 18.01.1996 the plaintiffs-respondents filed an application under Order 39, Rule 2(3) of the Code of Civil Procedure being Violation Miscellaneous Case No.4 of 1996 alleging that the present petitioners having received the show cause notices violated the order of ad-interim injunction passed by the learned Court. Thereafter, on 08.05.1997 the defendants-petitioners submitted a written objection and denied all the material allegations.

The learned trial Judge upon appearance of the parties and on perusal the petition and written objection framed issues in the present case, vide order dated 04.04.2000.

Being aggrieved by and dissatisfied with the impugned order dated 04.04.2000 passed by the then Sub-ordinate Judge, 2<sup>nd</sup> Court, Manikganj, the defendants filed this First Miscellaneous Appeal before this Court.

No one found present to press the appeal on repeated calls.

In view of the fact that this petty old appeal arising out of an interlocutory order has been dragging before this Court over a period of 25 years, we are, inclined to take it up for disposal on merit.

Mr. Nazimuddin, the learned Advocate on behalf of Ms. Sadia Rowshan Jahan appearing for the respondent No.1 submits that the trial court has appropriately and lawfully framed the issues by order dated 04.04.2000. He concludes that the appeal has no merit and the same is liable to be dismissed.

We have heard the learned Advocate for the respondent-1 and perused the materials on record including the impugned order.

It appears from the record that the respondent as petitioner filed the miscellaneous case alleging that despite an order of ad-interim injunction passed in the suit, the opposite party deliberately violated the said order by committing acts prohibited by the injunction. Upon appearance of the parties and after considering the petition and written objection of both sides, the learned trial court framed issues for adjudication of the disputed questions involved in the proceeding.

The only question calls for consideration is whether the learned trial court committed any illegality in framing issues in a proceeding under Order 39, Rule 2(3) of the Code of Civil Procedure.

Order 39, Rule 2(3) of the Code of Civil Procedure empowers the court to take action where an order of injunction has been disobeyed or breached. In such proceeding if allegation of violation are denied and disputed questions of fact arise, the court is required to ascertain the truth by taking evidence. For effective adjudication of the controversy, framing of issues is not only lawful but also conducive to fair trial.

In the present case the learned Court below upon considering the petition and written objection found that factual controversy existed regarding the alleged violation of the injunction order. Accordingly it framed issues for proper adjudication. Such exercise is in consonance with the settled principles of the Code of Civil Procedure and cannot be said to suffer from any illegality and impropriety.

Upon consideration of the record we find that the learned court arrived at a correct decision in framing issues and there is no reason to

interfere with the impugned order. Accordingly this appeal is liable to be dismissed.

In the result, the appeal is dismissed without any order as to costs.

The impugned order dated 04.04.2000 passed by the then learned Subordinate Judge, 2<sup>nd</sup> Court, Manikganj in violation Miscellaneous Case No.04 of 1996 arising out of Title Suit No.10 of 1995 is hereby maintained.

As the suit is an old one of 1995 the trial Court concerned is directed to dispose of the same expeditiously in accordance with law, if any.

Since the appeal is dismissed, the connected Rule being Civil Rule No. 392 (F.M) of 2000 is also discharged. The order of stay granted earlier by this Court stands vacated.

Communicate this order at once.

**Sheikh Abdul Awal, J:**

I agree.