

Bench:

Mr. Justice Bhishmadev Chakraborty

Civil Revision No. 4592 of 2014

Nasir Howlader and otherspetitioners

-Versus-

Shah Jahan Howlader and others.

.....opposite parties

No one appears for the petitioner

Mr. Kabir Miah Sarkar, Advocate

..... for opposite parties 1 and 2

Judgment on 01.02.2024

The defendants obtained this Rule calling upon plaintiff-opposite parties to show cause as to why the judgment and order dated 10.07.2014 passed by the District Judge (in-charge) Barishal in Miscellaneous Appeal No.14 of 2014 allowing the appeal granting *status quo* in respect of possession of the suit land by setting aside the judgment and order dated 06.03.2014 passed by the Joint District Judge, Court No.3, Barishal in Title Suit No.22 of 2010 rejecting the application for temporary injunction should not be set aside.

The plaintiff-opposite parties 1-11 herein instituted the suit praying for declaration of title and partition of the suit land as described to the schedule of the plaint. The defendants appeared in the suit and has been contesting it by filing written statement.

During pending of the aforesaid suit the plaintiffs filed an application under Order 39 Rules 1 and 2 of the Code of Civil Procedure (the Code) praying for temporary injunction restraining

the defendants from filling up earth in the suit land or from making any construction work over the same or from changing its nature and character. The application was objected by the contesting defendants.

However, after hearing the learned Joint District Judge by its judgment and order passed on 06.03.2014 rejected the application for temporary injunction and refused to grant any order of *status quo* in respect of making any construction work over the suit land.

Against the aforesaid judgment and order the plaintiffs approached before the District Judge in Miscellaneous Appeal No.14 of 2014. The appeal was heard by the District Judge in-charge, Barishal who by its judgment and order passed on 10.07.2014 allowed the miscellaneous appeal on contest and allowed the application for temporary injunction in modified form directing the parties to maintained *status quo* in respect of possession of the suit land.

Against the aforesaid judgment and order the defendants approached this Court in the above civil revision and obtained this Rule.

At the time of issuance of the Rule there was a prayer on behalf of the petitioners for stay of the impugned judgment and order which was kept pending for disposal subject to service of

notices upon the opposite parties. Subsequently, the petitioner did not move the aforesaid application for stay and accordingly it was kept with the record on 07.09.2015.

No one appears for the petitioner.

Mr. Kabir Miah Sarkar, learned Advocate for opposite parties 1 and 2 opposes the Rule and submits that the Court of appeal below on correct assessment of fact and law allowed the miscellaneous appeal and granted *status quo* in respect of the possession of the suit land which may not be interfered with by this Court in revision.

This is a very old matter and, therefor, it is taken up for disposal on merit hearing the opposite parties only.

I have gone through the revisional application, the application for temporary injunction, the objection made thereon and the judgments passed by the Courts below. It transpires that the plaintiff brought the suit for declaration of title and partition. They filed an application for temporary injunction for restraintment of the defendants from filling the suit land by sand and making any construction work over it. After hearing the trial Court refused to pass any order of *status quo* in respect of the suit land. However, in the miscellaneous appeal filed by the plaintiffs, the lower appellate Court reversed the judgment and order passed

by the trial Court in a modified form and directed the parties to maintain *status quo* in respect of the possession of the suit land.

Against the aforesaid judgment and order, the defendants obtained this Rule. But no order was passed by this Court staying the operation of the order of *status quo* passed in the miscellaneous appeal. The petitioners' application for stay was subsequently kept with the record. It appears that the order directing the parties to maintain *status quo* in respect of possession of the suit land was passed on 10.07.2014 and the order is still in force because no restraintment or stay order has been passed by this Court.

Considering the aforesaid facts, I find that justice will be best served, if I direct the trial Court to disposed of the suit expeditiously keeping the order of *status quo* passed by appellate Court as it is. I therefore, direct the trial Court to dispose of the suit within 01(one) year from the date of receipt of the judgment and order, if the suit is still pending. In the meantime, the order of *status quo* passed by the appellate Court shall operate.

With the aforesaid observation and direction the Rule is disposed of.

Communicate the judgment and order to the Court concerned.