

Present:

Mr. Justice Sheikh Abdul Awal

Civil Revision No. 1117 of 1992

Md. Farid Ali

.....Defendant-petitioner.

Versus

Mrs. Nurjahan Begum.

..... Plaintiff-opposite parties.

None appears

.....For the petitioner.

None appears

.....For the opposite parties.

Judgment on 04.02.2025

Sheikh Abdul Awal, J.

This Rule was issued calling upon the opposite party No.1 to show cause as to why the impugned order dated 28.04.1992 passed by the learned Assistant Judge, 6th Court, Dhaka in Title Suit No. 217 of 1991 allowing the application for amendment of plaint and struck down the name of defendant Nos. 2-6 ex-party should not be set-aside and/or such other or further order or orders passed as to this Court may seem fit and proper.

The brief fact relevant for disposal of this Rule is that the opposite parties as plaintiffs filed Title Suit No. 217 of 1991 in the Court of the learned Assistant Judge, 6th Court, Dhaka for

declaration that they are the owner of two shop-rooms as described in the schedule of the plaint.

Defendant entered appearance in the suit and filed written statement denying all the material allegations made in the plaint.

Thereafter, while the suit was in progress, the plaintiffs opposite parties filed 2 separate applications under Order VI, Rule 17 of the Code of Civil Procedure for amendment of the plaint and strike out the name of defendant Nos. 2-6 from the plaint.

The learned Assistant Judge after hearing the application by his order dated 28.04.1992 allowed both the applications.

Being aggrieved by the aforesaid order the defendant-petitioner preferred this revision application and obtained the present rule.

No one appears to press the Rule on repeated calls.

In view of the fact that this is a petty old case arising out of an interlocutory order, I am inclined to dispose of the matter on merit on the basis of the materials on record.

On a scrutiny of the record, it appears that the plaintiff after filing the suit filed 2 applications being for amendment of the plaint and striking out of the defendant Nos. 2-6 stating that since no remedy was sought for against them and as such the names of defendant Nos. 2-6 should be striking out and if the plaint is amended the nature and character of the suit will not be changed.

The learned Assistant Judge on due consideration of the entire materials on record allowed the applications under Order VI, Rule 17 of the Code of Civil Procedure for striking out the

name of the defendant Nos. 2-6 and another one for amendment of the plaint holding that: “আরজি সংশোধনের প্রার্থনায় বাদীনি পক্ষে দাখিলকৃত দরখাস্তটি পর্যালোচনা করে দেখলাম। অত্রাদালতের বিবেচনায় অত্র মোকদ্দমার উদ্ভূত যাবতীয় প্রশ্নে চূড়ান্ত ও সুচারুপূর্বে নিষ্পত্তির জন্য প্রস্তাবিত আরজির সংশোধনের দরখাস্তটি বিবেচনার যোগ্য। ইহাতে উদ্ভূত পরিস্থিতির জন্যই পুনঃদখলের প্রার্থনা করা হইয়াছে। অবস্থানধীনে প্রার্থিত মর্মে আরজি ও রেজিস্ট্রি সংশোধন করা হউক। ২-৬ নং বিবাদীগণের নাম সহ কর্তনের প্রার্থনায় বাদীনি পক্ষে দাখিলকৃত দরখাস্তটি পর্যালোচনা করে দেখলাম। বাদীনিপক্ষ তাদের মোকদ্দমা কারকার বিরুদ্ধে পরিচালনা করবেন সে স্বাধীনতা তাদের আছে অবস্থানধীনে উক্ত দরখাস্তটি মঞ্জুর করা গেল।”

This order certainly indicates that the learned Assistant Judge considered all the aspects of the mater and thereafter, allowed the applications. The reasoning given by the learned Assistant Judge, 5th Court, Dhaka appears to me to be proper and sound and thus, I do not find any reason to differ from it.

In the result, the Rule is discharged without any order as to costs. The order of stay granted earlier by this Court stands vacated. The trial Court concerned is, however, directed to proceed with the pre-emption case expeditiously in accordance with law.

Let a copy of this judgment be communicated to the Courts concerned at once.