

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

Present:

Mr. Justice Md. Miftah Uddin Choudhury

CIVIL REVISION NO. 2961 OF 2014

In the matter of:

An application under Section 115(1) of the Code of Civil Procedure.

And

Md. Shamsu Uddin being dead his heirs Md. Ahsan Habib
Kamrul and others

... Petitioners

-Versus-

Shahin Kader Mahin being dead his heirs Sharifa Kader and
others

... Opposite parties

Mr. Golam Ahmed, Advocate

... For the petitioners

Mr. Mustaque Ahmed with

Ms. Syeda Rafika Khatun, Advocates

... For the opposite parties

Heard on 28.01.2020, 04.02.2020 and
Judgment on 20.02.250.

This Rule arises out of the judgment and order dated 23.04.2014, passed by the learned Additional District Judge, Narsingdi, in Miscellaneous Appeal No. 06 of 2012, reversing those dated 13.03.2012, passed by the Joint District Judge, First Court, Narsingdi, in Title Suit No. 162 of 2011, directing the parties to maintain status-quo in respect of the possession of the suit land.

The facts necessary for disposal of the Rule in brief, that the petitioner as plaintiff on 20.09.2011 instituted the suit impleading the opposite party Nos. 1-11 as defendants for declaration of title over the suit land as well as for partition. On 22.09.2011 the plaintiff filed

an application under Order XXXIX Rule 1 read with section 151 of the Code of Civil Procedure praying for an order of injunction restraining the defendants from dispossessing his saw mill and shop situated on the suit land and from creating any sort of disturbance in his peaceful possession over the same.

To oppose such prayer the defendant No. 2 filed written objection stating that the plaintiff has got no cause of action to file the suit, he has not been possessing the suit land, and the defendants are in possession of the same. On 04.04.2012 the defendant Nos. 2 and 7 filed written statement denying the claims of the plaintiff, and prayed for separate saham.

The prayer for temporary injunction was taken up for hearing and on that day an order was passed directing both the parties to maintain status-quo in respect of possession and position of the suit land. Against the said order the defendant/opposite party No. 1 preferred Miscellaneous Appeal No. 06 of 2012 in the Court of District Judge, Narsingdi. On transfer the said appeal was heard by the Additional District Judge, Narsingdi who by the impugned judgment and order allowed the appeal and set aside the judgment and order dated 23.04.2014 passed by the trial court directing the parties to maintain status-quo.

Hence, the plaintiff as petitioner preferred this revision and obtained the rule. At the time of issuance of the Rule this court by order dated 23.7.2014 stayed the judgment and order impugned in this revision meaning that the order of status-quo granted by the trial court has been restored and it is still in force. But during pendency of the Rule at the instance of the defendant/opposite party No. 1, a criminal proceedings being Miscellaneous Case No. 354 of 2019 under section 145 of the Code of Criminal Procedure was initiated before an Executing Magistrate, being the Additional District Magistrate, Narsingdi. In connection of that case an enquiry was held by the Union Assistant Land Officer, Putia Union Land Office, Shibpur, Narsingdi. A copy of the report submitted after such enquiry has been produced before this court by the learned Advocate of the petitioner.

Mr. Mustaque Ahmed, learned Advocate, appearing for the opposite party on receipt of copy of said report and after consultation with his client cannot deny such fact.

When the Civil Court, particularly the High Court Division has been regulating the possession of the suit land, it is unwanted and illegal to initiate any proceeding before any Executive Magistrate which shows utter disrespect to the High Court Division. It is also

apparent from such attitude of the opposite party that he is very much desperate.

It appears that the trial court passed an order to maintain status-quo on agreement of the learned counsels of both the parties, but the appellant court found that, such order without any finding about the convenience and inconvenience of the parties and any prima facie case the order impugned in the appeal passed on such agreement of counsels of both the parties is illegal.

After hearing the learned Advocates and on perusal of the orders of the courts below, as well as considering the attitude of the opposite party, I find that the order of the Assistant Judge directing the parties to maintain status-quo was proper.

Accordingly, this Rule is hereby made absolute, and the impugned judgment and order dated 23.04.2014, passed by the Additional District Judge, Narsingdi, in Miscellaneous Appeal No. 06 of 2012 is hereby set aside, and the parties are hereby directed to maintain status-quo in respect of position and possession of the suit land till disposal of instant Title Suit No. 162 of 2011, pending in the first court of Joint District Judge, First Court, Narsingdi.

However, there is no order as to cost.