

District: Faridpur

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

Present

Mr. Justice Sardar Md. Rashed Jahangir

Civil Revision No. 3814 of 2017

In the matter of :

Nannu Sarder

... Petitioner

-Versus-

Mst. Tasrin Akter Shima

...Opposite party

Ms. Salina Akter Chowdhury, Advocate with
Ms. Qamrunnahar Kohinoor, Advocate

...For the petitioner

Mr. Maqbul Ahmed, Senior Advocate with
Mr. Saiful Quader Chowdhury, Advocate

...For the opposite party.

Heard on: 08.01.2025,

30.01.2025 & 05.02.2025

Judgment on: 06.03.2025

Rule was issued on an application under section 25 of the
Small Cause Courts Act, 1887 calling upon the opposite party to
show cause as to why the judgment and decree dated 06.11.2016
passed by the Joint District Judge, First Court, Faridpur in Small

Cause Courts Case(S.C.C. Case) No. 01 of 2012 should not be set aside and/or such other or further order or orders as to this Court may seem fit and proper.

The present opposite party as plaintiff filed Small Cause Courts Case No. 01 of 2012 before the Joint District Judge, First Court, Faridpur for ejectment of tenant and for recovery of arrear of rent stating, inter alia that one Mowlavi Md. Yuosuf Ali was the original owner of the suit premises. Father of the defendant Rokan Sardar was a monthly tenant under Mowlavi Md. Yusuf Ali and after the death of Rokan Sardar, defendant Nannu Sardar stepped into the shoe of the tenant. Rahima Khatun, mother of Mowlavi Md. Yousuf Ali inherited the scheduled property as the legal heiress of Yousuf Ali and thereafter on 30.06.1992 through Heba-bil-awaj deed No. 3992 transferred the same in favour of her 3(three) sons Ulfatul Karim and 2(two) others and thereby inducted them into the possession. Ulfatul Karim and his brothers transferred the property to the plaintiff on 13.11.2000 vide deed

No. 6928 and thereby handed over the possession to him. It is averred that the defendant No. 1 was and is a monthly tenant at a monthly rent of Tk.2000/-. The defendant did not pay any rent to the plaintiff since 13.11.2000 after purchasing the property. Thereafter, on 09.08.2011 plaintiff served a notice under section 106 of the Transfer of Property Act, 1882, in spite of that the defendant did not vacant the property in question in favour of the plaintiff, hence the suit.

On the other hand, the defendant contested the suit by filing written statement contending, inter alia that Mowlavi Md. Yousuf Ali during his life time transferred .39 decimals of land including the scheduled property to his 2(two) sons, Salauddin Khokon and Sayeef Yousuf Selim on 15.03.1990. The defendant as well as his father was a tenant under the Mowlavi Md. Yousuf Ali and thereafter under his sons at a monthly rent of Tk.500/-. The defendants are paying rent regularly to the land lord. Thus, the suit is liable to be dismissed.

Learned Joint District Judge, First Court, Faridpur after hearing the parties and on perusal of the evidences on record, decreed the suit on 06.11.2016 in favour of plaintiff and against the defendant.

Having been aggrieved by the aforesaid judgment and decree, the defendant preferred this revisional application and obtained the Rule.

Ms. Salina Akter Chowdhury, learned Advocate for the petitioner submits that learned Joint District Judge, Faridpur failed to appreciate that Rokan Sardar, father of the defendant was a monthly tenant under Mowlavi Md. Yousuf Ali and subsequently, became tenant under 2(two) sons of Yousuf Ali namely, Salauddin Khokon and Selim Yousuf, who got the property by way of gift and as such, Rokan Sardar, father of defendant started paying rent to Salauddin Khokon and Selim Yousuf. After the death of his father, defendant are continuing to pay rent to the subsequent land lord and they paid rent up to the date, which has been

categorically proved by the D.W. 2, Sayeef Yousuf Selim, despite learned Joint District Judge illegally decreed the suit holding that the defendant is a monthly defaulted tenant of plaintiff. She next submits that sons of Mowlavi Md. Yousuf Ali filed Title Suit No. 56 of 2003 before the Assistant Judge, Bowalmari to establish their title and upon dismissal of the suit they filed Tile Appeal No. 130 of 2009 and being unsuccessful in the appeal they filed a civil revision before the High Court Division which is still pending, thus, ownership of the property is yet to be decided finally and since, the defendant is a tenant under the sons of Mowlavi Md. Yousuf Ali, he cannot be evicted pending disposal of the title proceeding and in view of above, she prayed for making the Rule absolute.

On the other hand, Mr. Maqbul Ahmed, learned Senior Advocate appearing for the opposite party submits that trial Court below after considering the evidences on record, both oral and documentary, arrived at in the decision that the defendant is legally be treated as the tenant of plaintiff and since the purchase,

defendant did not pay any rent to the plaintiff, resulting to make him defaulter and liable to be evicted from the property in question. The tenancy of defendant has been duly cancelled upon serving notice under section 106 of the Transfer of Property Act, 1882, thus, the judgment and decree passed by the Court below is a proper judgment passed upon assessing the evidences and applying its judicial mind.

Heard learned Advocates of both the parties, perused the revisional application with the annexures appended thereto and the supplementary affidavit filed on behalf of the petitioner.

It is contended from the defendant-petitioner that the defendant is a monthly tenant under the sons of Mowlavi Md. Yousuf Ali, who got the property from their father by way of gift on 15.03.1990 and it is further contended that to establish their title, the sons of Mowlavi Yousuf Ali namely, Salauddin Khokon and Sayeef Yousuf filed Title Suit No. 56 of 2003, on dismissal of the suit they preferred Title Appeal No. 130 of 2009 and being

unsuccessful thereafter they filed a civil revision before the High Court Division.

To examine the contention of learned Advocate for the petitioner, I have gone through the entire record including evidences and on query, learned Advocate for the petitioner failed to specify the particulars of the civil revision allegedly has been filed before the High Court Division even after taking long adjournment. It is an admitted fact that plaintiffs of Title Suit No. 56 of 2003, alleged land lord of defendant lost in the battle of the suit for establishment of their title as well as in the appeal. Thus, the title of the present plaintiff as well as his vendors have been established, and it is also established that the sons of Mowlavi Md. Yousuf Ali have no right, title and possession over the scheduled property, and as such the Court below categorically found that the defendant at best can be treated as a tenant under the plaintiff (because Salahuddin Khokon and his brother have no title) and as such, the tenant and land lord relationship between the defendant and plaintiff having been established and since the

defendant did not pay any rent to the plaintiff since 13.11.2000, thus, he has become a defaulter.

In the premise above, this Court is of the view that the judgment and decree of the Court below does not suffer from any infirmity.

In the result, the Rule is discharged without any order as to cost.

The order of stay granted earlier is hereby recalled.

The defendant is directed to handover the possession of the suit premises in favour of the plaintiff along with the decreed money within 60(sixty) days, failing which the plaintiff can take resort of law.

Send down the lower Court Record.

Communicate the judgment and order at once.