

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

Civil Revision No. 2264 of 2015

IN THE MATTER OF

Md. Azmal Hossain Helal

.....Defendant No.24-Petitioner

-Versus-

1. Assistant Custodian, Vested and Non-Resident
property, represented by the Additional Deputy
Commissioner (Revenue), Laxmipur

.....Plaintiff-Opposite party

2. Parvin Akhtar and others

.....Defendants-Opposite parties

Mr. Prabir Halder, Advocate

.....For the petitioner

No one appears

.....For opposite party No. 1

Heard and judgment passed on 10.07.2023

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 terms:

*“Records need not be called for. Leave is granted. Let a
Rule be issued calling upon opposite party No. 1 to show
cause as to why the impugned judgment and order dated*

27.04.2015 passed by the learned Senior District Judge, Laxmipur in Civil Revision No. 12 of 2014 rejecting the same by affirming those dated 26.02.2014 passed by the learned Assistant Judge, Ramgonj, Laxmipur in Title Suit No. 48 of 2007 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, this Court stayed the operation of the impugned judgment and order dated 27.04.2015 for 06(Six) months from the date and lastly, it was extended on 10.02.2020 till disposal of the Rule.

The present opposite party No. 1 as the plaintiff filed Title Suit No. 256 of 1995 in the Court of learned Senior Assistant Judge, Laxmipur praying for a decree of declaration that registered Kabala No.20897 dated 15.03.1998 is forged, fabricated, collusive, and created by false personification, and the judgment and decree dated 08.09.1990 passed on compromise in Title Suit No. 101 of 1988 is liable to be set aside. Thereafter, the suit was transferred to the Court of Learned Assistant Judge, Ramgonj, Laxmipur and it

was renumbered as Title Suit No. 48 of 2007. And during the pendency of the suit defendant No. 24, that is to say, the present petitioner, filed an application for abatement of the suit under section 13 (1)(Ka) of the অর্পিত সম্পত্তি প্রত্যর্পণ আইন, ২০০১. After hearing the same the learned Trial Judge by order dated 26.02.2014 rejected the said application. Thereafter, defendant No. 24 again filed an application for abatement of the suit stating that a case for Arpita Sampatti Prattarpon Suit No. 177 of 2012 is pending before the Arpita Sampatti Prattarpon Tribunal on the self-same property. After hearing the said application the learned Trial Judge by his order No. 140 dated 09.07.2014 rejected the application on the ground that a similar application was rejected by this Court earlier on 26.02.2014. Being aggrieved by the said order dated 09.07.2014 defendant No. 24 as the petitioner had filed Civil Revision No. 12 of 2014 before the learned District Judge, Laxmipur, and after hearing the same the learned Judge by his impugned judgment and order dated 27.04.2015 rejected the revision by affirming the orders dated 26.02.2014 and 09.07.2014 passed by the learned Trial Judge. Being aggrieved by and dissatisfied with said the impugned

judgment and order dated 27.04.2015 defendant No. 24 as the petitioner had filed this civil revision before this Court and obtained the instant Rule which is before us for consideration.

Mr. Prabir Halder, the learned Advocate appearing for defendant No. 24-petitioner only submits that both the Courts below on misreading, misconstruing, and misinterpreting the provisions of section 13 of the অর্পিত সম্পত্তি প্রত্যর্পণ আইন, ২০০১ have arrived at a wrong decision. He lastly submits that since the property published in the 'Ka' list under the aforesaid Ain, 2001 and the property of the Title Suit No. 48 of 2007 is the same as such, the suit is liable to be abated because of the provision of section 13(1)(Ka) of the অর্পিত সম্পত্তি প্রত্যর্পণ আইন, ২০০১.

However, no one appeared to oppose the Rule when the matter was taken up for hearing.

On perusal of the materials on record and going through the relevant provisions of law it appears that the learned Judge of the Revisional Court below on elaborate discussions rightly passed the impugned judgment and order on concurrent findings affirming the order of rejection of the application filed under section 13 (1)(Ka)

of the অর্পিত সম্পত্তি প্রত্যর্পণ আইন, ২০০১ and thereby committed no error of an important question of law resulting in erroneous decision occasioning failure of justice. In the premises, there is no reason to interfere with the impugned judgment and order.

Because of the above, I do not find any substance in the submissions so made by the learned Advocate for the petitioner.

Accordingly, the Rule fails.

As a result, the Rule is discharged without cost.

Stay vacated.

The impugned judgment and order dated 27.04.2015 passed by the learned Senior District Judge, Laxmipur in Civil Revision No. 12 of 2014 dismissing the same by affirming those dated 26.02.2014 and 09.07.2014 passed by the learned Assistant Judge, Ramgonj, Laxmipur in Title Suit No. 48 of 2007 rejecting the application for abatement is hereby upheld.

Communicate the order to the Court concerned at once.

(TUHIN BO)