

Present:
Mr. Justice Sheikh Abdul Awal
and
Mr. Justice Md. Mansur Alam

First Miscellaneous Appeal No. 238 of 2014
 with
Civil Rule No. 802(FM) of 2014

In the Matter of:

Md. Ismail Jammadder
Plaintiff-Appellant.

-Versus-

Shahidul Islam Jammadder
Defendant-respondent.

No one appears

..... For the Plaintiff-Appellant.

No one appears

.....For defendant-respondent.

Judgment on 11.03.2025.

Sheikh Abdul Awal, J:

This First Miscellaneous Appeal is directed against the order dated 21.04.2014 passed by the learned Joint District Judge, 4th Court, Dhaka in Title Suit No. 723 of 2013 rejecting the application for appointment of receiver.

No one appears to press the appeal on repeated calls.

In this case, the record of the case has not been called for.

In view of the fact that this petty old appeal arising out of an order, we are inclined to dispose of it on merit.

The short fact is that the petitioner as plaintiff instituted a suit being Title Suit No. 723 of 2014 in the Court of the learned Joint District Judge, 4th Court, Dhaka for recovery of Kash Possession in the suit land as described in the schedule of the plaint.

Thereafter, while the suit was in progress the plaintiff filed an application on 30.03.2014 under Order 40, Rule 1 of the Code of the Civil Procedure for appointment a receiver to control and manage of the building and collect its rent as well.

The learned Joint District Judge after hearing the application by his order dated 21.04.2014 rejected the application holding that “admittedly the suit land has purchased by the plaintiff without making any partition or amicable agreement and the suit land is proportionately entitled to the defendant opposite party and as such this Court is not inclined to interfere within the ambit of order 40, Rule 1 of the Code of the Civil procedure.”

Aggrieved thereby, the plaintiff, Md. Ismail Jammadder preferred this First Miscellaneous Appeal before this Court.

On a reading of the impugned order together with other materials on record, we find nothing on record to suggest that in the facts and circumstances of the case it is necessary to appoint a receiver for collecting rent as well as to control over the building. There is no reason for appointment of a receiver in the instant case, particularly when the court below did not find any mismanagement or damage to the property in question. Where the parties are in possession of the property for a long time, there should be no appointment of a receiver without the consent of the parties.

The learned Joint District Judge appears to have considered all the material aspects of the case and justly passed the impugned order dated 21.04.2014 rejecting the application for appointment of receiver. No interference is, therefore, called for.

Accordingly, this First Miscellaneous appeal is dismissed without any order as to costs.

Since the appeal is dismissed, the connected Rule being Civil Rule No. 802 (FM) of 2014 is discharged.

Let a copy of this judgment be communicated to the Court Concerned at once.

Md. Mansur Alam, J:

I agree.