

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

**Civil Revision No. 3200 of 2014**

**IN THE MATTER OF**

Ranjit Bikash Chowdhury

.....Defendant-Opposite party-Petitioner

-Versus-

Salil Majumder and another

.....Plaintiffs-Petitioners-Opposite parties

Mr. Surojit Bhattacharjee with

Mr. Monisankar Sarker, Advocates

.....For the petitioner

Mr. Md. Mubarak Hossain, Advocate

.....For the opposite parties

**Heard on 13.06.23, 21.06.23, 11.07.23, 26.07.23, 24.01.24, 28.01.24, 29.01.24 and judgment passed on 06.02.2024**

**Present:**

*Mr. Justice Kazi Md. Ejarul Haque Akondo*

**Kazi Md. Ejarul Haque Akondo, J.**

This Rule, under section 115(4) of the Code of Civil Procedure, 1908, was issued in the following term-

*“Records need not be called for and a Rule be issued calling upon the opposite parties to show cause as to why the impugned judgment and order complained of in the petition moved in court today should not be set aside and/or pass such other or*

*further order or orders as to this Court may seem fit and proper.”*

At the time of issuance of the Rule, all further proceedings of Other Suit No. 2 of 2012 of the Court of Learned Assistant Judge, Boalkhali, Patiya, Chattogram stayed for 6 (Six) months from the date which was subsequently extended from time to time.

The present opposite parties as the plaintiffs instituted Other Suit No. 2 of 2012 in the Court of Learned Assistant Judge, Boalkhali, Patiya, Chattogram against the present petitioner as the defendant praying for permanent injunction, and during the pendency of the suit the defendant filed an application praying for local investigation by an Advocate Commissioner under Order 26 Rule 9 of the Code of Civil Procedure, 1908. The learned Trial Judge by his order dated 07.08.2012 allowed the same against which the plaintiffs preferred a civil revision before the learned District Judge, Chattogram which was numbered as Civil Revision No. 157 of 2012. After hearing the same the learned Additional District Judge, 4<sup>th</sup> Court, Chattogram by judgment and order dated 24.04.2014 allowed the revision on contest and set aside the

judgment and order of the Trial Court. Being aggrieved by the same defendant as the petitioner had preferred this civil revision before this Court.

Anyway, Mr. Surojit Bhattacharjee, the learned Advocate appearing with Mr. Monisankar Sarker, Advocate on behalf of the defendant petitioner submits that the learned Trial Judge considering the facts and circumstances of the case and the materials on record rightly allowed the application for local investigation but on revision, the learned Judge on an erroneous view allowed the revision and set aside the judgment and order of the Trial Court without any cogent reason and thereby committed serious error of law.

Conversely, Mr. Md. Mubarak Hossain, the learned Advocate appearing for the plaintiffs' opposite parties submits that the learned Judge of the Lower Revisional Court considering the materials on record rightly set aside the judgment and order of local investigation of the Trial Court giving vivid findings and thereby committed no illegality to be interfered with.

Heard the learned Advocates of the contending parties and have perused the materials on record. It appears that the plaintiffs filed the instant suit for perpetual injunction and during the pendency of the suit the defendant filed an application praying for local investigation before filing of the written statement, and during the pendency of the hearing of an application for temporary injunction. And, after hearing the same the learned Trial Judge without elaborate finding allowed the application for local investigation. But, the learned Judge of the Lower Revisional Court on elaborate discussions and giving reasons set aside the judgment and order of the Trial Court and thereby committed no illegality to be interfered with. However, at the time of the hearing, the learned Advocates of the contending parties agreed that the application for local investigation may be considered by the learned Trial Judge during the trial. In the premises, I find no reason to disagree with the above-agreed position of the learned Advocates.

Given the above, I find no merit in the Rule. Accordingly, the Rule fails.

As a result, the Rule is discharged without cost.

Stay vacated.

The impugned judgment and order dated 24.04.2014 passed by the learned Additional District Judge, 4<sup>th</sup> Court, Chattogram in Civil Revision No. 157 of 2012 allowing the same by setting aside the judgment and order dated 07.08.2012 passed by the learned Assistant Judge, Boalkhali, Patiya, Chattogram in Other Suit No. 2 of 2012 is hereby affirmed.

Send a copy of this judgment to the Court concerned at once.

(TUHIN BO)