

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

Present:

Mr. Justice Md. Emdadul Huq

Civil Revision No. 563 of 2003.

Most. Rina Begum

..... Petitioner.

-Versus-

A. D. C (Rev), Borguna and others.

.....Opposite parties.

None appears

..... For the petitioner.

Mr. Md. Haroor-Ar- Rashid, D.A.G.

..... For the Opposite parties.

Heard on :The 23rd October and 10th November, 2014.

Judgment on: The 20th November, 2014.

The Rule issued in this Civil Revision under section 115(1) of the Code of Civil Procedure, 1908 is about sustainability of the judgment and decree dated 05-11-2008 by which the learned Additional District Judge, Borguna dismissed Title Appeal No. 04 of 2007 and thereby affirmed the Judgment of dismissal dated 31-01-2007 passed by the learned Assistant Judge, Bamna, Borguna in Title Suit No. 55 of 2004 instituted by the plaintiff-petitioner for a declaration against cancellation of the lease of some land.

Plaintiff's Case

Plaintiff Rina Begum filed the above noted suit for a declaration that the orders dated 13-03-2014 and 15-03-2004 passed by defendant Nos. 2 and 3, being the Assistant Commissioner of land (shortly AC Land) and the Upazial Nirbahi Officer, Bamna in Miscellaneous Case No. 22 BT 76-77 and also the Order 14-09-2004 passed by the defendant No.1 Additional Deputy Commissioner (Revenue) (**shortly A.D.C (Rev)**), Borguna in Miscellaneous Case No. 05 of 2004 are illegal and inoperative.

Plaintiff claims that, in the year 1982 one Rotton Ali Khan obtained one year lease of the suit land measuring 54 square cubits. Rotton Khan used to run a small business in a shop on that land. In 1986 Rotton Khan transferred the possession of the property to one Saidur Rahman who transferred the same to the plaintiff in 1987. During her possession, plaintiff paid rent to the Government for the years 1393 to 1409 B.S. in the name of the original lessee Rotton.

Lastly on 15-04-2003 the plaintiff filed an application for allowing her to pay the rent for the year 1410 B.S. But the defendants, by orders dated 13-03-2004 and 15-03-2004 and 14-09-2014 cancelled her lease and also directed the plaintiff to vacate the suit land. Hence the suit.

The defendants did not file any written statement. However the AC Land as defendant No.3 filed a written objection against plaintiff's application for temporary injunction.

In that written objection defendant No.3 admits that the plaintiff has been in possession of the suit land by virtue of the last transfer of possession from the original lessee Rotton Ali Khan. He contends that Rotton Ali Khan illegally transferred possession of the suit land to one Saidur Rahman, who transferred it to Sultan Ahmed, who finally transferred it to the plaintiff. However in consideration of such reality the Government accepted rent-cum-salami from the plaintiff for the year 1398-1409 B.S. But the local Union Parishad has adopted a resolution on 20-10-2003 denouncing the unsocial activities of the plaintiff carried on in her shop on the suit land. So the Upazaila Nirbahi Officer caused an enquiry in which it was found that the plaintiff had been using the suit land as her residence and also carrying on unsocial activities. Accordingly by order dated 13-03-2004 and by subsequent orders the lease of the plaintiff was cancelled with a direction to vacate the suit land. Against such orders the plaintiff filed an application to the Deputy Commissioner. The application was registered as Miscellaneous Case No. 05 of 2004. So A.D.C

Revenue heard the plaintiff and passed the order dated 14-09-2004 which was approved by the Deputy Commissioner rejecting plaintiff's application.

At the trial plaintiff produced oral and documentary evidence through two witnesses and the defendant No.1 produced only oral evidence through one witness.

The trial Court also called for the relevant file of the A.D.C.(Rev) Office.

After consideration of the evidence so produced and the said file, the trial Court dismissed the suit. In the Appeal preferred by the plaintiff the learned Additional District Judge concurred with the findings and decision of the trial Court and dismissed the Appeal by the impugned judgment and order.

At the hearing of this Revision, none appears for the petitioner (plaintiff) although the matter has been appearing in the cause list with the name of the advocate for the petitioner on consecutive days.

Mr. Md. Haroon-Ar-Rashid, the learned Deputy Attorney General, submits that the courts below have recorded concurrent findings with regard to the questions of fact that the plaintiff does not have leasehold right, that she is in possession as a result of the illegal transfer made by the original lessee and therefore no interference is necessary in this Revision.

It is revealed from the lower court record that the trial court upon discussion of the evidence on record, found that the original lessee Rotton Ali Kha illegally transferred the possession of the suit land and after similar transfers plaintiff appeared in the scenario as possessor.

The trial Court concluded that plaintiff was not entitled to the relief prayed for.

It appears that the learned Additional District Judge independently assessed the evidence on record and concurred with the decision of the trial Court with.

Admittedly plaintiff is in possession as a result of successive transfer of possession from the originally lessee Ratton.

However it appears that plaintiff filed several D.C.R showing payment of some money as rent upto 1409 B.S. These documents, Exhibits-4 (series), indicate that she was recognized by the defendants as a temporary lessee on yearly basis upto 1409 B.S. But plaintiff could not file any document showing payment of rent after that year. It follows that whatever right plaintiff might have acquired it did not continue after 1409 B.S.

It further appears that in passing the order of cancellation of the lease and in directing eviction of the plaintiff, the defendants have allowed the plaintiff the opportunity of hearing and that the defendants were satisfied that the plaintiff violated certain terms of the original lease document namely prohibition on causing nuisance and annoyance to others.

Thus it appears that the Revenue authority lawfully passed the order of cancellation of the lease and eviction of the plaintiff.

I find no merit in the Rule.

In the result, the Rule is discharged.

The order of status quo granted earlier stands vacated.

No order as to cost.

Send down the lower court records along with a copy of this judgment.

Habib/B.0